

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE : 07 SEPTEMBER 2001**

**01/0276/FL : PROPOSED CHANGE OF USE OF PART OF EXISTING  
DWELLINGHOUSE TO FORM A CHILDREN'S NURSERY AT  
11 EVERGREEN ESTATE, COALHALL**

**APPLICATION BY KAREN RIOZZI**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full planning permission is sought for the change of use of part of the dwellinghouse to form a children's nursery. The part of the dwellinghouse to which the change of use would relate extends to approximately 124 square metres. An area of the garden ground is proposed to be designated as a play garden and measures approximately 500 square metres in area. The Council's Pre-Fives Section has confirmed that given the above dimensions, the maximum number of children which could be accommodated would be 43, cared for by 10 staff. Notwithstanding this, the applicant has indicated verbally that the business would start upon a very small scale and that she would not envisage it growing to the size quoted above.

The applicant proposes to construct a vehicular access from the Evergreen Estate road to the rear of the dwellinghouse and within part of the remainder of the rear garden ground will provide a car parking area consisting of 12 spaces. The applicant also proposes to construct 4 drop-off/pick-up spaces in front of the dwellinghouse. These arrangements leave a remainder of 900 square metres of private garden ground to be used for the enjoyment of the occupiers of the dwellinghouse.

No external alterations are proposed to be made to the property. The applicant has also indicated verbally that no signage or advertisements associated with the property will be erected within the application site.

**2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheets.**

**3. SUMMARY OF ANALYSIS**

3.1 As indicated at Paragraph 5.2 above, the proposed development 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 approved unless material considerations indicate otherwise. As indicated at Paragraph 6.3 above, there are material considerations relevant to this application, but in this regard the East Ayrshire Local Plan (Finalised Version) is also supportive of the proposed development.

3.2 In order to minimise impact on adjacent residential properties, it is considered that the scale of the proposed nursery in terms of daycare placements should be restricted to 25. In addition, it will be necessary to secure the erection of additional screen fencing and screen planting for the proposed car parking area and children's play garden in order to minimise impact on residential amenity. The proposed screening will not only provide a visual barrier but will also serve to reduce potential noise nuisance.

3.3 The childcare capacity of the nursery at 25 placements will result in the provision of employment for six childcare staff. There are no consultee objections to the proposed development.

3.4 Although there is a significant level of objection to the proposed development, it is considered that the points of objection received can either be addressed through the effective control of the development by use of conditions, or have not been substantiated through the consultation process, or are not valid planning considerations.

**Alan Neish**  
**Head of Planning & 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 KAREN RIOZZI

### 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 it to be considered by the Local Planning Committee under the Scheme of Delegation as the application is subject to objections.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** This application site comprises a large single storey dwellinghouse and its extensive garden ground, situated within Evergreen Estate, Coalhall. The area of the site, including the curtilage of the dwelling, measures 0.7 acres. Residential properties lie to the north, west and east of the application site. The site is also bordered to the south by a tree belt and the A70 Cumnock – Ayr Road and to the east by a railway line.

2.2 **Proposed Development:** Full planning permission is sought for the change of use of part of the dwellinghouse to form a children's nursery. The part of the dwellinghouse to which the change of use would relate extends to approximately 124 square metres. An area of the garden ground is proposed to be designated as a play garden and measures approximately 500 square metres in area. The Council's Pre-Fives Section has confirmed that given the above dimensions, the maximum number of children which could be accommodated would be 43, cared for by 10 staff. Notwithstanding this, the applicant has indicated verbally that the business would start upon a very small scale and that she would not envisage it growing to the size quoted above.

2.3 The applicant proposes to construct a vehicular access from the Evergreen Estate road to the rear of the dwellinghouse and within part of the remainder of the rear garden ground will provide a car parking area consisting of 12 spaces. The applicant also proposes to construct 4 drop-off/pick-up spaces in front of the dwellinghouse. These arrangements leave a remainder of 900 square metres of private garden ground to be used for the enjoyment of the occupiers of the dwellinghouse.

2.4 No external alterations are proposed to be made to the property. The applicant has also indicated verbally that no signage or advertisements associated with the property will be erected within the application site.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 East Ayrshire Council's Roads and Transportation Division has no objection to the proposal subject to the inclusion of conditions on the planning permission relating to the deletion of one of the drop-off/pick-up spaces to allow access to the existing garage, the increase of the aisle width of the rear car parking area from 5 metres to 6 metres, the standard and construction of the accesses to the site and the provisions of secure fences, to prevent access from the site to the A70.

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

3.2 East Ayrshire Council's Environmental Health and Waste Management Section has no objection to the proposal provided the premises comply with the Health and Safety at Work and Food Safety regulations.

