

**EAST AYRSHIRE COUNCIL**

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

**03/0406/OL: PROPOSED NEW BUNGALOW AND GARAGE COMPLETE  
WITH WIND TURBINE AND SOLAR PANELS AT NITH LODGE,  
DALLEAGLES, NEW CUMNOCK**

**APPLICATION BY MR J AULT**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Outline planning permission is sought for the erection of a dwellinghouse and a 15 metre high wind turbine located to the east of the proposed dwellinghouse. The applicant has indicated that it is proposed to form a single track access onto the B741 public road and a new bridge within the site in order to facilitate access to the proposed dwellinghouse. Due to the change in levels between the site and the B741 public, access to the site would require to be ramped.

**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 indicated in section 5 of the report, the application is not considered to be in accordance with 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 in Section 6 of the report, there are material considerations relevant to this application. These considerations have been assessed and are not considered to be of sufficient weight to justify approval of the application contrary to the provisions of the development plan.

3.2 The labour assessment report submitted by the applicant fails to demonstrate a need on the farm unit for an additional full time agricultural worker. It would appear from the labour assessment report that rather than accommodating a full time worker, the dwellinghouse proposed is intended to house somebody who would look after the farm in the event that the farmer and his wife were both away and who would assist in the everyday running of the unit

as the farmer approaches retirement. This is not considered to be an acceptable agricultural justification for the proposed development. The proposed development would therefore constitute the erection of a new dwelling in the countryside without agricultural support and would therefore not be in accordance with Policies RES 13 and RES 14 of the adopted East Ayrshire Local Plan.

### **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 require to be referred to the Development Services Committee because there will be 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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**APPLICATION BY MR J AULT**

**Report by Head of Planning and Building Control**

**1. PURPOSE OF REPORT**

1.1 The purpose of this report is to present for determination an outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation as the application is recommended for refusal.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The site is located south of the B741 public road in close proximity to Nith Lodge some 6 kilometres to the north-east of Dalmellington, and extends to approximately 0.15 hectares. The application site forms part of the lands of Nith Lodge Farm. The site occupies a hollow in the landscape adjacent to Nith Burn and is currently used as open marshy grazing land.

2.3 **Proposed Development:** Outline planning permission is sought for the erection of a dwellinghouse and a 15 metre high wind turbine located to the east of the proposed dwellinghouse. The applicant has indicated that it is proposed to form a single track access onto the B741 public road and a new bridge within the site in order to facilitate access to the proposed dwellinghouse. Due to the change in levels between the site and the B741 public, access to the site would require to be ramped.

**3. CONSULTATIONS AND ISSUES RAISED**

3.1 New Cumnock Community Council has not responded to the consultation letter.

***Noted.***

3.2 The Scottish Environmental Protection Agency has no objections in principle to the proposed development provided that satisfactory percolation test results for the proposed soakaway system are carried out. Should these tests fail, SEPA consider that an alternative method for the treatment and disposal of foul drainage is available.

***Noted.***

3.3 The Coal Authority and Scottish Water have no objections to the proposed development.

***Noted.***

3.4 Scottish Water has stated that there are no public water mains or public sewers within the immediate vicinity of the proposed development, and have advised that contact should be made with them to discuss how a supply of water may be obtained for the proposed development. Foul drainage will require to be treated by a septic tank or another suitable treatment system to the satisfaction of the Scottish Environment Protection Agency (SEPA).

***Noted. Should the application be approved, appropriate notes in respect of the above can be included on the planning permission.***

3.5 East Ayrshire Council's Roads and Transportation Division has advised that traffic speeds past the proposed access point are approximately 35 to 40 miles per hour in wet weather, requiring a minimum visibility splay measuring 2.5 metres by 90 metres along the B741 towards Dalmellington. This visibility can just be achieved at the proposed access point.

***Noted.***

The Roads and Transportation Division has expressed concern regarding the servicing of the premises at the proposed access location. During discussions with the applicant, an alternative access point was suggested at the bottom of the hill opposite an existing lay-by where servicing could be accommodated. Such a change of access point would remove the need for the applicant to form a new servicing lay-by adjacent to the access point originally proposed.

