

EAST AYRSHIRE COUNCIL

**NORTHERN AREA LOCAL PLANNING COMMITTEE:
28 SEPTEMBER 2001**

**01/0539/FL: PROPOSED NEW DWELLINGHOUSE
AT EAST HEADS FARM, BY NEWMILNS
BY MR A PATERSON**

Report by Head of Planning & 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 represents a minor departure from the Finalised East Ayrshire Local Plan (as Modified).

2. APPLICATION DETAILS

2.1 **Site Description:** The application site currently comprises the remains of a farm outbuilding located on Dalwhatswood Road to the north of Newmilns. The site is adjacent to a converted farmhouse development which comprises 5 residential units and is surrounded by farmland owned by the applicant.

2.2 **Proposed Development:** The proposed development is to build a new house. This unit originally formed part of the planning consent (99/0782/FL) granted on 14 April 2000 for conversion and alterations of the farmhouse and outbuildings to form 6 dwellings. However, due to storm damage removing the roof and parts of the existing walls, the applicant is unable to complete this unit under the consent for conversion and has subsequently submitted this current application for a new dwellinghouse. The external appearance and size of the dwelling is unchanged from the original consent, the only difference being that there are insufficient existing walls remaining to meet the Council's policy for conversions in the countryside. It is proposed to use natural slate on the roof, white UPVC sash and case appearance windows, wet dash render and smooth cement bands around windows and doors. These are the materials used in the conversion of the farmhouse.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Coal Authority have no adverse comments on the proposed development.

Noted.

3.2 West of Scotland Water have stated 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 a tanker. There are no public water mains in the immediate vicinity of the proposed dwellings. Contact should be made with West of Scotland Water to discuss how a supply of water may be obtained.

Noted. A condition regarding siting of a septic tank can be attached to any grant of planning permission.

3.3 SEPA have no objection to the proposal in principle. The foul drainage will however require a high level of treatment eg. full biological treatment or a septic tank and reed bed, prior to discharge to a water course. The discharge will require the Agency's consent in terms of the Control of Pollution Act 1974 and the applicant should contact SEPA directly in this regard.

Noted. A condition regarding the treatment of the foul drainage can be attached to any grant of planning permission.

3.4 The Roads Division have no objections to the proposed development.

Noted.

4. REPRESENTATIONS

4.1 There have been no objections to the proposal and a letter in support of the application was submitted by the applicant's agent:

- “1. The whole scenario started due to storm damage which pulled the existing roof off and in turn the existing walls as indicated on the submitted drawings. This was obviously totally unforeseen and proves that this was not a deliberate or devious act by our client. Although our client is aware of the planning condition relating to informing yourselves to allow inspection of the existing walls this occurred at the time of the foot and mouth crisis which forbid yourselves from visiting the site in any case.

This left our client with the dilemma of progressing the site or waiting until the ban had been lifted, which was unknown, and in hindsight was months.

2. Despite the fact the enclosed application relates to a new house in the countryside, we would make it clear that in reality this is not the case. We believe this due to the fact that the remaining walls will still be used in line with the previously approved permission and that the only reason the others won't, is due to the aforementioned "Act of God".

3. Please note that the new proposal is exactly the same location, size, appearance and finish as previously approved with the only difference being the 'hidden' new walling required to infill the areas that have fallen down.
4. We would like to take this opportunity to point out the integrity of our client, Mr Paterson, proof of which is the adjacent courtyard development which we believe is a compliment to all involved. Should this new application not be looked at favourably, we believe that the trusting relationship that has been built up during this development would be undermined.
5. The damage caused was obviously unforeseen but the structural stability was recorded prior to the approval being granted and there was no intention or need to remove the walls. We emphasise that the original wall material would not have been visible on completion due to internal lining and external render.
6. On behalf of our client please note the financial importance of the unit as it represents 15% of the project and therefore the difference between viability and loss, putting many jobs in danger. Once again Mr Paterson has carried out a lot of good work in the Valley area and finds himself in this unfortunate position through no fault of his own".

Noted. Although the agent has stated in paragraph 2 above that this is not a new house it is considered to be a new house in the countryside in terms of Council Policy since there are insufficient existing walls to allow such a development to be constructed as a conversion. It is acknowledged that the external appearance in terms of size and finish of this proposal does not differ from the previous unit originally approved for conversion.

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 planning 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 However, the Adopted Ayr County Development Plan is now almost 50 years out of date. Given the 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

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 previous planning consent for the conversion of this building to a dwellinghouse and the representation from the applicant.

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) 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. Policy SD3 of the EALP presumes against development unless a proposal can be fully justified against a site specific locational need, in terms of social and economic benefit to the community, contributes to rural land diversification, provides for the operational needs of agriculture and forestry and is an acceptable form of residential use as detailed in RES 13 of the Local Plan. This policy accords with Policy G5 of the Ayrshire Joint Structure Plan.

6.3 RES 13 of the EALP will only be supportive of residential development in the Rural Protection Area where the house is required on a permanent basis for a full-time agricultural or forestry worker, or for a worker employed by a rural or other authorised enterprise where it is essential for the worker to live on site. If an acceptable justification can be given, then under RES 15 of the EALP the applicant is required to investigate the conversion of existing buildings or the use of derelict or degraded land rather than a greenfield site. RES 16 would prohibit the construction of a new agricultural workers cottage if “an existing farmhouse or other agricultural workers accommodation previously serving the agricultural unit has been sold off separately from the unit to persons not employed on the farm, within the preceding 5 year period”. RES 17 indicates siting requirements. ENV 12 and 13 provides siting requirements for developments in the countryside.

