

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 20 JUNE 2003

**02/0273/FL: IMPORTATION AND STORAGE OF BRICK AND STONE,
INFILLING OF LAND AND PROPOSED FORMATION OF NEW FARM ROAD
AT BLACKSTONE FARM, RIGG ROAD, CUMNOCK.**

APPLICATION BY MR. JOHN DUNCAN

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full permission is sought for the importation of brick and stone into the site to be stored on Area 1. This part of the development is retrospective and a quantity of material has already been imported into the site. The material has principally derived from the demolition of vacant dwellings in Auchinleck. This material is to be used to form a new farm access road around the existing farm steading for which permission is being sought. No works have taken place in respect of this part of the proposal. Additional material would require to be imported on site to complete the formation of the new farm road.

1.2 Permission is also sought for the infilling of the small gully at Area 2. This area has already been partly infilled with inert builder's rubble, brick and stone, and has allowed the formation of a hardstanding area for use in the applicant's farming and plant hire businesses operated from Blackstone Farm.

1.3 The application seeks to regularise the breach of planning control that has taken place in respect of the partial infilling and the importation and storage of material that has already occurred.

1.4 The applicant has provided a supporting statement that indicates that his business is in farming, agricultural contracting and plant hire. The business has been in existence for many years but increasingly it has proved necessary to diversify the business interests and activities for the business to survive and prosper. Farming now accounts for approximately 10% of the business turnover and the main source of income arises from the contracting and plant hire business.

1.5 The hard standing which has been created is to form a parking area for plant which is not on hire, for the parking of employee's vehicles and initially for the deposit of the brick and stone rubble for the proposed new farm road. The necessity for the parking area has arisen through the expansion of the business as there are currently 15 employees. The business has grown from 2 plant

vehicles to 15 vehicles and there is insufficient land available adjacent to the farm steading to accommodate these vehicles.

1.6 The applicant contracts to companies which carry out site clearance with the materials arising consisting mainly of clean brick and rubble. The applicant has the opportunity of obtaining this rubble for the formation of the roadway from time to time and this would enable him to proceed gradually to construct the roadway. The material from site clearance would be stored on the hardstanding area and subsequently used in the formation of this roadway and the storage of material would be simply to allow a sufficient amount to be collected to enable meaningful progress on the road. Once imported, the rubble would not leave the steading for any other destination.

1.7 The proposed new farm road would be constructed using clay/topsoil as bedding. Clean stone and brick would then be applied to a depth of two feet and this would be dressed off in a 6 inch layer of type 1 sub-base which would be purchased from a quarry. The applicant has indicated that sufficient material could be made available to him periodically to complete works within two to three years from the granting of any consent.

1.8 The applicant further indicates a need to separate the plant hire/contracting business from other activities within the farm steading in the interests of safety.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions 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 at Section 6 of the report, there are material considerations relevant to this application, however it is considered that these are supportive of the development under consideration.

3.2 The nature of the development is such that it does not directly fall within any of the criteria of Policy IND10 and consequently is considered as being contrary to the provisions development plan. However, the applicant's dual businesses of farming and agricultural contracting/ plant hire are existing uses within the farm unit of Blackstone. The development under consideration is required to allow appropriate measures to accommodate farm diversification

while at the same time allowing for the provision of a new farm road and hard standing to avoid conflict between the uses. In this regard it is considered that an exception to policy can be made in this instance.

3.3 Nonetheless it is considered that no further infilling of the hard standing area should take place and its future use should be restricted to the parking of plant hire vehicles only. Further importation of builder's rubble should be restricted to the material that would be required to complete the formation of the new farm access road. The topography of the area is such that the use of the hard standing area for this purpose will not be visually intrusive in the rural landscape.

3.4 The material that has already been imported onsite and stored in Area 1 is not readily visible from public view and its storage has no significant impact on the environment. It is considered that any further material imported into the site for construction of the new farm road should initially be stored in Area 1 until sufficient quantities have been acquired to allow deposition and formation of the road.

