

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 26 OCTOBER 2001

01/0487/FL: PROPOSED CHANGE OF USE OF GROUND FROM AGRICULTURE TO AGRICULTURE INCLUDING RETAIL SALES, ERECTION OF 4 TUNNEL STYLE GREENHOUSES, PORTACABIN UNIT, ARCHWAY AND FORMATION OF CAR PARKING SPACES AT FARM LAND ADJACENT TO BLACKWOOD FARM, MOSCOW BY SUNNYSIDE COTTAGE GARDENS LTD

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal is retrospective and is for the use of the field for agriculture (nursery) including retail sales which will include the erection of 4 tunnel greenhouses, a portacabin and an archway. The development also includes the formation of a car park for the proposal. Two of the tunnel greenhouses measure 15.24m in length by 4.3m wide and have a maximum height of 2.0m with the remaining two extending to 19.4m in length by 5.5m wide and a maximum height of 2.5m. The greenhouses comprise a galvanised steel tubular frame which is lined with clear transparent visqueen polythene. In addition to the actual greenhouses there are areas identified immediately in front of the structures for standing out plants for display and purchase, an archway measuring 6.1m x 4.0 m and a portacabin (7.2m x 3m) located to the rear of the proposed greenhouses.

2. RECOMMENDATION

2.1 **It is recommended that the application be approved subject to the conditions indicated on the attached sheet.**

3. SUMMARY OF ANALYSIS

3.1 As is indicated at para 5.2 of the report, the application is considered to be in accordance with the Development Plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As indicated in Section 6 of the report, there are material considerations relevant to this application which weigh in favour of the development.

3.2 It is considered that subject to conditions including restricting the sale of goods, the proposed use is acceptable in terms of the East Ayrshire Local Plan Finalised Version with Modifications, and that the amended plans adequately address the issues raised regarding proximity of the polytunnels to the adjacent property and road safety.

3.3 The surrounding area is agricultural and it is considered that the proposed development is compatible with this use.

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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Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation because it is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located to the north west of Moscow. The site is on the south side of the U17 Blackwood Road immediately west of Blackwood Farm.

2.2 **Proposed Development:** The proposal is retrospective and is for the use of the field for agriculture (nursery) including retail sales which will include the erection of 4 tunnel greenhouses, a portacabin and an archway. The development also includes the formation of a car park for the proposal. Two of the tunnel greenhouses measure 15.24m in length by 4.3m wide and have a maximum height of 2.0m with the remaining two extending to 19.4m in length by 5.5m wide and a maximum height of 2.5m. The greenhouses comprise a galvanised steel tubular frame which is lined with clear transparent visqueen polythene. In addition to the actual greenhouses there are areas identified immediately in front of the structures for standing out plants for display and purchase, an archway measuring 6.1m x 4.0 m and a portacabin (7.2m x 3m) located to the rear of the proposed greenhouses.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Roads and Transportation Division have stated that there are no objections to the proposal.

Noted.

3.2 The Coal Authority have no adverse comments on this proposal.

Noted.

3.3 Transco have confirmed that they have no local distribution or high pressure plant in the vicinity of the proposal.

Noted.

3.4 SEPA have no objection to this proposal as it should not significantly affect their interests.

Noted.

3.5 West of Scotland Water has no comment to make regarding this application.

Noted.

3.6 Moscow and Waterside Community Council wish their objections to the previous application (99/0612/FL) to stand:

- “(i) It is questioned why the application is for agriculture and retail business and not under horticulture;
- (ii) regardless of the number of passing places, the road is unsuitable for the expected increase of traffic and it is felt that the bigger and better the passing places, the greater the invite and temptation to traffic abuse;
- (iii) the ongoing water problems are not conducive to another extensive business;
- (iv) it is requested that the Councillors visit the site before taking any decision; and

- (v) the security of the business would depend on someone being on site and to this end we assume this application is only “the tip of the iceberg

In addition, Community Council members note with concern that this is a retrospective application and, if approved, would appear to sanction non-compliance with the original planning approval, surely a worrying precedent.”

The proposed development is classed as agricultural in terms of planning legislation. The number, location, size and design of the passing places are considered satisfactory by the Roads Division. West of Scotland Water have been consulted and have no objections to this proposal. The current application under consideration does not include any on-site accommodation. The applicant submitted this application after being advised by this Division that the works undertaken on site were not in accordance with the plans approved as part of planning consent 99/0612FL. This application is therefore to be considered based on the current proposals which does not set a precedent for non-compliance with planning consents.

4. REPRESENTATIONS

Two letters of objection received with 3 signatories (includes letters of objection from Moscow and Waterside Community Council).