6.4 The proposal for a new house in this location is unlikely to meet the policy requirements for such a house given the requirements of RES 13. East Heads Farmhouse was sold off about 3 years ago and therefore the proposal will not be able to meet the requirements of RES 16.

The proposal does not therefore comply with Local Plan Policy and therefore, in normal circumstances, the recommendation would be one of refusal. However, as the proposal was originally a conversion with planning permission but during the course of construction the existing walls blew down in a storm, and since the proposal is exactly the same apart from the use of new brick walls on part of the building where the existing walls blew down, there appears to be no real advantage to the applicant in the proposal over the original conversion.

Consequently, if it is accepted that storm damage genuinely did cause the existing walls to topple, it is considered that in this instance an exception can be made to policy.

6.5 The planning history of this site is also a relevant material consideration. Consent was previously approved in April 2000 for the conversion and alterations of the adjacent farmhouse including the current outbuilding to form 6 dwellings. As is noted in Section 4 above, the applicant has stated that the loss of the existing walls was not intentional and that the end result is no different in terms of size, appearance or finish from the conversion previously approved.

As is acknowledged in response to paragraphs 6.2 and 6.3 and 6.4 above the proposal only differs from that previously approved by the fact that the new brick walls replace part of the building's original walls.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSION

8.1 Given the negligible relevance of the very elderly adopted plan it is considered that in the determination of the application, greater weight should be placed on the East Ayrshire Local Plan (Finalised Version with Modifications) and the other material considerations.

8.2 It is considered that although the proposal is contrary to the East Ayrshire Local Plan (Finalised Version with Modifications), it is a minor departure with significant weight being placed on the site's recent planning history.

8.3 Based on the recent planning consent it is concluded that there are specific circumstances in this case to allow an exception to policy. It is considered that the proposal will have no detriment to the community and will not set a precedent to allow new housing in the countryside, contrary to local plan policy.

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 & Building Control**

5 September 2001
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letter of support.
5. Correspondence from/to the applicant.
6. Ayr County Development Plan (1953), Newmilns Town Map (1965), Approved Ayrshire Joint Structure Plan, East Ayrshire Local Plan (Finalised Version with Modifications).

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

Implementation Officer: Dave Morris

CR01/0539/FL/YN/FD/5

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28 SEPTEMBER 2001**

**01/0539/FL: PROPOSED NEW DWELLINGHOUSE
AT EAST HEADS FARM, BY NEWMILNS
BY MR A PATERSON**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposed development is to build a new house. This unit originally formed part of the planning consent (99/0782/FL) granted on 14 April 2000 for conversion and alterations of the farmhouse and outbuildings to form 6 dwellings. However, due to storm damage removing the roof and parts of the existing walls, the applicant is unable to complete this unit under the consent for conversion and has subsequently submitted this current application for a new dwellinghouse. The external appearance and size of the dwelling is unchanged from the original consent, the only difference being that there are insufficient existing walls remaining to meet the Council's policy for conversions in the countryside. It is proposed to use natural slate on the roof, white UPVC sash and case appearance windows, wet dash render and smooth cement bonds around windows and doors. These are the materials used in the conversion of the farmhouse.

2. RECOMMENDATION

2.2 It is recommended that the application be approved subject to the conditions on the attached sheet.

3. SUMMARY OF ANALYSIS

3.1 Given the negligible relevance of the very elderly adopted plan it is considered that in the determination of the application, greater weight should be placed on the East Ayrshire Local Plan (Finalised Version with Modifications) and the other material considerations.

3.2 It is considered that although the proposal is contrary to the East Ayrshire Local Plan (Finalised Version with Modifications) it is a minor departure with significant weight being placed on the site's recent planting history.

3.3 Based on the recent planning consent and the representation received from the applicant, it is concluded that there are specific circumstances in this case to allow an exception to policy. It is considered that the proposal would have no detriment to the community and would not set a precedent to allow new housing in the countryside, contrary to local plan policy.

Alan Neish
Head of Planning & 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.

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0539/FL

Site of Proposal: East Heads Farm
NEWMILNS

Natural of Proposal: Proposed New Residential Dwellinghouse

Name & Address of Applicant: Mr Alex Paterson
Townhead Farm
HURLFORD
KA1 5JY

Name & Address of Agent: Nicoll Design
184 Main Street
PRESTWICK
KA9 1PG

DPOs Reference: YN/FD

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

1. Notwithstanding the submitted plans visibility splays areas of 2.5 metres by 70 metres shall be provided at the junction of the access to the development with the public road prior to the occupation of the dwelling with no obstruction to visibility greater than 1 metre in height being allowed within these areas.

REASON

In the interest of road safety.

2. The first 2 metres of the access shall be surfaced in order to prevent deleterious materials being deposited onto the public road.

REASON

In the interests of road safety.

3. Notwithstanding the plans hereby approved, any septic tank provided to serve the development shall be sited in such a position as will enable it to be emptied by the tanker.

REASON

In the interests of public safety.

4. The foul drainage discharge shall comply with the terms of the Control of Pollution Act 1974.

REASON

In the interests of public safety.

5. Notwithstanding the plan(s) hereby approved the roof shall be covered in natural slates.

REASON

In the interests of visual amenity.

6. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, (or any order or enactment replacing this) no extensions or garages (unless forming part of the approved layout plan) shall be erected on the site (unless a further specific planning application is submitted to and approved by the Planning Authority).

REASON

To enable the Planning Authority to ensure that such structures are provided in a manner compatible with the visual amenity of the area.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**

AGENDA