

## **EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 15 AUGUST 2003**

**02/0920/FL: PROPOSED REMOVAL OF CONDITION 1 OF PLANNING  
CONSENT 01/0693/FL TO ALLOW THE RETENTION OF A WOODEN  
SHED AT 43 MAIN STREET, MUIRKIRK**

**APPLICATION BY MR J DAWSON**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Planning permission is sought for the removal of condition 1 of planning consent 01/0693/FL dated 30 November 2001 to allow the retention of a small wooden shed within the application site for storage purposes. Under this previous planning consent, retrospective permission was granted for the erection of a new larger wooden shed for storage purposes.

1.2 The applicant at the time of the previous application indicated that the smaller existing shed would be permanently removed from the rear curtilage of the shop premises. Due to this fact and the fact that the erection of the larger shed, in addition to the existing structures, would constitute over development of the site, a condition was attached to the previous consent that states:

*Within one month of the date of this consent, the existing wooden shed located to the south of the shed hereby approved shall be permanently removed from the site.*

1.3 Following monitoring procedures and representations received, the applicant was contacted and has made the present application to seek approval to retain the smaller shed.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be refused on the grounds 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 in accordance with 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, however, it is considered that these are not supportive of the application.

3.2 The applicant was contacted and requested to submit a justification for the retention of the shed that was required to be removed in terms of the previous consent. The applicant has not responded to this request and, in the absence of any new information that could be considered material to the determination of this application, the concerns of over-development of the site remain pertinent and valid. These concerns are also echoed by the objector in terms of the representation received.

### **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 because it is not a significant departure from the development 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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SHED AT 43 MAIN STREET, MUIRKIRK**

**APPLICATION BY MR J DAWSON**

**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 application is subject to an objection.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The site lies on the north side of Main Street, Muirkirk, and comprises the rear curtilage of a butchers premises. The site extends to 63 square metres and is presently used in association with the butcher's shop. The rear curtilage is presently occupied by two wooden sheds and a portaloo, all associated with the operation of the shop. The site is bounded by the butcher's premises to the south, by flatted dwellings to the east and west and by a retail premises to the north.

2.2 **Proposed Development:** Planning permission is sought for the removal of condition 1 of planning consent 01/0693/FL dated 30 November 2001 to allow the retention of a small wooden shed within the application site for storage purposes. Under this previous planning consent, retrospective permission was granted for the erection of a new larger wooden shed for storage purposes.

2.3 The applicant at the time of the previous application indicated that the smaller existing shed would be permanently removed from the rear curtilage of the shop premises. Due to this fact and the fact that the erection of the larger shed, in addition to the existing structures, would constitute overdevelopment of the site, a condition was attached to the previous consent that states:

*Within one month of the date of this consent, the existing wooden shed located to the south of the shed hereby approved shall be permanently removed from the site.*

2.4 Following monitoring procedures and representations received, the applicant was contacted and has made the present application to seek approval to retain the smaller shed.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Muirkirk Community Council has not responded to the consultation letter at the time of writing this report

***Noted.***

3.2 East Ayrshire Council's Environmental Health Division has not responded to the consultation letter at the time of writing this report.

***Noted.***

### 4. REPRESENTATIONS

4.1 One letter of objection has been received. This is summarised as follows:

4.2 If Planning was of a mind for the shed to be removed at the application for the larger hut, why are they now considering this planning application.

***The Planning Authority is required to determine any planning application submitted on its own merits.***

4.3 The site has two huts and a portaloo erected and I feel that the property is over-developed, as it does not matter which window I look out I have to look at either huts or a portaloo.

***It is acknowledged that, in the determination of the previous application, it was considered that the siting of the two wooden sheds and the portaloo would result in an over-development of the site. The applicant did intend to remove the smaller of the wooden sheds. It is considered that non-compliance with the terms of condition 1 of the previous consent would constitute over-development of the site.***

### 5. DEVELOPMENT PLAN STATUS

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 (2003).

## East Ayrshire Local Plan

5.2 Policy RTC9 states that the Council will generally be supportive of proposals to extend existing premises used for retail premises where the extension is of a size and scale appropriate to the premises concerned.

***Condition 1 was attached to planning permission reference 01/0693/FL to protect the residential amenity of the adjacent site and to prevent over-development of the site. The current application to retain the smaller shed would constitute over-development of the site and is therefore is therefore contrary to the provisions Policy RTC9.***

## **6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

6.1 The other principal material considerations relevant to the determination of the application the consultation replies and the letter of representation and the characteristics of the application site.

### Consultation Replies

6.3 There are no consultation responses that would indicate refusal of the application.

### Representations

6.4 The terms of a letter of objection are detailed Section 4 above. This echoes the concerns with regard to over-development that resulted in the imposition of Condition 1 of the previous consent and is considered to be pertinent.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial implications for the Council in the determination of this application. Legal implications may arise from enforcement action to secure removal of the shed should the Committee agree to refuse the application.

## **8. CONCLUSIONS**

8.1 As is indicated at paragraph 5.1 of the report, the application is considered to be in accordance with 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, however, it is considered that these are not supportive of the application.

8.2 The applicant was contacted and requested to submit a justification for the retention of the shed that was required to be removed in terms of the previous consent. The applicant has not responded to this request and, in the absence of any new information that could be considered material to the determination of this application, the concerns of over-development of the site remain pertinent and valid. These concerns are also echoed by the objector in terms of the representation received.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused on the grounds 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 will not require to be referred to the Development Services Committee because it is not a significant departure from the development plan.**

**Alan Neish  
Head of Planning and Building Control**

29 July 2003  
HM/HM  
FV/AN

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Letter of Representation.
5. Approved Ayrshire Joint Structure Plan (1999).
6. Adopted East Ayrshire Local Plan (2003).
7. Previous application 01/0693/FL

Any person wishing to inspect the background papers listed above, should contact Mr. Robert Duncan on 01563 555483.

**Implementation Officer: Dave Morris**

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 02/0920/FL

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Location	43 Main Street Muirkirk KA18 3QR
Nature of Proposal:	Proposed removal of condition 1 of planning Consent 01/0693/FL to allow the retention of a wooden shed.
Name and Address of Applicant:	Mr John Dawson, 43 Main Street Muirkirk KA18 3QR
Name and Address of Agent:	N/A

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DPO's Ref: [RD ]  
PPO's Ref: [HM ]

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

1. The retention of the small wooden shed, in addition to other existing and approved structures within the application site, would result in over-development of the rear curtilage of the shop premises to the detriment of visual and residential amenity.

**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.**