3.5 It is considered that any consent granted in respect of this development should be time limited to ensure that the proposed new road is completed within an appropriate timescale in the interests of amenity. While it is accepted that the formation of the new access road will be undertaken in stages as material becomes available, the works should be completed within a definitive timescale.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused 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 because it would not represent a significant breach of planning 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. JOHN DUNCAN

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 planning application which is to be considered by the Local Planning Committee under the scheme of delegation as the proposal represents a minor departure from policy and is recommended for approval.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies on the north side of Rigg Road in Cumnock and lies within the farm steading and lands of Blackstone Farm. The application site comprises two distinct areas, one lying to the north of the farm steading adjacent to a small former colliery tip area which has now become naturalised in the landscape (Area 1). The second area lies to the south-west of the farm steading and lies immediately west of the existing farm access road leading from Rigg Road itself and relates to a small gully area (Area 2). The total application site area extends to 0.33 hectare.

2.2 **Proposed Development:** Full permission is sought for the importation of brick and stone into the site to be stored on Area 1. This part of the development is retrospective and a quantity of material has already been imported into the site. The material has principally derived from the demolition of vacant dwellings in Auchinleck. This material is to be used to form a new farm access road around the existing farm steading for which permission is being sought. No works have taken place in respect of this part of the proposal. Additional material would require to be imported on site to complete the formation of the new farm road.

2.3 Permission is also sought for the infilling of the small gully at Area 2. This area has already been partly infilled with inert builder's rubble, brick and stone, and has allowed the formation of a hardstanding area for use in the applicant's farming and plant hire businesses operated from Blackstone Farm.

2.4 The application seeks to regularise the breach of planning control that has taken place in respect of the partial infilling and the importation and storage of material that has already occurred.

2.5 The applicant has provided a supporting statement that indicates that his business is in farming, agricultural contracting and plant hire. The business has been in existence for many years but increasingly it has proved necessary to diversify the business interests and activities for the business to survive and prosper. Farming now accounts for approximately 10% of the business turnover and the main source of income arises from the contracting and plant hire business.

2.6 The hard standing which has been created is to form a parking area for plant which is not on hire, for the parking of employee's vehicles and initially for the deposit of the brick and stone rubble for the proposed new farm road. The necessity for the parking area has arisen through the expansion of the business as there are currently 15 employees. The business has grown from 2 plant vehicles to 15 vehicles and there is insufficient land available adjacent to the farm steading to accommodate these vehicles.

2.7 The applicant contracts to companies which carry out site clearance with the materials arising consisting mainly of clean brick and rubble. The applicant has the opportunity of obtaining this rubble for the formation of the roadway from time to time and this would enable him to proceed gradually to construct the roadway. The material from site clearance would be stored on the hardstanding area and subsequently used in the formation of this roadway and the storage of material would be simply to allow a sufficient amount to be collected to enable meaningful progress on the road. Once imported, the rubble would not leave the steading for any other destination.

2.8 The proposed new farm road would be constructed using clay/topsoil as bedding. Clean stone and brick would then be applied to a depth of two feet and this would be dressed off in a 6 inch layer of type 1 sub-base which would be purchased from a quarry. The applicant has indicated that sufficient material could be made available to him periodically to complete works within two to three years from the granting of any consent.

2.9 The applicant further indicates a need to separate the plant hire/contracting business from other activities within the farm steading in the interests of safety.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Roads and Transportation Division has no objections to the proposed development subject to the condition that the junction of the farm

access road with the C23 Rigg Road should be bituminously surfaced for a distance of 10 metres from the edge of the road to avoid overcarry of loose material onto the public road.

A condition can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Division.

3.2 Transco has no adverse comments to make on the proposed development.

Noted.

3.3 SP Power Systems has no adverse comments to make on the proposed development.

Noted.

3.4 Scottish Water has no comments to make on the proposed development.

Noted.