***Noted. No correspondence has been received from the applicant to indicate a change of proposed access point.***

#### **4. REPRESENTATIONS**

4.1 No representations have been received in respect of the application.

***Noted.***

## 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 and the Adopted East Ayrshire Local Plan (2003).

### Ayrshire Joint Structure Plan

5.2 Policy G6 of the Ayrshire Joint Structure Plan states that development proposals in the Rural Diversification Area shall normally be limited to the use of land within settlements. Outside settlements development proposals shall conform to the Structure Plan where the development:

- (i) comprises an acceptable form of residential use as defined by the local plan;
- (ii) provides for sensitive industrial, business, recreational or tourism development with a demonstrated site specific locational need;
- (iii) can be justified in terms of social and economic benefit to the community;
- (iv) contributes to rural land diversification; or
- (v) provides for the operational needs of agriculture and forestry.

***A Labour Assessment Report submitted by the applicant in support of the application states that Mr and Mrs Ault are the sole workers on the farm unit. Mr and Mrs Ault currently reside in the only dwellinghouse on the farm unit on which there are no other buildings or houses which could be utilised for residential accommodation. The submitted Labour Assessment Report concludes that the current farm business requires 1.27 SEERAD standard labour units, translating to 1 full time worker and 1 part time worker. The Labour Assessment Report also states that Mr and Mrs Ault work long hours on the farm. It is clear that the existing full time worker on the farm already occupies the existing farmhouse and the proposed dwellinghouse is presumably intended to accommodate the remaining 0.27 SEERAD standard labour units required. As a result, the proposed dwellinghouse cannot be justified in terms of the operational needs of agriculture on the farm unit. It is considered that the proposed development fails to comply with points (ii), (iii), (iv) and (v) of this policy. The proposed development must therefore be assessed in terms of relevant local plan policy (see paragraph 5.3 below), if the proposed development is to conform with Structure Plan Policy G6, part (i).***

## East Ayrshire Local Plan (2003)

5.3 Policies RES 13, RES 14, RES 15, and RES 16 are of relevance in the determination of this application. Policy RES 14 states that the Council will be supportive of small scale residential developments within the identified Rural Diversification Area, where:

- (i) the houses are required on a permanent basis for the categories of development detailed in Policy RES 13; or

***As discussed in Section 5.2 of the Report, the applicant has failed to demonstrate sufficient justification for the proposed dwellinghouse in terms of the operational needs of agriculture on the farm unit.***

- (ii) the proposed development would constitute a limited addition to an existing, clearly defined group of four or more houses not delineated by a formal settlement boundary. Any proposed expansion of such a housing group will be limited to 50% of the total number of dwellings existing in that grouping as of 1 January 1999, up to a maximum of 4 new housing units, subject to the provision of Policies RES 15 and 17 below.

***The proposed development does not constitute a limited addition to an existing, clearly defined group of four or more houses not delineated by a formal settlement boundary.***

5.4 Policy RES 13 states that the Council will be supportive of residential development of houses in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis:

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;

***The applicant has failed to demonstrate sufficient justification for the proposed dwellinghouse in terms of the operational needs of agriculture on the farm unit. The labour assessment report submitted by the applicant does not demonstrate the need for an additional full time agricultural worker on the farm unit.***

- (ii) for a worker employed by a rural enterprise or tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;

***The labour assessment report submitted by the applicant relates solely to agricultural activities on the existing farm unit. The proposed development does not therefore relate to rural enterprise or tourism related activity.***

- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or

***The labour assessment report submitted by the applicant relates solely to agricultural activities on the existing farm unit. The proposed development does not therefore constitute an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation.***

- (iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES 8 above.

***The proposed development cannot be classed as an enabling development.***

Developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

The Council will, where considered necessary or appropriate, request applicants for the categories of residential development described above, to justify their proposals through the submission of detailed supporting information, in order to allow the Council to fully assess the application.

