

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 08 AUGUST 2003

**03/0163/FL: CHANGE OF USE OF AGRICULTURAL LAND TO LARGE
GOODS VEHICLE PARKING AND EXTENSION TO ACCESS
AT LAND TO SOUTH OF WATERSIDE, KILMARNOCK
BY MR J BROWN OF BENBEOCH, WATERSIDE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 It is proposed to extend the width of the existing vehicular road access, level the site and form a hardcore surface for the parking and circulation space for HGV's. The existing field access will be re-located and access will be through the proposed haulier's site. The applicant currently resides at Benbeoch Farm which is at the other side of Waterside. The site is within the land ownership of Benbeoch.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons on the attached sheet.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report the application is considered to be contrary to the terms of the Development Plan. Therefore given the terms of Section 25 and 37(2) of the Town and Country Planning Act 1997 the application should be refused unless material considerations indicate otherwise. As indicated in Section 6 of this report there are material considerations relevant to this application. It is considered that these considerations add weight to the presumption in favour of the plan. Consequently, it is considered that the development of a haulier's yard at this location is unacceptable.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building control the application will

not require to be referred to the Development Services Committee as there would be no significant breach of Council policy.

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 application for planning permission which is to be considered by the Local Planning Committee under the scheme of delegation as the proposal is contrary to the Local Plan, is subject to objection and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises an area of agricultural land and adjacent residential access to the south of Waterside and lies outwith the settlement boundary. The site is on an elevated position on the west side of the main road through the village. Currently the site is predominantly under grass with the exception of an existing driveway that serves as both a field access and access to the off street parking for the adjacent house to the north which has been recently constructed and is owned by the applicant's brother.

2.2 **Proposed Development:** It is proposed to extend the width of the existing vehicular road access, level the site and form a hardcore surface for the parking and circulation space for HGV's. The existing field access will be re-located and access will be through the proposed haulier's site. The applicant currently resides at Benbeoch Farm which is at the other side of Waterside. The site is within the land ownership of Benbeoch.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have advised that the application should be deferred at this stage as the site, is in their view inadequate for the scale of the operation to be based there. In particular the turning area and required parking cannot be achieved within the current application site.

Noted. This matter has been brought to the attention of the applicants who have confirmed that in their view the site will only require minor amendments to adequately accommodate the use. Further correspondence with the Roads Division on this particular issue has resulted in that Division confirming that on the basis of the information currently available the site is inadequate for the proposal. Accordingly they have objected to the application on road safety grounds.

3.2 The Moscow and Waterside Community Council have objected to the application on various grounds relating to perceived traffic hazard and the impact the proposal would have on the amenity of the area.

Noted. These grounds are explored in Section 4 below.

3.3 The Scottish Environment Protection Agency have advised that they have no objection to the principle of the application but have confirmed their requirements which would have to be met to bring the drainage arrangements up to their satisfaction.

Noted.

3.4 East Ayrshire Council's Environmental and Waste Management Section have provided the following comments:

- (i) Vehicle movements on the site should be restricted to the hours of 7 am – 6 pm, Monday – Friday, 8 am – 1 pm Saturday, with no movements at all on Sundays. In exceptional circumstances only should there be traffic movements outwith these times;
- (ii) The maximum number of vehicles on the site should not exceed those specified in the operating licence;
- (iii) The site should be suitably screened to alleviate sound emissions; and
- (iv) No vehicle maintenance, other than emergency repairs, should be carried out on the site.

Noted.

4. REPRESENTATIONS

4.1 In addition to the objection from the Community Council letters of objection have been received from five other individuals who live in the area. The grounds of objection are as listed below.

4.2 The proposal would give rise to additional traffic hazard at an already dangerous spot where vehicles speed.

The Council's Roads Division have advised of their comments in paragraph 3.1 above that a safe access can be achieved by some additional conditions. However, they are of the view that the application site would require to be enlarged in order to accommodate their requirements.

4.3 The use of the site as detailed would not be in keeping with the character of the village or the surrounding area. The site is on high ground that will be difficult to screen.

The visual impact of the proposal is an aspect this Division is concerned with. It is considered that the impact of the proposed development could indeed be significant.

4.4 Such a proposal would alter the character of Waterside which is becoming increasingly a purely residential village. Additionally the proposal could lead to noise nuisance from the movement of vehicles on site and travelling through the village.

These aspects have been considered and in terms of the first consideration this Division is of the view that the proposal would have a detrimental impact on the amenity of the area and in particular the entry to the village. The noise aspect has been assessed and again found to be a consideration but one that could be addressed through conditions.

4.5 The application is contrary to Policies within the existing Development Plan.

See Section 5 below.

4.6 The proposal will have a polluting effect on the environment.

As stated in paragraph 3.3 above, SEPA have advised of their position in respect of this application.

4.7 The level of the site will be lowered to totally obscure vehicles.

No information has been submitted to demonstrate this.

