

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE – 23 NOVEMBER 2001

**01/0109/FL: PROPOSED CHANGE OF USE FROM FARM BUILDINGS TO
FORM 2 HOUSES AND PART DEMOLITION
AT WINDYHILL FARM, NEWMILNS**

**NOTIFICATION OF A PLANNING APPEAL BY
MR AND MRS STEVEN LEY**

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to notify the Northern Area Local Planning Committee of a planning appeal on the above application for the conversion of 2 farm buildings to 2 dwellinghouses and to present a report on the application in order that the Committee can take a view on the merits of the proposed development to submit to the Scottish Executive Inquiry Reporters Unit for the determination of the appeal.

2. BACKGROUND

2.1 A detailed planning application was submitted for the above works at Windyhill Farm to the south west of Newmilns on 6 February 2001. The application was accompanied by detailed plans showing physical alterations to both farm buildings and the application was the subject of comprehensive consultation.

2.2 During this period, the national 'Foot and Mouth' outbreak limited non-essential countryside site visits and the applicant's agent was advised of this. It was not until the 1st June 2001 that visiting restrictions were lifted. Officials from Planning and Building Control subsequently visited the site and wrote to the applicant's agent advising that there were several concerns principally relating to the assessment of the proposal against the East Ayrshire Local Plan (Finalised Version with Modifications) and in terms of the design of the proposed dwellinghouses. The applicant's agent was also advised of matters raised relative to the consultation process primarily in respect of those comments from the Roads Division.

2.3 Following a subsequent meeting, the applicants made no formal submission of amended plans. The applicant's agent has now submitted informal plans for consideration in June and August of 2001, however these do not fully address the Division's concerns. Six days after receipt of the second set of informal plans the Division received notification of the applicants' intention to appeal on the basis of non-determination.

3. APPEAL

3.1 On the 16th August 2001 the Planning and Building Control Division received a letter from the applicant's agent intimating his intention to appeal to the Scottish Executive on the grounds of non-determination of the application. The Division received appeal papers from the applicant's agent on 4th October 2001.

3.2 The implication of this appeal against non-determination of the application, is that the Council can no longer proceed to determine this application. In the processing of this appeal however, the Scottish Office Inquiry Reporters Unit seeks the Council's view on the merits of the application which will be taken into consideration in the determination of the appeal.

4. RECOMMENDATION

4.1 It is recommended that the Committee notes the content of this report and considers the appended report on the planning application for Windyhill Farm, Newmilns with the purpose of formulating a view on the merits of the proposed development for intimation to the Scottish Executive Inquiry Reporters Unit.

**Alan Neish
Head of Planning and Building Control**

5 November 2001 (FF/SA)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Correspondence from the Applicant's agent.
2. Appeal submission 01/0109/FL.

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EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal is to form two dwellinghouses by converting two existing farm buildings within the steading. Vehicular access for both dwellinghouses would be direct from the C104. The details regarding the proposed dwellinghouses are as follows:-

House 1 – This dwellinghouse would be formed from a rendered stonework farm building with slate roof which is attached to the main farm steading. The building lies directly adjacent to the public road and is structurally complete with 4 walls and roof. The applicants propose a three bedroom property with bathroom, shower room, lounge and kitchen/living/dining area and integral garage. Accommodation would be provided over two floors and external alterations undertaken with the formation of doors, windows, entrance porch, dormer windows and velux windows. The initial plans submitted (which remain the only formally lodged plans as discussed later in this report) show a timber balcony deck mounted on external pillars with patio doors installed. It is not possible to distinguish from the plans the external finish although the application form specified natural slate and white roughcast.

House 2 – Relates to the conversion of a detached farm building constructed of brick with a metal clad roof. The walls of this building are incomplete owing to its former use as an agricultural implement shed. This property comprises three bedrooms (one with en-suite bathroom), living room, kitchen, toilet, bathroom, lounge and integral garage. External alterations proposed include building up the external walls, re-roofing, alterations to form doors, windows and access ramp, and the formation of a timber balcony/deck mounted on brick columns. External materials comprise natural slate roof, white roughcast and white upvc windows and mahogany wood stained doors.