***A Labour Assessment Report submitted by the applicant in support of the application states that Mr and Mrs Ault are the sole workers on the farm unit. Mr and Mrs Ault currently reside in the only dwellinghouse on the farm unit on which there are no other buildings or houses which could be utilised for residential accommodation. The submitted Labour Assessment Report concludes that the current farm business requires 1.27 SEERAD standard labour units, translating to 1 full time worker and 1 part time worker. The Labour Assessment Report also states that Mr and Mrs Ault work long hours on the farm. It is clear that the existing full time worker on the farm already occupies the existing farmhouse and the proposed dwellinghouse is presumably intended to accommodate the remaining 0.27 SEERAD standard labour units required. As a result, the proposed dwellinghouse cannot be justified in terms of the operational needs of agriculture on the farm unit. The proposed development is therefore contrary to the provisions of Policy RES 13 of the adopted East Ayrshire Local Plan.***

5.6 Policy RES 15 states that where a new residential development in the countryside is considered acceptable within the terms of Policies RES 13 and RES 14, the Council will require applicants in the first instance:

- (i) to utilise any existing buildings which are considered capable of residential use in preference to the construction of new build housing; and
- (ii) to utilise areas of derelict or degraded land in preference to the development of greenfield land.

In all cases, any new housing development will be required to consolidate and compliment existing farm steadings or small groups of houses in preference to the development being isolated in the countryside.

***The proposed development is not considered acceptable within the terms of Policy RES 13 and RES 14. As a result, the terms of Policy RES 15 are not applicable in the determination of the application.***

5.7 Policy RES 16 states that the Council will not be supportive of any proposals for additional houses in the countryside for agricultural workers where it can be established that:-

- (i) an existing farmhouse or other agricultural workers accommodation previously serving the agricultural unit concerned has been sold off separately from the unit to persons not employed on the farm, within the preceding five year period; or

***There is no evidence to suggest that an existing farmhouse or other agricultural workers accommodation previously serving the farm has been sold off within the preceding five year period.***

- (ii) an agricultural occupancy condition previously attached to a residential property serving the agricultural unit concerned has been removed by the Council in the preceding five year period.

***A search of records has found no evidence of previous planning applications on the farm unit within the last 5 years.***

The Council will not generally be supportive of proposals for new agricultural workers houses where the farm unit to which the proposal relates has been established for a period of less than two years. The siting of a residential caravan to accommodate an agricultural worker for a limited period may be considered acceptable with regard to newly established farm units where this can be fully justified to meet the operational requirements of the unit.

***It is understood that the farm unit has been established for over two years.***

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

6.1 The other principal material consideration relevant to the determination of the application is the consultation responses.

### Consultations Responses

6.2 The consultation replies do not indicate that the application should be refused.

## **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 indicated in section 5 of the report, the application is not considered to be in accordance with 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 in Section 6 of the report, there are material considerations relevant to this application. These considerations have been assessed and are not considered to be of sufficient weight to justify approval of the application contrary to the provisions of the development plan.

8.2 The labour assessment report submitted by the applicant fails to demonstrate a need on the farm unit for an additional full time agricultural worker. It would appear from the labour assessment report that rather than accommodating a full time worker, the dwellinghouse proposed is intended to house somebody who would look after the farm in the event that the farmer and his wife were both away and who would assist in the everyday running of the unit as the farmer approaches retirement. This is not considered to be an acceptable agricultural justification for the proposed development. The proposed development would therefore constitute the erection of a new dwelling in the countryside without agricultural support and would therefore not be in accordance with Policies RES 13 and RES 14 of the adopted East Ayrshire Local Plan.

## **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 will require to be referred to the Development Services Committee because there will be a significant departure from Council policy.

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

28 July 2003  
RD/RD  
FV/AN

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Labour Assessment Report prepared for applicant by SAC
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).

Anyone wishing to inspect the above background papers should contact Robert Duncan on 01563 555 483.

**Implementation Officer: Dave Morris**

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 03/0406/OL

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Location	Nith Lodge, Dalleagles, New Cumnock, KA18 4QP
Nature of Proposal:	Proposed new bungalow and garage complete with wind turbine and solar panels
Name and Address of Applicant:	Mr J Ault, Nith Lodge, Dalleagles, New Cumnock, KA18 4QP
Name and Address of Agent	Stairhill Architectural Services, Stairhill, Mauchline, KA5 5HN

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DPO's Ref: Robert Duncan  
PPO's Ref: Hugh Melvin

The above outline application should be refused for the following reason:-

1. The proposed development would constitute the erection of a new dwelling in the countryside without sufficient agricultural justification and would therefore not be in accordance with Policies RES 13 and RES 14 of the Adopted East Ayrshire Local Plan.

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