4.8 The main source of haulage work is of a general nature but it is anticipated that forestry operations will provide additional significant work in the future.

It is not considered that this justifies the proposal at this location.

4.9 The application would result in the loss of a protected tree.

The Roads Division have not advised that the access improvement works would necessitate works to the tree. A mature tree which is the subject of a Tree Preservation Order is situated to the south of the proposed access.

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 (1999) and the Adopted East Ayrshire Local Plan (EALP).

As the Structure Plan offers strategic advice on matters it is considered appropriate to consider the proposal against the terms of the East Ayrshire Local Plan.

5.2 Policy IND 10 of the EALP confirms the circumstances where new business development outwith settlement boundaries will be considered acceptable as follows:-

Policy IND 10

Industrial and business development outwith settlement boundaries will be acceptable to the Council only where the proposal relates to:-

- (i) Category 1 and 2 business and industrial sites and those Miscellaneous Development Opportunity sites with potential for industrial or business development, as indicated on the Local Plan Rural Area Map;

- (ii) Sympathetic industrial and business developments associated with the traditional activities of agriculture and forestry;
- (iii) Sympathetic industrial and business developments related to appropriate rural activities such as small scale craft industries and leisure, recreation and tourism developments;
- (iv) Rail freight based industrial uses at existing coal disposal points; or
- (v) Sensitive industrial and business developments with a clearly demonstrated site specific locational need located within the Rural Diversification Area.

All proposals for industrial and business developments in the countryside will require to be justified and will be assessed against their impact on the surrounding environment and adjacent uses, transportation and infrastructure implications, loss of prime agricultural land and impact on natural and built heritage resources.

The proposal and supporting information has been assessed and is not considered to accord with the terms of this policy. This is due primarily to the nature of the proposal as a general haulier with insufficient justification for a rural location. The relative convenience of the site for the applicant is not sufficient to override the terms of the policy.

5.3 Policies ENV 12 and 13 of the EALP confirm the environmental and landscape impact considerations for development within the rural area as below:-

The proposal has been assessed against these policies and is considered to be contrary to their terms on the grounds of its insensitive location.

Accordingly on the basis of the above policy considerations the proposal is considered to be contrary to the terms of the development plan.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this proposal are the consultation responses, letters of objection and the impact on the amenity of the area/local residents.

Consultation Responses

6.2 The consultation responses are as listed in the report and with the exception of the response from the Community Council are generally supportive of the principle of the application.

Objections Received

6.3 The objections are assessed in Section 4 of the report and are considered to raise significant valid concerns that impact on the consideration of the proposal. In particular, the issues raised in respect of the justification for the application and the prominent situation of the site add significant weight to the presumption in favour of the Development Plan.

Impact on the Area/Adjacent Residents

6.4 It is considered that the nature of the proposal, in spite of the applicant's submission would, by reason of the site's prominent position, have a detrimental impact on the area which is currently characterised by its pleasant rural nature and potentially a detrimental impact on the amenity of adjacent residents by reason of noise nuisance at unsociable hours.

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 indicated in Section 5 of the report the application is considered to be contrary to the terms of the Development Plan. Therefore given the terms of Section 25 and 37(2) of the Town and Country Planning Act 1997 the application should be refused unless material considerations indicate otherwise. As indicated in Section 6 of this report there are material considerations relevant to this application. It is considered that these considerations add weight to the presumption in favour of the plan. Consequently, it is considered that the development of a haulier's yard at this location is unacceptable.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building control the application will not require to be referred to the Development Services Committee as there would be no significant breach of Council policy.

Alan Neish
Head of Planning and Building Control

29 July 2003
(IW/MMM)

FV/AN

LIST OF BACKGROUND PAPERS

1. Application Forms/Plans.
2. Statutory Notices/Certificates.
3. Consultation Responses.
4. Letters of Representation.
5. Correspondence with Applicant.
6. Adopted East Ayrshire Local Plan.
7. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Ian Walker on 01563 576769.

Implementation Officer: Dave Morris

030163FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

03/0163/FL

Site of Proposal: Land to the South of Waterside
Waterside
KILMARNOCK

Nature of Proposal: Proposed Change of Use from Agricultural to
Large Goods Vehicle Parking and Extension to
Access

Name & Address of Applicant: Mr John M Brown
Benbeoch
Main Road
Waterside
KILMARNOCK KA3 6JG

Name & Address of Agent:

DPOs Reference: IW/MMM

The above FULL application should be refused on the following grounds:-

1. The proposed development would be contrary to Policy IND 10 of the Adopted East Ayrshire Local Plan by reason of insufficient justification for a general haulage business in the rural area.
2. The proposed development would be contrary to Policies ENV 12 and 13 in the Approved Ayrshire Joint Structure Plan by reason of its siting in a prominent location with a consequential detrimental effect on the visual amenity of the area.
3. The proposed development would, by reason of its scale, have a detrimental impact on road safety.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S**

**PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**