

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 11 APRIL 2003

**02/0678/FL: PROPOSED OPERATION OF UTILITY BUSINESS AND
RETENTION OF PORTACABINS FOR OFFICE USE
AT SHIELDMAINS FARM, COALHALL.**

APPLICATION BY MR ALEX STEVENSON

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This is a retrospective application for full planning permission to operate a utility business and retain portacabins for office use, these having previously been associated with the Interconnector project. The application arose out of enforcement action between May and August 2002.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As is indicated in section 5 of the report, the application is considered to be contrary to the development plan. Therefore, given the terms of Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in section 6 of the report, there are material considerations relevant to this application. These considerations add weight to the assessment in terms of the development plan that the application should be refused.

3.2 The use of the site and the associated structures were essentially temporary in nature and were acceptable in the context of facilitating, on a temporary basis, the construction of the Scotland to Northern Ireland Interconnector. However, it would now be inappropriate to sanction the continuing use of the site for industrial and business purposes where such use has a detrimental impact on the identified landscape quality of the area and is not justifiable on any other basis.

CONTRARY DECISION NOTE

Should the Committee agree to approve the application contrary to the recommendation of the Head of Planning and Building Control, then the application would not require to be referred to the Development Services Committee as it would not represent a significant departure from 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 & 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 Southern Local Planning Committee under the Scheme of Delegation as the proposal is subject to an objection and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies approximately 100 metres to the west of Shieldmains Farm, Coalhall and forms part of a larger site identified as a Provisional Listed Wildlife Site (Water of Coyle/Drongan Wood). The site is accessed via a single width access road from the A70, measures some 0.118 ha in area and is generally level. There are a number of mature trees in the vicinity of the site. The site had previously been under agricultural use and more recently was used for the storage of portacabins and materials in respect of works on the Scotland to Northern Ireland Interconnector. The site is occupied by a utility business specialising in drilling work. On site there are 4 containers or trailers and a number of items associated with the business including drill bits and pallets. The site is screened from public view by a belt of trees adjacent to the A70 and lies within a Sensitive Landscape Character Area.

2.2 **Proposed Development:** This is a retrospective application for full planning permission to operate a utility business and retain portacabins for office use, these having previously been associated with the Interconnector project. The application arose out of enforcement action between May and August 2002.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Drongan Community Council has no comments regarding the proposal.

Noted

3.2 The Roads and Transportation Division notes that there are already acceptable visibilities at the junction with the A70 and that internal parking is provided. They have no objections.

Noted

3.3 Scottish Water has no comments regarding water issues and indicates that drainage will require to be treated by septic tank or other suitable system. Any septic tank should be sited so as to allow easy access for the tanker.

Noted. A condition and note could be attached to any consent granted in respect of these issues.

3.4 The Scottish Environment Protection Agency has no objections in principle provided drainage is to its satisfaction. The septic tank will have to be to current BS standards requiring percolation testing to assess soil suitability and size of soakaway. Surface and foul water should be kept separate.

The issues raised by SEPA could be addressed by a note attached to any consent granted.

3.5 Scottish Power has no objection to the proposals.

Noted.

3.6 The Coal Authority has stated that the site lies within the likely zone of influence on the surface from workings in 4 seams of coal last worked in 1907. The Authority adds, however, that ground movements should, by now, have ceased. The Coal Authority also states that the site is within an area where coal is believed to exist at or near the surface, which may have been worked at some time in the past and which may be worked at some time in the future. In view of the mining circumstances a prudent developer would seek appropriate technical advice before works are undertaken on site.

An appropriate note could be attached to any planning permission requiring the applicant to make early contact with Coal Authority.

3.7 Scottish Natural Heritage has not replied at the time of writing the report.

Noted.

3.8 The Scottish Wildlife Trust does not object to the development provided the following precautions are taken:

- the application is strictly confined to the zone indicated in the application. A sturdy fence between the development and the wood would prevent any accidental encroachment of construction traffic or debris and promote long term protection from disturbance.

A condition could be attached to any consent granted for the development to ensure that fences are erected in appropriate locations, separating the site from the area of woodland.

- Waste products or groundwater drainage are not directed into the Provisional Wildlife Site.

A condition to this effect could be attached to any consent granted.

- Any pruning of trees or shrubs takes place in the autumn or winter.

A condition to this effect could be attached to any consent granted.