2. RECOMMENDATION

2.1 It is recommended that the Committee endorse the view of the Head of Planning and Building Control that, having regard to the merits of the application, the development should not proceed for the following reasons:-

- a) The proposed development would be contrary to the terms of Policy RES 7 of the East Ayrshire Local Plan (Finalised Version with Modifications) in that the applicant has not demonstrated that the proposed development meets all of the specified criteria of this Policy.**
- b) The design of the proposed development, so far as the external appearance is concerned, is below the desirable standard for this site and would be detrimental to the established amenity of the area. In addition, with regard to the proposed external alterations, the development fails to comply with the Design Guidance approved by the Council in April 2001.**
- c) The proposed development would be contrary to the terms of Policy RES 22 of the East Ayrshire Local Plan (Finalised Version with Modifications) in that the houses are not provided with the minimum required private open space.**
- d) The proposed development does not meet the requirements of the Council as Roads Authority because it will constitute a road safety hazard in that it does not provide:-**
 - 1. A lay-by at the access into the site to allow service vehicles to pull off the road;**
 - 2. The dwellinghouse nearest the road being set back 2 metres from the road channel with the hedge in the adjacent field removed, in order to achieve the minimum necessary sightlines (2.5 metres x 70 metres).**
 - 3. Passing places from the site into Newmilns at several locations to allow two-way traffic. The road to be at least 4.8 metres in width or to be provided with intervisible passing places.**

2.2 It is recommended that Committee authorises the Head of Planning and Building Control to present the above as the Council's position in the forthcoming appeal.

3. CONTRARY DECISION

3.1 Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application will require to be referred to the Development Services Committee as it represents a significant departure from Policy.

4. SUMMARY OF ANALYSIS

4.1 As indicated in Section 5 of the report, there are the relevant policies in the Ayr County Development Plan (1953) relating to the proposed development. This Plan is also almost 50 years out of date. Therefore given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, greater weight should be given to the other material considerations.

4.2 The proposal does not meet with the terms of Policy RES 7 or Policy RES 22 of the East Ayrshire Local Plan Finalised Version with Modifications. Neither does the proposal meet with the Council's Design Guidance which although not statutory, has been approved by Council for use in the determination of applications. The proposed development does not observe or reflect the design and character of the existing farm buildings. In terms of the overall development, the applicant has made no attempt to address the responses received from statutory consultees. In particular, this is the case with regard to the comments of the Roads Division. On that basis their recommendation is that permission should be refused.

4.3 Turning specifically to House 1, the external alterations are modern in design and appearance and have no respect for the age and character of a traditional Ayrshire farm building. The applicant has not provided a private garden ground to meet the required standards detailed in the EALP.

4.4 With regard to House 2, whilst the concerns relating to House 1 are also relevant in this connection, the building is currently more modern in design and appearance being constructed of brick and with a metal roof. It is not, as required by RES 7, a traditionally designed and constructed building. The applicant has not shown that a minimum of 50% of the external wall area in the completed conversion would be formed from the original building. The resultant building, it is also considered, would become an over dominant feature within the group of farm buildings partly as a consequence of the external alterations.

Alan Neish
Head of Planning and Building Control

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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BY MR & MRS STEVEN LEY**

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present a full planning application for consideration by the Northern Area Local Planning Committee because it is now the subject of an Appeal against the non-determination of the application and the Committee will require to come to a view on the merits of the proposed development. The proposed development is not the subject of objection although it is contrary to Policy and the Council's Adopted Design guidance.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site extends to some 1.5 acres and is located in the countryside to the south of Newmilns in the Irvine Valley. The site lies to the north of the C104 which fronts the application site. The site is of a regular shape and comprises an existing residential dwellinghouse and numerous farm buildings.

