

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 12 APRIL 2002**

**02/0101/FL: PROPOSED ERECTION OF DOG KENNELS FOR  
COMMERCIAL USE AT LADESIDE HOUSE, MILL STREET, OCHILTREE**

**APPLICATION BY MR GORDON WHITE**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full planning permission is sought for the erection of dog kennels for commercial use. This would involve the erection of an 88 square metre kennel building. This building would accommodate 16 dog kennels and a dog wash area. Each kennel would have an outdoor run enclosure that would consist of two-metre high chain link fencing. These enclosures would project out from the each side elevation of the building. A communal dog exercise enclosure would also be provided to the rear. The kennel building, which is of permanent construction, would have a pitched roof and would be finished to match the dwellinghouse.

1.2 The kennel building would be sited approximately 25 metres east of Ladeside House and 6 metres west of Lugar Water. The site of the proposed kennels is located at a lower level than the existing dwellinghouse.

**2. RECOMMENDATION**

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

**3. CONCLUSIONS**

3.1 As is indicated at paragraph 5.1 of the report, the application is considered to be contrary to 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 refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application. It is considered that the weight that should be attached to these material considerations should be greater than that given to the policies of the Adopted Local Plan due to the age of this plan and it is further considered that the material considerations support refusal of the application.

3.2 In terms of consultation responses, concerns have been raised by Environmental Health and an objection received from Ochiltree Community Council with regard to noise issues. Given the potential for 16 dogs being accommodated within the kennel building, in close proximity to residential properties, it is considered that these concerns can be justified. The Community Council has also objected to the proposed development on the grounds that the kennel block would be visually intrusive.

3.3 It is considered that the building itself, which would be finished to match the dwellinghouse, could be sensitively accommodated within the site. The external enclosures, which would consist of 2-metre high metal chain link fencing, would not however be visually attractive. Notwithstanding this, conditions could be imposed on any planning consent with regard to the colour of this fencing and the requirement of a close boarded timber fence for screening purposes.

3.4 The letters of representation have also highlighted concerns with regard to a potential noise problem. It is considered that the non-domestic scale of the 16 boarding kennels proposed would be such that a potential noise nuisance would be likely to occur, giving rise to a significant loss of the established amenity normally expected to be enjoyed by residential properties in the vicinity.

3.5 It is considered that subject to conditions, the kennel building could be acceptable within its location. In principle, however, the introduction and operation of commercial boarding kennels within this residential area is not considered to be acceptable. Although the site is located on the very edge of the village, there are residential properties located 35 metres southwards and 70 metres westwards of the site. The likelihood of noise nuisance being caused to one or more of the nearby dwellinghouses is sufficiently substantial to justify refusal.

## **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 would not require to be referred to the Development Services Committee as it would not be a significant departure from the East Ayrshire Local Plan.

**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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APPLICATION BY MR GORDON WHITE

### 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 as the proposal is contrary to policy, is subject to objections and is recommended for refusal.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The site is located on the western edge of Ochiltree on the north side of the B7036 approach road into Ochiltree from Auchinleck. The site is bounded by Lugar Water to the east, by a cemetery to the north, by Mill Street and residential properties to the west and by the B7036 and residential properties to the south. The site forms Ladeside House and its curtilage at this location.

2.2 **Proposed Development:** Full planning permission is sought for the erection of dog kennels for commercial use. This would involve the erection of an 88 square metre kennel building. This building would accommodate 16 dog kennels and a dog wash area. Each kennel would have an outdoor run enclosure that would consist of two-metre high chain link fencing. These enclosures would project out from the each side elevation of the building. A communal dog exercise enclosure would also be provided to the rear. The kennel building, which is of permanent construction, would have a pitched roof and would be finished to match the dwellinghouse.

2.3 The kennel building would be sited approximately 25 metres east of Ladeside House and 6 metres west of Lugar Water. The site of the proposed kennels is located at a lower level than the existing dwellinghouse.

#### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Ochiltree Community Council has objected to the proposed development on the basis that it would be contrary to the Ayrshire Joint Structure Plan and the East Ayrshire Local Plan, Finalised Version with

Modifications. Policy G3 of the Ayrshire Joint Structure Plan states that the Council shall actively seek to improve the urban and rural environment of Ayrshire, and, subject to other policies in the structure plan, shall not be supportive of development proposals which have significant adverse effects by means of: (A) unacceptable visual damage or intrusion; (B) unacceptable pollution of air, water or land, or nuisance by way of smell, noise and light; or (d) prejudicing the use and enjoyment of natural environment and built heritage locations.

***Whilst the proposed kennel building would be visible from the adjacent public road, it is not considered that it would result in an unacceptable visual damage in the area. The building would be finished to match the dwellinghouse and whilst the metal chain link fencing would not be visually attractive, its impact could be softened by attaching a number of conditions. A condition requiring the fence to be of a colour to be agreed with the Planning Authority and another requiring a close boarded timber fence to be erected along part of the eastern boundary could be imposed. Such a fence would provide some screening of the building and enclosures when viewed from the east.***

***It is however considered that the proposed development would result in a noise nuisance to neighbouring residents and would have a detrimental impact on their residential amenity.***

The Community Council also states that the proposed development would be contrary to Policies ENV13 and ENV20 of the East Ayrshire Local Plan, Finalised Version with Modifications. Policy ENV13 states that “within the rural area, the Council will ensure that any authorised development is in keeping with, has minimal visual impact and reflects the nature of the rural area in which it is located, in terms of layout, material used, design, size, scale, finish and colour “. Policy ENV20 states that “the Council will ensure, through the introduction of appropriate conditions and Section 75 agreements, that any new development has minimum adverse effects on the physical environment and the amenity of an area as a result of air pollution, light pollution or noise pollution.”

***See above response.***

3.2 West of Scotland Water and British Gas Transco have no adverse comments to make on the proposed development.

***Noted.***

3.3 Scottish Power has not responded to the consultation letter at the time of writing.

***Noted.***

3.4 The Scottish Environment Protection Agency has no objection in principle to the proposed development provided the drainage arrangements are to their satisfaction. In this regard the drainage from the development should be connected to the public sewer to the satisfaction of West of Scotland Water. However, should it not be possible to connect to the public sewer then all contaminated drainage should be collected in a sealed tank for proper disposal off site. The use of a septic tank and soakaway arrangement is unlikely to be suitable for the treatment of contaminated drainage at the site due to the close proximity of the watercourse and the nature of the discharge. Clean surface water and roof water may be discharged to the nearby watercourse.

***A note could be attached to any planning consent requiring the applicant to contact SEPA with regard to the above comments.***

3.5 East Ayrshire Council Roads and Transportation Division has no objection to the proposed development subject to a condition requiring 5 parking spaces associated with the business to be provided within the site.

***A condition could be attached to any planning consent granted for the proposed development to meet the requirements of the Roads Division.***

3.6 East Ayrshire Council Environmental Health and Waste Management Division advises that it was found, during a site visit, that the proposed kennel site is deceptively close to the housing in Mill Street. Any barking from the kennels will be audible from Mill Street, however, it is possible that Ladeside House may provide a degree of shading from the noise. It is difficult to conclude therefore, whether the noise from the kennels would pose a nuisance to the residents of Mill Street or not. They can confirm however that given the number of objections to the application that is likely that any noise from dog barking from the proposed kennels will give rise to complaint. It is also likely that these complaints will be justified.

***It is considered that the proposed development will have an adverse impact on the residential amenity of dwellinghouses lying in proximity to the application site.***

#### **4. REPRESENTATIONS**

4.1 Four letters of representation have been received with regard to the proposed development. This includes the letter of objection from Ochiltree Community Council that is outlined in paragraph 3.1 above. The other three letters of representation are summarised as follows:

4.2 There already exists in Ochiltree, Blackbush Kennels. These long established kennels are situated some considerable distance from their property but at times they can hear distant barking/howling etc. which they presume is from this existing boarding establishment. They themselves being

a dog owner know that it is unreasonable to expect dogs to be completely silent. They are concerned that should the above application to build another kennel for boarding dogs in their immediate local be agreed, the noise level would be excessive. They are aware that the applicant has dogs of his own and there exists no present noise nuisance, but they do know enough about dogs to realise that dogs who are “upset” at being placed in strange surroundings with no familiar humans to hand, are almost certain to voice protest. This part of the village is residential, and they would argue that the Council strongly considers their comments when considering the application.