- 3.9 The Health and Safety Executive has not replied at the time of writing this report.

Noted.

4. REPRESENTATIONS

One letter of objection has been received. The points of objection relate to:

4.1 The development constitutes “bad neighbour” development in terms of The Town and Country Planning (Scotland) Act 1997. This utility business will create noise nuisance and visual disturbance involving as it does the operation and storage of heavy plant machinery including lorries, low loaders and mechanical diggers.

Any grant of consent for the use as proposed would authorise a measure of such activity as is of concern to the objector. The site lies within a Sensitive Landscape Character Area wherein the Council will give prime consideration to the protection and enhancement of the landscape. In terms of Policy ENV11 of the East Ayrshire Local Plan Finalised Version with Modifications, proposals creating unacceptable visual intrusion will not be supported. Support to development is offered only where it positively enhances or protects the natural landscape or promotes the social and economic well being of the community. The proposal will increase activity on an access road already subject to commercial and residential use and against that background it is not considered that it will significantly worsen noise impacts. The proposals however do not generally accord with the terms of this policy because of the appearance and visual impact of the enterprise itself and the structures from which the enterprise would operate. There is no overriding economic benefit to the community arising from the development.

4.2 The applicant has not proven a special need for creating a new business since he has only recently sold his dwellinghouse complete with pre-existing office and storage facilities, on adjacent land.

The proposal must be assessed on its own merits and in that respect it is noted that the applicant has not, in response to written requests, offered any justification for the siting of the business at premises which should have been removed once not required in relation to the Interconnector.

4.3 The portacabins were installed in association with the Interconnector project on a temporary basis only. The reason given was the “*proposal is not considered to be a suitable form of permanent development.*”

The positioning of such structures in an attractive rural area could only have been sanctioned, as with the Interconnector, on the basis of a clear justification and a temporary consent. The use of the site as proposed is without justification and is detrimental to the landscaping setting of the area.

4.4 The proposal will greatly detract from our amenity and that of the surrounding rural area, sited as it is amongst scenic woodland on the banks of the Water of Coyle and within Listed Wildlife Site WD6. A radical change of use such as this is in direct contrast to the current nation-wide policy of encouraging Rural Stewardship and Conservation of our countryside.

The development will have an adverse visual impact on the surrounding area and in particular on the Sensitive Landscape Character Area. The Scottish Wildlife Trust have not objected to the proposal indicating measures that would prevent harm being caused to the wooded area. However, even with such measures in place, the proposal and its visual impact is unacceptable.

5. ASSESSMENT AGAINST THE 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 Mauchline-Drongan-Ochiltree Local Plan (1993). The Adopted Local Plan was prepared within the context of the approved Strathclyde Structure Plan.

5.2 Policy G5 of the Structure Plan states that development proposals in the Rural Protection Area shall normally be limited to the use of land within settlements. Outside settlements, development proposals shall conform to the structure plan only where the development:

- (a) has demonstrated a site specific locational need,
- (b) can be justified in terms of social and economic benefit to the community,
- (c) contributes to rural land diversification, or
- (d) provides for the operational needs of agriculture and industry.

The application lies in the Rural Protection Area and the applicant has not demonstrated that the development meets any of the criteria stated in this policy.

5.3 Notwithstanding the age of the Adopted Local Plan the proposal would fall to be considered against this document and its associated policies. Policy IND 7 states that in the rural area, priority for industrial development will be given to those industries specifically related to agriculture and forestry and other industries which, in the opinion of the Planning Authority would benefit the rural economy of the local plan area. Craft industries and other industries will be encouraged particularly where these involve the re-use/rehabilitation of redundant buildings, unless the Planning Authority consider that these would have a detrimental effect on the rural character or ecology of the area.

The applicant is seeking to re-use redundant temporary structures that should previously have been removed as per an earlier planning permission. The structures are out of character with the rural environment and harm the visual amenity of the area. The proposal is contrary to the terms of the Adopted Local Plan.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan, (Finalised Version with Modifications) (2002), consultations and the representation received.

6.2 The site is located within the Rural Protection Area and a Sensitive Landscape Character Area. Policy SD3 of the East Ayrshire Local Plan Finalised Version with Modifications (EALP) is relevant. This accepts development outwith settlement boundaries where the development can be justified in terms of; site specific locational need, social and economic benefit to the community or where it provides for the operational needs of agriculture or forestry.