***Should the application be approved, an appropriate note in respect of the above can be attached to the planning permission.***

3.3 East Ayrshire Council's Pre-Fives Section has indicated that the applicant has readily complied with the advice and recommendations made to her by the Section and has taken into account the individual needs of children in planning this service. There is not another full daycare facility available for children in this locality other than those provided in childminder's homes. The nearest nurseries in Drongan and Coylton Primary Schools offer only sessional places during term time. The nearest alternative service matching this application can be found in Ayr or Kilmarnock. At present there is one registered childminder in Coalhall and five in Drongan.

***Noted.***

The Pre-Fives Section states that the rear garden is a large enough area to provide the required car parking and turning areas requested by the Roads Division. The plans to landscape the garden include putting sound break barriers in place to absorb noise. The entrance to the nursery will be at the rear of the facility ensuring safety, security and accessibility, creating as little disturbance as possible to the neighbouring homes. This facility would make a positive difference to the community, not only offering flexible childcare, but employment also, availing parents the opportunity to return to further education and the workplace.

***Noted.***

3.4 West of Scotland Water Authority has no objection to the proposal, provided its plant is safeguarded during the period of the alterations.

***Should the application be approved, an appropriate note in respect of the above can be attached to the planning permission.***

3.5 The Scottish Environment Protection Agency has no objection to the proposal.

***Noted.***

3.6 Drongan and Ochiltree Community Councils have not responded to the consultation letters.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 Thirteen objection letters were originally received in respect of the application following neighbour notification and advertisement in the local press. Following confirmation from the applicant's agent with regard to the maximum number of children which could be accommodated within the premises and receipt of amended plans showing staff car parking to the rear (initially proposed for the front of the dwellinghouse), the applicant was required to re-notify neighbours. Following this re-notification, a further 18 letters of objection were received. The grounds of objection can be summarised as follows:-

4.2 The proposal would have a detrimental impact on road safety.

***The proposal as originally submitted showed an insufficient level of staff parking and drop-off/pick-up spaces. Consequently, the Roads Division advised that an additional 12 parking spaces be provided at the rear of the dwellinghouse with the provision of three drop-off/pick-up spaces to the front. The Roads Division has not indicated that the additional cars entering and leaving the street would have a detrimental impact on public road safety that would justify a refusal of the application.***

4.2 The turning space at the end of Evergreen Estate is often blocked by cars and vans. As a result, traffic congestion would occur within the estate.

***The provision of the drop-off/pick-up spaces would allow cars to drive into and out from the parking spaces, without the need to drive to the turning head at the end of the Evergreen Estate Road. The Roads Division has required the provision of these spaces to prevent any traffic congestion arising from the development.***

4.3 The proposal would have an adverse impact on residential amenity in terms of traffic coming and going and the noise of children playing.

***Whilst the physical division of that part of the dwellinghouse to be converted into a nursery could potentially accommodate 43 children and 10 staff, the applicant has indicated that she would not envisage the business growing to that scale. It is considered that, should the***

**application be approved, the total number of children, which the nursery could cater for, can be controlled by the use of an appropriate condition. It is considered that the maximum number of children should be set at 25. The applicant would, of course, be free to submit a further application for planning permission to increase the number catered for which the Planning Authority could consider at a future date. In the event that the number of children is limited to 25, the number of car parking spaces shown at the rear of the building can be reduced from 12 to 9, at the advice of the Roads and Transportation Division.**

**In terms of traffic, the proposed development would result in additional traffic movements within a quiet residential estate. However, given that it is intended to provide full daycare places, this additional traffic would be generated within specific timescales, most likely over peak periods in the morning and even late afternoon when children are being dropped off and picked up. Given the nature of these traffic movements, it is considered that there would be no continuous vehicular activity outwith these periods that would result in significant impact on residential amenity.**

**The part of the curtilage that is to be used as a children's play area is located immediately to the rear of the existing dwellinghouse. This area is presently bounded to the south and east by existing tree planting. The applicant proposes to erect fencing to provide additional security and safety for the children. This, together with landscaping and screen planting will result in an area which is visually isolated from the immediate neighbouring residential properties. These measures should also provide a significant noise barrier thereby reducing impact on residential amenity. Again, this can be secured by the use of an appropriate condition on any planning permission, should the application be approved. Furthermore, the times at which children are allowed to play outdoors can also be controlled by condition, should the application be approved. It is considered that the above measures would effectively control any detrimental impact on residential amenity. With the property lying adjacent to the A70 road, there is already a high ambient level of noise associated with traffic on this road.**

4.4 There is sufficient provision of nursery spaces within the area.

**This claim has not been substantiated by East Ayrshire Council Pre-Fives Section and is not a valid ground of objection to the proposed development.**