2.2 **Proposed Development:** The proposal is to form two dwellinghouses by converting two existing farm buildings within the steading. Vehicular access for both dwellinghouses would be direct from the C104. The details regarding the proposed dwellinghouses are as follows:-

House 1 – This dwellinghouse would be formed from a rendered stonework farm building with slate roof which is attached to the main farm steading. The building lies directly adjacent to the public road and is structurally complete with 4 walls and roof. The applicants propose a three bedroom property with bathroom, shower room, lounge and kitchen/living/dining area and integral garage. Accommodation would be provided over two floors and external alterations undertaken with the formation of doors, windows, entrance porch, dormer windows and velux windows. The initial plans submitted (which remain the only formally lodged plans as discussed later in this report) show a timber balcony deck mounted on external pillars with patio doors installed. It is not

possible to distinguish from the plans the external finish although the application form specified natural slate and white roughcast.

House 2 – Relates to the conversion of a detached farm building constructed of brick with a metal clad roof. The walls of this building are incomplete owing to its former use as an agricultural implement shed. This property comprises three bedrooms (one with en-suite bathroom), living room, kitchen, toilet, bathroom, lounge and integral garage. External alterations proposed include building up the external walls, re-roofing, alterations to form doors, windows and access ramp, and the formation of a timber balcony/deck mounted on brick columns. External materials comprise natural slate roof, white roughcast and white upvc windows and mahogany wood stained doors.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Roads and Transportation Division advise that there are no objections subject to conditions namely:-

- a) The incorporation of a lay-by at the access into the site to allow service vehicles to pull off the road;
- b) In order to achieve the minimum sightlines the dwelling nearest the public road requires to be set back 2 metres from the road channel with the hedge in the adjacent field removed;
- c) The provision of passing places from the site into Newmilns at several locations to allow two-way traffic, the road should be at least 4.8 metres in width or have provided intervisible passing places.

Noted. These requirements were raised with the applicant's agent who was advised to discuss the matter with the Roads Division. No details have been provided by the applicant's agent to address the concerns of the Roads Division and the proposal can therefore be deemed not to satisfy the requirements of the Roads Division. The Roads Division have indicated that failure to address these conditions would result in a recommendation of refusal for the application.

3.2 West of Scotland Water Authority advise that there are no known sewers to which a connection may be made. If a septic tank is utilised it must be sited in such a manner as to allow easy access for emptying by tanker.

Noted. If approved, this requirement can be addressed by a condition.

3.3 The Scottish Environment Protection Agency (SEPA) advise that they have no objections to the proposal provided that the drainage arrangements are

to their satisfaction. In view of the absence of a watercourse suitable for the acceptance of septic tank effluent it is recommended that the possibility of providing a sub-soil soakaway system for effluent disposal is investigated. The septic tank and soakaway will require to be designed and constructed in accordance with the current Code of Practice BS 6297:1983. This will require the applicant to carry out percolation testing on site to assess the suitability of the sub-soil for effluent disposal.

Further discussions between this Division and SEPA highlighted that testing should be undertaken prior to planning permission being started with confirmation of results being forwarded to this Division once available. The applicant's agent was advised of this requirement although no information has been submitted.

3.4 The Newmilns and Greenholm Community Council have not replied to their consultation at the time of writing the report.

Noted.

4. REPRESENTATIONS

4.1 No representations have been received in respect of this proposal.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, require that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the purposes of this application, the development plan comprises the Approved Ayrshire Joint Structure Plan and the Ayr County Development Plan (1953) and the Newmilns Town Map (1965).

5.2 The Adopted Ayr County Development Plan is now almost 50 years out of date. Given the considerable age of this plan, its relevance to the planning application is negligible. Nevertheless, within this Plan the site is identified as agricultural land. There are no policies in the Plan relating to conversion of buildings or new houses in the countryside and therefore greater weight should be attached to the other material considerations.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

East Ayrshire Local Plan, Finalised Version with Modifications

6.1 The other principal material considerations relevant to the determination of this application are the East Ayrshire Local Plan (Finalised Version with Modifications)(EALP), the Council's Design Guidance and the consultation replies.