***It is considered that the proposed development would result in noise nuisance within this particular area of Ochiltree. Residential properties are located to the south and west of the site. It is considered that the non-domestic scale of the 16 boarding kennels proposed would be such that a potential noise nuisance would be likely to occur, giving rise to a significant loss of amenity normally expected to be enjoyed by residential properties in the vicinity. The Council’s Environmental Health Division has echoed these concerns. Whilst it is acknowledged that there are existing kennels within Ochiltree, this application must be determined on its own merits. Furthermore, it is likely that due to the amount of activity from both cars and pedestrians, which presently exists adjacent to the site, the dogs could be readily distracted or disturbed which could cause them to bark.***

4.3 Another objector states that their primary concern would be the nuisance caused by noise and barking from dogs that feel abandoned by their owners. They and their neighbours live in a particularly attractive part of the Conservation village of Ochiltree and one of the main features of this area is the peace and tranquillity which they have all enjoyed for many years. The value of their house and adjacent properties would be adversely affected and may be more difficult to sell at some future date. They are of the opinion that should the proposed development take place, the character of this part of the village would be changed to its detriment.

***See response to paragraph 4.2 above.***

***The effect on property values is not a material consideration in the determination of the application.***

4.4 It is totally unbelievable that someone would consider opening dog kennels with houses so closely situated. Ochiltree is a conservation village which is already being abused with the amount of heavy laden lorries thundering through and most certainly does not require kennels situated at either end of the village. They have had experience of kennels practically on their doorstep before and it made their lives a misery, especially during the summer, the busy time. The enjoyment of their own garden, having windows open, the usual things you enjoy throughout the spring and summer was ruined. They had dogs barking from around 5.00am which disturbed their sleep. They stopped very occasionally at feeding times. They hope that when

the planning department and environmental health consider this application, they will think long and hard about what effect this will have on the residents, some of which are elderly.

***See response to paragraph 4.2 above.***

## **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 Mauchline/Drongan/Ochiltree Local Plan (1993). The Adopted Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the proposal would fall to be considered against Policy RES10 that states that there will be a retention of character of existing residential areas and promotion of environmental improvements.

***The proposed development would result in the introduction of a commercial 'bad neighbour' development into an area of established residential amenity. It is considered that this will result in noise nuisance, thereby diminishing the residential character of the area in which it would be located. The proposed development would therefore be contrary to the policy provisions of the Adopted Plan.***

## **6.1 ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

6.2 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan, Finalised Version with Modifications (2001), consultation responses and letters of representation.

### East Ayrshire Local Plan

6.3 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 as a prime material consideration. The site is affected by Industrial and Environment Polices.

6.4 Industrial Policy IND6 states that all proposals for new industrial or business development on land not specifically identified for such purposes on

the Local Plan maps and changes of use of existing premises to industrial or business use, will require to be justified against all of the following criteria:

6.5 locational need;

***No justification in terms of locational need has been provided by the applicant.***

6.6 availability of alternative land/premises;

***It is accepted that there is no land identified or reserved for industrial/business purposes within Ochiltree.***

(iii) economic benefit;

***It is accepted that the development would be of economic benefit;***

6.7 impact on surrounding environment and adjacent uses;

***It is considered that the development would be detrimental to the amenity of the area and nearby properties by reason of noise. See response to paragraph 4.2 above.***

6.8 transportation and infrastructure implications;

***No objections have been received from the Roads Division or statutory consultees.***

***As the proposed development cannot be justified against all of the above criteria, it is contrary to the provisions of Policy IND6.***

6.4 Environment Policy ENV20 states that the Council will ensure, through the introduction of appropriate conditions and Section 75 Agreements, that any new development has minimum adverse effects on the physical environment and the amenity of an area as a result of air pollution, light pollution or noise pollution.