3.5 The Scottish Environment Protection Agency has no objection in principle to the proposed development. The proposals have been discussed with the applicant and with the exception of the area shaded in green on the submitted plan, appear to be in accordance with what was discussed at the meeting. The activity proposed for the area shaded in green and described as an area to be soil stripped, infilled re-soiled and grass seeded would appear to require a waste management licence. Any planning permission granted should have a clause to this effect and the applicant should contact SEPA directly in this respect. In addition the proposal seems to include the extension of an existing culvert. SEPA is generally opposed to the concept of culverting watercourses and would wholly concur with the principles of NPPG14 to promote watercourses as both valuable landscape features and wildlife habitats and would seek the support of the Council in promoting this policy.

The comments of SEPA are noted. With respect to the area shaded green (Area 2) it is considered that no further infilling of this area should take place. The hard standing that has been formed should remain but no additional works should be carried out in this area. Consequently no additional culverting of the small burn would be required.

3.6 The Coal Authority and East Ayrshire Environmental Health Division have not responded to the consultation letter

Noted.

3.7 Auchinleck Community Council has no objections to the proposed development.

Noted.

4. REPRESENTATIONS

4.1 No representations have been received with respect to the proposed development.

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 (2003).

Ayrshire Joint Structure Plan

5.2 Policy G5 of the 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:

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

The development that is the subject of this application is considered to have a need to be located outwith settlement boundaries and would contribute to rural land diversification. Further it is considered that in part the development would provide for the operational needs of agriculture at Blackstone Farm. It is considered therefore that the development is consistent with the provisions of the Ayrshire Joint Structure Plan.

East Ayrshire Local Plan

5.3 In terms of local plan policy the application site lies within the Rural Diversification Area. Policy IND10 states that industrial and business development outwith the 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 use 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 or 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 to be located within the Rural Diversification Area.

It is considered that the development under consideration does not directly fall within any of the above stated criteria and consequently could be considered as being contrary to the provisions of Policy IND10. However, the applicant's dual businesses of farming and agricultural contracting/ plant hire are existing uses within the farm unit of Blackstone. The development under consideration is required to allow appropriate measures to accommodate farm diversification while at the same time allowing for the provision of a new farm road and hardstanding to avoid conflict between the uses. The present application seeks in part to regularise a breach of planning control in the importation of builder's rubble and formation of a hardstanding. While the development is considered to be contrary to Policy IND10, the development is not in itself unacceptable subject to the imposition of appropriate conditions. The retention of the infill and use of the hardstanding in this instance would be the Best Practical Environmental Option as it is considered that removal of the unauthorised material could in itself result in greater adverse impacts than its retention in situ. In this regard it is considered that an exception to policy be made in this instance.

The further importation of builder's rubble to form the new farm access road is considered to meet the criteria of serving the needs of agriculture. The proposed method of road construction would not result in significant adverse visual impact. This could be further mitigated by the introduction of screening such as hedgerow planting.

5.4 Policy CS5 on waste disposal states that the Council will not be supportive of any applications for the development of new landfill waste disposal sites within the period of the local plan.

It is considered that the importation of clean builder's rubble in this instance is for the purposes of formation of the hardstanding and new access road and not for the purposes of waste disposal.

5.5 Policy CS6 states that the Council will not be supportive of proposals to infill disused railway cuttings, natural hollows and low lying areas of farmland glens etc. for the deposition of waste materials where the areas in question are considered to be of recreational value.

The area that has been infilled does not involve land considered to be in recreational use.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application, the consultation responses and the supporting statement of the applicant.

Consultations Responses

6.2 There are no consultation responses that would indicate that the application should be refused. Concerns raised by SEPA can be addressed through the imposition of appropriate conditions in any consent granted for the proposed development.

Supporting Statement from the Applicant

6.3 The reasons for the initial breach of planning control appear to have been motivated by the applicant's attempts to provide a storage area for vehicles associated with the applicant's agricultural contracting and plant hire business which is now the principal business use of the Blackstone Farm steading. The application seeks to regularise this breach of control and to promote the importation of further builder's rubble for the formation of a new farm access road to allow a degree of segregation of the two business uses for the reasons set out in section 2 of this report.