4.1 Amenity

“It has grossly diminished visual amenity both for us and as viewed from the surrounding countryside. The current development (i.e. the submitted plans) has had a huge impact visually as viewed from our house and elsewhere. The current development is substantially larger than the much more compact layout in the original plans previously turned down by the local area planning committee on the grounds that it would be detrimental to visual amenity.

Our house faces the site and the site now constitutes our total outlook from our upper floor windows (and elsewhere). The way in which the plans have been carried out are insensitive to this rural setting and it has been sited in such a way that it maximises visual impact from all aspects. It is inappropriate to allow such a development in such an elevated position in the countryside. The current site is surrounded by extensive and tall windbreak material which is an unnatural bright turquoise green and, in our opinion, very ugly. The ‘archway’ sticks right up above this fencing. Even if the applicants were to implement landscaping similar to that which was previously proposed (and has not yet been implemented) it would take many years to come to fruition and even then, the species chosen are alien to the rural environment and so the development will never blend into the countryside. Further, the applicants must be aware that planting a Leylandii hedge right up our boundary very close to our house, and four trees right in front of our house, is no substitute for the landscaping plans which instead were designed to enclose their development and thus screen it from the surrounding area.

Our amenity has been diminished in many other respects. In particular, there have been lots more cars, particularly at weekends and holidays, the nature of the business is unsuitable in this rural environment, we have suffered a lack of privacy, there has been a large increase in litter in the road since implementation of the passing places. In general, it has grossly harmed the character of our previously isolated rural property.”

The principle of the land as a nursery and the erection of greenhouses has already been agreed by the Scottish Executive as is acknowledged by the granting of the original

appeal on this site. In addition, it is considered that the location of the proposed polytunnels, now sited at the extreme west of the site furthest away from the adjoining property, is an acceptable location for this development.

A condition relating to landscaping details be attached to any grant of planning permission

4.2 Viability

“If these new plans were to be passed, presumably it would be subject to the same stringent conditions imposed by the Scottish Office in passing the previous plans, in particular with respect to only selling goods grown or produced on the site. Due to these conditions and due to the location of the site, which is not in a good catchment area and is in an exposed windy position with severe frosts, we would question whether the proposed business is really commercially viable. If not, there is no benefit to the community in allowing this development to continue. Further, this business as it stands is not sustainable, since the polytunnels cannot withstand the wind and this application will almost certainly be followed by more applications to erect large permanent buildings on the site.”

A condition restricting the retailing of goods to those which are produced or grown on site can be attached to any grant of planning permission.

4.3 Retailing

“This business is development of out of town retailing and is not akin to a farm shop merely being developed to sell produce already grown on the land. There was never any locational need for this development, and we would question whether repotting plants and growing them on in pots for resale is really in the spirit of the allowed agricultural use of the land, since nothing is actually being grown in the land and particularly if plants are brought in and resold almost immediately. The wording in the current application requesting permission for a garden centre. A nursery is within the allowed agricultural use; a garden centre surely is not. The business to date does not justify an out of town site and is causing people to travel needlessly out of town in their cars.”

A condition restricting the retailing of goods as indicated in response to para 4.2 above can be attached to any grant of planning permission. It should be noted that there is no reference in the application description to a ‘garden centre’. Nevertheless, as noted in para 6.3 below, it is considered relevant to assess the proposal under the terms of Policy RTC 7 as it does relate to horticultural activities where the goods are grown on site.

4.4 Roads

“As detailed in our previous letters of objection and those of others, the road is inadequate, even with the passing places, which have not been done to a good standard, and are unsightly. This business causes people unfamiliar with the road to use it; most use of the road unrelated to this business is by regular users. In particular, people unfamiliar with the road should not be encouraged to turn off the A719 and come down Blackwood Road – the applicants have put up a sign on the A719 and this junction is very dangerous on re-emerging from Blackwood Road onto the A719.”

As noted in para 3.1 above, the Roads and Transportation Division have no objections to the proposals. The location and construction of the passing places have the approval of the Roads Division.

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 Adopted Stewarton Local Plan (1987).

5.2 However, given the age of this Adopted plan, its relevance to the application is negligible. Nevertheless, it is considered that the proposals do comply with Policy 5.3.9 (1) since the use relates to commercial development related to local agricultural uses and can be serviced and has a suitable access to a public road.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principle material considerations relevant to the determination of this application are the East Ayrshire Local Plan (Finalised with Modifications), the planning history of the site, the consultations and objections received above.

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 with Modifications) (EALP) should be considered a prime material consideration.