***Given the nature of the proposal it is not considered that conditions could appropriately address concerns with regard to noise. Indeed, Environmental Health has stated that sound proofing measures in kennels have proven to be ineffective in the past.***

### Consultation Responses

6.5 Environmental Health has raised concerns with regard to noise. Given that a number of objections have been received with regard to the application, they are of the opinion that the kennels, if approved, would give rise to noise complaints and that these complaints are likely to be justified. Ochiltree

Community Council has objected to the application on the basis of noise and the visual impact of the proposed kennel building.

***It is considered that the proposed development would result in a noise nuisance through the barking of dogs. With a potential of 16 dogs being accommodated within the kennels, it is considered that this would have a detrimental impact on nearby residents, and would have an adverse effect on their residential amenity.***

### Representations

6.6 All objections to the proposed development relate to noise issues. Concerns have been raised with regard to excessive noise levels and the detrimental impact that the development would have on residential amenity.

***See response to paragraph 6.5 above.***

## **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 is indicated at paragraph 5.1 of the report, the application is considered to be contrary to 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 refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application. It is considered that the weight that should be attached to these material considerations should be greater than that given to the policies of the Adopted Local Plan due to the age of this plan and it is further considered that the material considerations support refusal of the application.

8.2 In terms of consultation responses, concerns have been raised by Environmental Health and an objection received from Ochiltree Community Council with regard to noise issues. Given the potential for 16 dogs being accommodated within the kennel building, in close proximity to residential properties, it is considered that these concerns can be justified. The Community Council has also objected to the proposed development on the grounds that the kennel block would be visually intrusive.

8.3 It is considered that the building itself, which would be finished to match the dwellinghouse, could be sensitively accommodated within the site. The external enclosures, which would consist of 2-metre high metal chain link fencing, would not however be visually attractive. Notwithstanding this, conditions could be imposed on any planning consent with regard to the

colour of this fencing and the requirement of a close boarded timber fence for screening purposes.

8.4 The letters of representation have also highlighted concerns with regard to a potential noise problem. It is considered that the non-domestic scale of the 16 boarding kennels proposed would be such that a potential noise nuisance would be likely to occur, giving rise to a significant loss of the established amenity normally expected to be enjoyed by residential properties in the vicinity.

8.5 It is considered that subject to conditions, the kennel building could be acceptable within its location. In principle, however, the introduction and operation of commercial boarding kennels within this residential area is not considered to be acceptable. Although the site is located on the very edge of the village, there are residential properties located 35 metres southwards and 70 metres westwards of the site. The likelihood of noise nuisance being caused to one or more of the nearby dwellinghouses is sufficiently substantial to justify refusal.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reasons listed 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 would not require to be referred to the Development Services Committee as it would not be a significant departure from the East Ayrshire Local Plan.

Alan Neish  
Head of Planning and Building Control  
26 March 2002  
VE/VE  
FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letters of Representation.
5. East Ayrshire Local Plan, Finalised Version with Modifications.
6. Approved Mauchline/Drongan/Ochiltree Local Plan
7. Approved Ayrshire Joint Structure Plan.
8. Approved Strathclyde Structure Plan.

Any person wishing to inspect the background papers listed above should contact Miss Vivien Emery on 01563 555485.

**Implementation Officer: Dave Morris**

Application no: 02/0101/FL

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Location: Ladeside House, Mill Street, Ochiltree

Nature of Proposal: Proposed erection of dog kennels for commercial use

Name and Address of Applicant: Mr Gordon White  
Ladeside House  
Mill Street  
OCHILTREE  
KA18 2NU

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DPO's Ref: [VE ]  
PPO's Ref: [ ]

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

1. The proposed development would be contrary to Policy RES10 of the Mauchline/Drongan/Ochiltree Local Plan, as it would result in the introduction of a commercial, bad neighbour activity into a residential area. It is considered that this activity will generate a noise nuisance that would have a detrimental impact on the existing character of the residential area in which the site is located.
2. The proposed development would be contrary to Policy IND6 (iv) of the East Ayrshire Local Plan, Finalised Version with Modifications, as it would generate a noise nuisance which would have a detrimental impact on the surrounding environment and adjacent residential uses.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT  
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S  
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 555320.**

**AGENDA**