East Ayrshire Local Plan Finalised Version with Modifications

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the East Ayrshire Local Plan Finalised Version with Modifications (EALP) should be considered a prime material consideration. The proposed site is located within the Rural Protection Area identified in the East Ayrshire Local Plan Finalised Version with Modifications. The relevant Policy is RES 7 which relates to the rehabilitation or conversion to residential use of existing and traditionally designed and constructed buildings. The Policy states that:-

- (i) The Council will require to be satisfied that the structural condition of the building is suitable for its conversion to residential use;
- (ii) The proposal is capable of being implemented while retaining, to at least eaves level, the existing external walls of the building. Any extension shall be limited to a maximum of 50% of the ground floor area of the existing building and a minimum 50% of the external wall area in the completed conversion/rehabilitation shall be formed from the external walls of the original building;
- (iii) The development meets the service requirements of all appropriate statutory undertakers and the Council as Roads Authority;
- (iv) The proposal is fully in keeping with the character and appearance of the area within which it is located;
- (v) The proposal meets all the design requirements of the Council and reflects the style and design of the original building located on the site; and
- (vi) The proposal does not damage the architectural integrity of the building and re-uses wherever possible, any existing traditional building materials found on site.

House 1 – The applicant’s structural report for the building indicated it to be structurally sound with the roof in a good state of repair and this is apparent from a site inspection. The proposal uses all of the existing building with the only extension being a small porch which is well within the 50% acceptable extension and the proposal uses the majority of the existing walls. The applicant via his agent has not however confirmed that he can meet all the requirements of SEPA and the Council’s Roads and Transportation Division. The scheme which was initially lodged with this Division remains the current scheme as the applicant has not to date formally lodged any subsequent revised plans with the Division. The design of the dwellinghouse incorporates many features which are not compatible with traditional Ayrshire farm building: the timber deck balcony, large patio dormer, ground floor features (such as horizontal windows), large velux windows, and wide dormer windows with windows which are square in shape. Furthermore, the dwellinghouse does not provide the required minimum garden ground of 100 square metres in terms of Schedule 4 and Policy RES 22 of the EALP. The proposed dwellinghouse is not therefore considered to be in accordance with Policy RES 7 or Policy RES 22.

House 2 – This is a more modern farm building most likely being a former implement shed. It is brick built with a metal roof and benefits from open walls. Whilst this building would not require a significant extension, this Division is concerned that the proposed dwellinghouse does not meet the terms of Policy RES 7. This Division also expressed an opinion to the applicant’s agent that if permitted, it would transform the existing building to one well beyond the existing farm which would become the more dominant of the group of buildings with this dominance emphasised by the many roof features.

The applicant’s agent was requested to confirm compliance with criteria (ii) in respect of the external wall area however no such justification has been submitted. The concerns regarding external alterations and treatment as regards windows and doors etc are as detailed above with House 1 and this Division is concerned that the external design of the extension overall is wholly modern with the resulting building essentially being a modern ‘chalet’. It is considered that House 2 does not meet Policy RES 7 in terms of criteria (ii), (iv) and (v). In addition it fails Policy RES 22 in that there is insufficient private garden ground.

East Ayrshire Council Design Guidance

6.3 This document was approved by the Council in April 2001 with the aim of making East Ayrshire a more attractive place in which to live and invest. The document formulates a series of design policies in order to build on the best elements of the built environment. The design policies have been formulated not to restrict development but to ensure that all proposed developments are of the highest quality of design, in keeping with and sympathetic to the character and appearance of the area.

6.4 The Design Guidance states that the building details of traditional houses in the locality must be observed and reflected in the design of any new dwellinghouses. Traditional wall and roof finishes should be used and window openings shall be traditional to the area with a vertical emphasis to their proportions and design and the use of large traditional windows and patio doors on conspicuous front elevations facing public roads will not be permitted. Roof lights should have vertical proportions and dormer windows must be of a scale and design appropriate to the building on which they are proposed.