The applicant has not demonstrated compliance with the terms of this policy and it is therefore contrary to SD3.

6.3 Policy IND10 is relevant. This identifies circumstances where industrial and business development will be acceptable outwith settlement boundaries. In summary these would be where:

- the site was identified for such purposes in the EALP,

- the development was associated with agriculture or forestry or was small scale and sympathetic to rural activities such as leisure, recreation and tourism
- it was a rail freight based use at existing coal disposal points
- the use was sensitive and had a site specific locational need

All of the above circumstances are additionally to be assessed against their impact on the surrounding environment and in the case of this proposal it is considered that it does not accord with the special rural and landscape quality of the area.

6.4 Policies ENV 11 and ENV 13 address the protection and enhancement of the landscape in Sensitive Landscape Character Areas. Development which will create unacceptable visual intrusion or be unsympathetic to the rural area in terms of materials, design, size, scale, finish and colour will not be supported.

The proposed development in terms of the storage activities, parking and inappropriate temporary structures will have an adverse impact contrary to the purpose of these policies.

6.5 The consultations and representation received have been considered in Sections 3 and 4 of the report.

7. FINANCIAL OR LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in determining this application. In the event of the refusal of the application, legal implications would arise in terms of enforcement action should the applicant not respond positively to approaches from this Division requiring cessation of the use and removal of the various structures.

8. CONCLUSIONS

8.1 As is indicated in section 5 of the report, the application is considered to be contrary to the development plan. Therefore, given the terms of Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in section 6 of the report, there are material considerations relevant to this application. These considerations add weight to the assessment in terms of the development plan that the application should be refused.

8.2 The use of the site and the associated structures were essentially temporary in nature and were acceptable in the context of facilitating, on a temporary basis, the construction of the Scotland to Northern Ireland Interconnector. However, it would now be inappropriate to sanction the continuing use of the site for industrial and business purposes where such

use has a detrimental impact on the identified landscape quality of the area and is not justifiable on any other basis.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

Should the Committee agree to approve the application contrary to the recommendation of the Head of Planning and Building Control, then the application would not require to be referred to the Development Services Committee as it would not represent a significant departure from Council policy.

Alan Neish
Head of Planning & Building Control

28 March 2003
DVM/DVM
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application forms and plans.
2. Statutory notices and certificates.
3. Consultation responses
4. Letter of representation.
5. East Ayrshire Council Local Plan Finalised Version with Modifications, 2002.
6. Adopted Ayrshire Joint Structure Plan

Any person wishing to inspect the Background Papers listed above should contact Mr David Morris on (01563) 576753.

Implementation Officer: Dave Morris


Application No: 02/0678/FL

Location	Shieldmains Farm COALHALL
Nature of Proposal:	Operation of utility business and retention of portacabins for office use
Name and Address of Applicant:	Mr Alex Stevenson, Shieldmains Farm, Coalhall, KA6 6LZ
Name and Address of Agent	N/A

DPO's Ref:
[Dave Morris
]
PPO's Ref; []

The above FULL application should be refused for the following reasons:

1. The proposed development is contrary to the terms of Policy G5 of the Ayrshire Joint Structure Plan in that no site specific locational need has been presented, it cannot be justified in terms of social or economic benefit to the community, it does not contribute to rural land diversification and does not provide for the operational needs of agriculture or forestry.
2. The proposed development is contrary to Policy SD3 of the East Ayrshire Local Plan Finalised Version with Modifications in that it constitutes development within the Rural Protection Area which is not an acceptable form of residential development, cannot be fully justified in terms of site specific locational need, cannot be fully justified in terms of social or economic benefit to the community, does not contribute to rural land diversification or provide for the operational needs of agriculture or forestry.
3. The proposed development is contrary to Policy IND10 of the East Ayrshire Local Plan Finalised Version with Modifications in that it cannot be justified against the 5 relevant qualifying criteria and when assessed can be seen to have a negative visual impact on the surrounding environment.
4. The proposed development is contrary to Policies ENV11 and ENV13 of the East Ayrshire Local Plan Finalised Version with Modifications in that it constitutes development which will create unacceptable visual intrusion in and be unsympathetic to the Sensitive Landscape Character Area in terms of the appearance and temporary nature of the structures proposed and the wider use of the site.


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