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 at Section 6 of the report, there are material considerations relevant to this application, however it is considered that these are supportive of the development under consideration.

8.2 The nature of the development is such that it does not directly fall within any of the criteria of Policy IND10 and consequently is considered as being contrary to the provisions development plan. However, the applicant's dual businesses of farming and agricultural contracting/ plant hire are existing uses within the farm unit of Blackstone. The development under consideration is required to allow appropriate measures to accommodate farm diversification while at the same time allowing for the provision of a new farm road and hard standing to avoid conflict between the uses. In this regard it is considered that an exception to policy can be made in this instance.

8.3 Nonetheless it is considered that no further infilling of the hard standing area should take place and its future use should be restricted to the parking of plant hire vehicles only. Further importation of builder's rubble should be restricted to the material that would be required to complete the formation of the new farm access road. The topography of the area is such that the use of the hard standing area for this purpose will not be visually intrusive in the rural landscape.

8.4 The material that has already been imported onsite and stored in Area 1 is not readily visible from public view and its storage has no significant impact on the environment. It is considered that any further material imported into the site for construction of the new farm road should initially be stored in Area 1 until sufficient quantities have been acquired to allow deposition and formation of the road.

8.5 It is considered that any consent granted in respect of this development should be time limited to ensure that the proposed new road is completed within an appropriate timescale in the interests of amenity. While it is accepted that the formation of the new access road will be undertaken in stages as material becomes available, the works should be completed within a definitive timescale.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused 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 because it would not represent a significant breach of planning policy.

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

10 June 2003
HM/HM
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
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 Mr. Hugh Melvin on 01563 555481.

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/0273/FL

Location	Blackstone Farm, Rigg Road, CUMNOCK
Nature of Proposal:	Importation and storage of brick and stone, infilling of land and formation of new farm road.
Name and Address of Applicant:	Mr. John Duncan Blackstone Farm Rigg Road CUMNOCK KA18 3JJ
Name and Address of Agent	

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

The above **FULL** application should be granted subject to the following conditions:-

1. Prior to any further importation of material to be used in the formation of the new farm access road, the existing farm access road shall be bituminously surfaced for a distance of 10 metres from the junction of the farm access with the C23 Rigg Road.

REASON – To prevent the overcarry of loose material onto the public road in the interests of public road safety.

2. Notwithstanding the plans hereby approved, no further infilling of the land shown as Area 2 on the approved plan shall take place. This area shall be fenced off and shall be used solely for the purpose of accommodating vehicles associated with the applicant's plant hire/agricultural contracting business and for the parking of employee's cars. No further culverting works shall be undertaken in this area.

REASON – In the interest of the amenity of the rural area and to prevent damage to watercourses.

3. All material to be imported on site to be used in the formation of the new farm access road shall be stored in Area 1 as indicated on the approved plan until required for road formation purposes.

REASON – In the interests of visual amenity

4. All works for the formation of the new farm access road shall be completed within two years of the date of this consent.

REASON – To ensure that the works are completed within a reasonable timescale in the interests of rural amenity.

5. As each stage of road construction is completed, the area of deposition shall be dressed off in type 1 material in accordance with the method of road construction indicated in the letter from the applicant's solicitor dated 13 February 2003.

REASON – In the interests of visual amenity.

6. Prior to the importation of further material on site, the applicant shall submit to and have approved by the Planning Authority a landscaping scheme for Area 2 and the new farm access road. Such a scheme shall provide for the planting of trees and hedgerows along the boundaries of these areas to provide screening of the site.

REASON – In the interests of visual amenity

7. The applicant shall submit to the Planning Authority on quarterly basis details of the amount of builder's rubble that has been imported on site and its source. Material to be imported on site shall be restricted to inert demolition rubble.

REASON – In the interests of site monitoring.

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