6.3 East Ayrshire Local Plan Finalised Version with Modifications

The site is located in the countryside and although not strictly a farm shop, the proposals can be dealt with in the spirit of Policy RTC 7 (iv) in so far as it relates to horticultural activities where the goods sold are grown on site. Policy RTC 7 states that relevant development proposals in out-of-town centre locations will be supported where:

“(iv) the proposal is for a farm shop, falling within Class 1 of the Use Classes Order, related specifically to local agricultural or horticultural activities and where the goods sold are limited exclusively to those produced or grown on site.”

The reason for this policy is to meet the demand for those types of retail development considered appropriate in out-of-town centre locations.

The application is therefore considered, in policy terms, to be acceptable. A condition restricting the goods sold to those produced or grown on site can be attached to any grant of planning permission.

6.4 Planning History

An application for the change of use from agriculture to agriculture including retail sales and erection of 4 tunnel greenhouses and to form a new access/car parking was approved on 27 June 2000 by the Scottish Executive following an appeal. The Local Planning Committee had considered this

application on 26 November 1999 and refused the development on the basis it would be detrimental to visual amenity. The following statement is included in the Reporter's conclusions regarding the appeal:

"Polytunnels are commonly found in the countryside. I am satisfied that with the imposition of landscaping conditions, the visual impact of the car park, sales area and polytunnels could be satisfactorily contained, both for the occupants of the farmhouse and passers by. It is a well established principle that no one is entitled to a view over land in separate ownership, and that, subject to normal planning constraints, owners are entitled to develop their land as they see fit."

Furthermore, an application for the erection of a new greenhouse was refused by the Northern Area Local Planning Committee on 1st May 2001. There is currently an appeal outstanding in relation to this application.

6.5 Objections

The objections are considered in detail in Section 4 above and are not considered to be of sufficient weight as to merit refusal of the application.

6.6 Consultations

None of the consultees offer comments which would merit refusal of the application.

7. **FINANCIAL AND LEGAL IMPLICATIONS**

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

8. **CONCLUSIONS**

8.1 As is indicated at para 5.2 of the report, the application is considered to be in accordance with the Development Plan. Therefore, given the terms of Sections 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As indicated in Section 6 of the report, there are material considerations relevant to this application which weigh in favour of the development.

8.2 It is considered that subject to conditions including restricting the sale of goods, the proposed use is acceptable in terms of the East Ayrshire Local Plan (Finalised Version with Modifications) and that the amended plans adequately address the issues raised regarding proximity of the polytunnels to the adjacent property and road safety.

8.3 The surrounding area is agricultural and it is considered that the proposed development is compatible with this use.

9. **RECOMMENDATION**

9.1 **It is recommended that the application be approved, subject to the conditions indicated on the attached sheet.**

Alan Neish
Head of Planning and Building Control

17 October 2001 (YN/SA)
FV/DM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Consultation Replies.
3. Letters of objection.
4. Correspondence from/to the applicant.
5. Adopted Stewarton Local Plan/Kilmarnock and Loudoun District Plan/East Ayrshire Council Local Plan (Finalised Version as Modified).
6. Previous Planning Applications: 99/0612/FL, 01/0096/FL.
7. Approved Ayrshire Joint Structure Plan.
8. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers please contact Yvonne Nisbet on 01563 576771.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL
TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0487/FL

Site of Proposal: Land Adj. Blackwood Farm
MOSCOW

Natural of Proposal: Proposed Change of Use of Ground from
Agricultural to Agricultural including Retail
Sales, Erection of 4 Tunnel Style Greenhouses
Portacabin Unit, Archway and Formation of
Car Parking Spaces

Name & Address of Applicant: Sunnyside Cottage Gardens Ltd
Sunnyside Cottage
CRAIGIE
Kilmarnock KA1 5LR

Name & Address of Agent: Michael A V Boston
The Victoria Stamping Works
34 Somerset Road
AYR KA8 9LZ

DPOs Reference: YN/SA

The above FULL application should be granted subject to the following conditions:-

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and the Town and Country Planning (Use Classes)(Scotland) Order 1997, this approval only permits the retailing of goods which are produced or grown on site.

REASON To safeguard the vitality of adjacent town centres.

2. Development shall not begin until a scheme for landscaping of the site has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include the location and design, including materials, of the car park, walls, fences and gates, the preparation of areas to be planted, the location of new trees, shrubs, hedges and grassed areas and programmes for completion and subsequent maintenance.

REASON In the interests of visual and residential amenity.

3. The change of use hereby permitted shall not be implemented until the landscaping scheme has been implemented to the satisfaction of the planning authority.

REASON In the interests of visual and residential amenity.

AGENDA