4.5 The proposal would have a detrimental impact on visual amenity in terms of car parking and signage/advertisements.

**As noted above, car parking is provided to the rear of the building and the applicant has indicated that no signage or advertisements will be displayed within the application site. Any advertisements outwith the site would require appropriate consent from the Planning Authority. It is**

**therefore considered that the proposal would not have a detrimental effect on visual amenity to an extent that would justify a refusal of the application.**

4.6 The proposal, if approved, would bring about a reduction in property values.

***This is not a material planning consideration in the determination of this application.***

4.7 Children may be tempted to drop litter in the estate.

***Should the application be approved, an appropriate condition can be included on the planning permission which would require the applicant to provide a suitable litter receptacle within the application site.***

4.8 The proposal, if approved, would bring about a reduction in privacy to the occupiers of properties opposite and adjacent to the application site.

***The rear and side boundaries of the application site are characterised by 2m high fencing and screen planting. With the provision of additional screen fencing and screen planting, it is not considered that the privacy of the occupiers of the adjacent premises would be adversely affected to an extent that would justify a refusal of the application. Furthermore, it is not considered that the dropping-off and picking-up of children at the front of the house would detrimentally affect the privacy of the occupiers of the dwellinghouses immediately opposite to an extent that would justify a refusal of the application.***

4.9 The fear that the proposal, once approved, could expand.

***Should the application be approved, the planning permission can be worded such that any further developments within the site would require the prior formal consent of the Planning Authority. This would then be subject to careful consideration at the appropriate time.***

4.10 Road safety implications as the access road by the proposed car parking area is not sufficiently wide to allow vehicles to pass.

***The amended plans for the access and car parking area have been submitted to meet the requirements of the Roads Division, which has stated it has no objections to the amended proposal.***

4.11 A petition with 42 signatories has also been received. The majority of the signatories have also submitted letters of objection referred to above. The petition does not state upon which grounds its signatories are objecting.

***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 (1999) and the Adopted Mauchline/Drongan/Ochiltree Local Plan (1995). The Adopted Plan was prepared in the context of the then emerging Strathclyde Structure Plan.

5.2 There are no policies contained within the Adopted Local Plan which specifically relate to this proposal. The Adopted Local Plan does however state that there will be a presumption in favour of the retention of the character of residential areas and a presumption against the loss of residential properties to other uses.

***For the reasons set out above, it is not considered that the proposal, effectively controlled by conditions, would significantly alter the residential character of the area. Furthermore, the proposal relates only to the part change of use of a dwellinghouse and therefore there is no permanent loss of a residential property. It is therefore considered that this proposal complies with the provisions of the Adopted Local Plan.***

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

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan (Finalised Version with Modifications) (2001) and the objections detailed in section 4 of the report.

6.2 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.

6.3 The application falls to be determined with regard to Policy IND11 of the EALP which states that:-

The Council will, where planning permission is required, be supportive of the operation of small businesses in residential properties or associated outbuildings subject to the following criteria:-

- i. The primary use of the property remains residential;

***Should the application be approved, the proposed nursery would cover 124 square metres of floor area whilst the remainder of the dwellinghouse would measure 135 square metres. It is therefore considered that the primary use of the property will remain residential.***

- ii. The business can be adequately accommodated within the existing property;

***It is considered that the business can be readily and adequately accommodated within the property, and ample garden ground is available for both the remaining dwellinghouse and for use as the children's play garden.***

- iii. The business use does not adversely affect the existing residential use of the property or impact adversely on other residential properties in the area; and

***See response to 4.3 above.***

- iv. That adequate car parking is provided to the standards of the Council as Roads Authority.

***See response to 3.1 above.***

## **7. FINANCIAL AND LEGAL**

7.1 There are no financial or legal implications for the Council in the determination of this application.

## **8. CONCLUSIONS**

8.1 As indicated at Paragraph 5.2 above, the proposed development 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 approved unless material considerations indicate otherwise. As indicated at Paragraph 6.3 above, there are material considerations relevant to this application, but in this regard the East Ayrshire Local Plan (Finalised Version) is also supportive of the proposed development.

8.2 In order to minimise impact on adjacent residential properties, it is considered that the scale of the proposed nursery in terms of daycare placements should be restricted to 25. In addition, it will be necessary to secure the erection of additional screen fencing and screen planting for the proposed car parking area and children's play garden in order to minimise impact on residential amenity. The proposed screening will not only provide a visual barrier but will also serve to reduce potential noise nuisance.

8.3 The childcare capacity of the nursery at 25 placements will result in the provision of employment for six childcare staff. There are no consultee objections to the proposed development.