As highlighted in paragraph 6.1 above, the proposal is not considered to be acceptable to this Division. It is considered that the proposed dwellinghouses do not meet the provisions of Policy RES 7 of the EALP. The design of the dwellinghouses and their external finishes are not considered to be appropriate to the traditional design of the farm building for House 1 and the applicant's agent has been unable to satisfy concerns relative to the principle of conversion of House 2. The Design Guidance, whilst not a statutory document, has been approved by the Council for use in the determination of planning applications and should therefore be given appropriate weight in the reaching of any decision.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in the determination of this application.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, there are the relevant policies in the Ayr County Development Plan (1953) relating to the proposed development. This Plan is also almost 50 years out of date. Therefore given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, greater weight should be given to the other material considerations.

8.2 The proposal does not meet with the terms of Policy RES 7 or Policy RES 22 of the East Ayrshire Local Plan Finalised Version with Modifications. Neither does the proposal meet with the Council's Design Guidance which, although not statutory, has been approved by Council for use in the determination of applications. The proposed development does not observe or reflect the design and character of the existing farm buildings. In terms of the overall development, the applicant has made no attempt to address the responses received from statutory consultees. In particular, this is the case with regard to the comments of the Roads Division. On that basis their recommendation is that permission should be refused.

8.3 Turning specifically to House 1, the external alterations are modern in design and appearance and have no respect for the age and character of a traditional Ayrshire farm building. The applicant has not provided a private garden ground to meet the required standards detailed in the EALP.

8.4 With regard to House 2, whilst the concerns relating to House 1 are also relevant in this connection, the building is currently more modern in design and appearance being constructed of brick and with a metal roof. It is not, as required by RES 7, a traditionally designed and constructed building. The applicant has not shown that a minimum of 50% of the external wall area in the completed conversion would be formed from the original building. The resultant building, it is also considered, would become an over dominant feature within the group of farm buildings partly as a consequence of the external alterations.

9. RECOMMENDATION

9.1 It is recommended that the Committee endorse the view of the Head of Planning and Building Control that, having regard to the merits of the application, the development should not proceed for the following reasons:-

- a) The proposed development would be contrary to the terms of Policy RES 7 of the East Ayrshire Local Plan (Finalised Version with Modifications) in that the applicant has not demonstrated that the proposed development meets all of the specified criteria of this Policy.**
- b) The design of the proposed development, so far as the external appearance is concerned, is below the desirable standard for this site and would be detrimental to the established amenity of the area. In addition, with regard to the proposed external alterations, the development fails to comply with the Design Guidance approved by the Council in April 2001.**

- c) The proposed development would be contrary to the terms of Policy RES 22 of the East Ayrshire Local Plan (Finalised Version with Modifications) in that the houses are not provided with the minimum required private open space.
- d) The proposed development does not meet the requirements of the Council as Roads Authority because it will constitute a road safety hazard in that it does not provide:-
1. A lay-by at the access into the site to allow service vehicles to pull off the road;
 2. The dwellinghouse nearest the road being set back 2 metres from the road channel with the hedge in the adjacent field removed, in order to achieve the minimum necessary sightlines (2.5 metres x 70 metres).
 3. Passing places from the site into Newmilns at several locations to allow two-way traffic. The road to be at least 4.8 metres in width or to be provided with intervisible passing places.

9.2 It is recommended that Committee authorise the Head of Planning and Building Control to present the above as the Council's position in the forthcoming appeal.

Alan Neish
Head of Planning and Building Control

14 November 2001
(FMF/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Ayr County Development Plan 1953.

5. Adopted Strathclyde Structure Plan.
6. Approved Ayrshire Joint Structure Plan.
7. East Ayrshire Local Plan (Finalised Version with Modifications).
8. Appeal Information Submitted by the Applicant.
9. East Ayrshire Council Design Guidance: April 2001.

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576768.

Implementation Officer: Dave Morris

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