8.4 Although there is a significant level of objection to the proposed development, it is considered that the points of objection received can either be addressed through the effective control of the development by use of conditions, or have not been substantiated through the consultation process, or are not valid planning considerations.

## **9. RECOMMENDATION**

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

Alan Neish  
Head of Planning and Building Control  
DS/HM/SMB/FGD  
29 August 2001

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory notices and certificates.
3. Letters of objection.
4. Consultation responses.
5. East Ayrshire Local Plan (Finalised Version with Modifications).
6. Adopted Mauchline/Drongan/Ochiltree Local Plan.
7. Approved Strathclyde Structure Plan.
8. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the background papers listed above, should contact Derek Scott on 01563 555483.

**Implementation Officer : Dave Morris**

Application no: 01/0276/FL

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Location	11 Evergreen Estate COALHALL KA6 6PQ
Nature of Proposal:	Proposed change of use of part of existing dwellinghouse to form a children's nursery
Name and Address of Applicant:	Ms Karen Riozzi 11 Evergreen Estate COALHALL KA6 6PQ
Name and Address of Agent	Structural Partnership 142 West Nile Street GLASGOW G1 2RQ

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DPO's Ref: [Derek Scott ]  
PPO's Ref: [ ]

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

1. The proposed development shall be carried out in accordance with the application form and plans submitted on 12 April 2001 as revised by the amended site plan showing the rear car parking area and drop-off/pick-up spaces, received by the Planning Authority on 31 May 2001.

REASON – To ensure that development is carried out in accordance with the approved details.

2. Notwithstanding any details or information submitted as part of the application, the maximum number of children which shall be catered for within the proposed nursery shall be 25 during any one day.

REASON – In the interests of residential amenity.

3. The use hereby approved shall not be carried out outwith the hours of 0830 to 1730, Monday to Friday or at any time on a Saturday or a Sunday.

REASON – In the interests of residential amenity.

4. Notwithstanding any specification on the approved plans or application form, or the terms of Condition 1 above, 9 car parking spaces shall be provided at the car parking area to the rear of the dwellinghouse.

REASON – To ensure that adequate car parking is provided and to reflect the provisions of Condition 2 above.

5. Notwithstanding any specification on the approved plans or application form, or the terms of Condition 1 above, 3 drop-off/pick-up spaces shall be provided at the front of the dwellinghouse.

REASON – To ensure that adequate car parking is provided, and to provide access to the existing domestic garage.

6. Notwithstanding any specification on the approved plans or application form, or the terms of Condition 1 above, the aisle width of the proposed rear car parking area shall be 6 metres.

REASON – To ensure the safe manoeuvrability of vehicles in to and out of the car parking spaces.

7. The access to the car parking area and to the drop-off/pick-up area shall be taken via a standard access crossing formed in accordance with the East Ayrshire Council Roads Development Guide 1996.

REASON – In the interests of public road safety.

8. Prior to the commencement of the use hereby approved, details of secure fencing to be erected around the play garden, shall be submitted to and approved by the Planning Authority and thereafter erected on site. Such fencing shall be a minimum of 1.8 metres in height and shall be of a design to provide a complete visual screen to adjacent residential properties supplemented by additional screen planting and landscaping.

REASON – To safeguard the interests of the children attending the nursery, to prevent their access to the A70 and in the interests of visual and residential amenity.

10. Prior to the commencement of the use hereby approved, the existing boundary fence marked in blue on the approved plans shall be increased in height to 1.8 metres and be upgraded to provide a full visual screen of the access runway and proposed car parking area and shall be supplemented by screen planting and landscaping. The details of these works shall be submitted to and approved by the Planning Authority and the works implemented on site prior to the commencement of the use hereby approved.

REASON – In the interests of visual and residential amenity.

11. No advertisements or signage shall be displayed within the application site without the prior approval of the Planning Authority.

REASON – In the interests of visual amenity.

12. Prior to the commencement of the use hereby approved, details of a suitable litter receptacle to be provided within the site shall be submitted to and approved by the Planning Authority and thereafter installed on site.

REASON – In the interests of amenity.

#### NOTES TO APPLICANT

1. The applicant is advised to make early contact with the West of Scotland Water Authority, 35 Glenburn Road, Prestwick, with regard to the protection of its plant during construction of the car parking areas.
2. All drainage shall be to the complete satisfaction of the West of Scotland Water Authority and Scottish Environment Protection Agency.
3. The applicant is advised to make early contact with East Ayrshire Council Environmental Health and Waste Management Service, Western Road, Kilmarnock, with regard to a need to comply with the various Health and Safety at Work and Food Hygiene Regulations.

**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**