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## NORTH AYRSHIRE COUNCIL

### Planning Committee

Locality	Arran
Reference	19/00573/ALO
Application Registered	30th July 2019
Decision Due	30th September 2019
Ward	Ardrossan And Arran

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<b>Recommendation</b>	Approved with no Conditions
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<b>Location</b>	Clauchlands Cottage No 3 Clauchlands Road Lamlash Brodict Isle Of Arran KA27 8LH
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<b>Applicant</b>	A & A Reid Fao Mrs Ann Reid
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<b>Proposal</b>	Removal of Section 75 obligation attached to planning permission 08/00918/PP to remove occupancy restriction
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### 1. Description

An application has been made in terms of Section 75A of the Town and Country Planning (Scotland) Act 1997 to remove a legal obligation that was entered in to under Section 75 of the Town and Country Planning (Scotland) Act 1997. The obligation was in relation to an occupancy restriction.

An application for planning permission for a detached dwellinghouse for an agricultural worker (ref: 08/00918/PP) was approved by the Planning Committee on 24th February 2009, subject to a Section 75 obligation and conditions. The planning permission was subsequently issued on 14th January 2010 following the signing of a legal agreement which stipulated that the house must be occupied only by a person either currently or last employed locally in agriculture, or in forestry, or their dependants, or a widow or widower of such a person.

Clauchlands Farm is sited 1km north east of the settlement of Lamlash. The detached single storey dwellinghouse is sited approximately 50m south east of the main farmyard grouping and a similar distance to the north east of a similar house built by the original

farmer, Alex Reid, in 2002 (01/00666/PP) when the operation of the farm was taken over by his son Stuart Reid, the current applicant. That house is subject to a similar agricultural occupancy agreement.

The three bedroom house is one and a half storeys high with two pitched roof dormers on the front roof and a front porch; has a footprint of 116m<sup>2</sup>; and is of traditional design and finishes. It has its own access track from the main farm access road which leads from Clauchlands Road. It has private curtilage of 575m<sup>2</sup> but is otherwise bounded by agricultural land within the farm.

The 2008 planning application was accompanied by supporting statements and labour reports indicating a requirement for an agricultural worker's house for the growing dairy farm business in light of the applicant nearing retiral age and requiring further workforce assistance.

The applicants are the current farmer and his wife who have applied for discharge of the legal agreement on the following grounds:

- Changes in the business. The main part of the business is as a dairy farm supplier to the Torrylinn Creamery. Since the announcement by First Milk in July 2019 that the Creamery is to close in September, the dairy business will collapse, most of the herd will have to be sold and the staff will be made redundant as there is not enough other work on the farm;
- The house has been occupied by a farm worker of the business in line with the occupancy tie since it was applied in 2009. The applicant would like to offer the workers the chance to rent or buy the homes they have long lived in;
- If the occupancy tie remains, the house could not be occupied which would be uneconomical as any additional income is required to support the ongoing survival of the farm.

A copy of the letter from First Milk confirming closure of the Creamery and confirming the termination of the contract for the farm to supply milk was submitted with the application as evidence of the change in the business circumstances.

The application site is located within the countryside, as identified in the adopted North Ayrshire Local Development Plan ("the LDP") and is unaffected by any site specific policies or proposals therein. The relevant policy is ENV 2 (Housing Development in the Countryside). This allows that housing for workers engaged in an appropriate rural business (such as farming) shall accord with the LDP, subject to meeting a range of criteria, including a genuine operational need for a dwellinghouse.

## **2. Consultations and Representations**

Consultations were not required, the statutory neighbour notification procedures were followed and the application did not require to be advertised. No objections were received.

## **3. Analysis**

The proposal requires to be considered in terms of the adopted Local Development Plan policy ENV 2 and any other material planning considerations. Policy ENV 2 relates to the circumstances under which new housing in the countryside can be justified. It does not specifically address a change of circumstances such as has been presented in this case. The application seeks to discharge the occupancy restriction attached to the Section 75 and provides a supporting statement in relation to the justification for the removal of this restriction.

In terms of the removal of occupancy conditions, the following points can be considered to be material considerations:

- (i) The house has been occupied in association with the rural business against which it was justified;
- (ii) There have been significant developments in the dairy business outwith the applicants' control, i.e. the prospective loss of the main client, Arran Creamery.
- (iii) Retention of the occupancy restriction would cause difficulty for the applicants in achieving the required occupation of the house;
- (iv) SPP (Scottish Planning Policy 2014) has indicated a shifting policy in regards to the use of occupancy conditions since the time of the original approval.

Requests to remove such occupancy restrictions should normally take into consideration: the time passed since the original restriction was imposed; the change in circumstances given as justification; consideration of any risks associated with removal of the restriction; difficulties caused by retention of the restriction, e.g. mortgage borrowing; and that the house is suitably sited and designed and provides a reasonable level of residential amenity.

The house was granted in 2008 and was justified against the needs of the business, with the expected retirement of the farmer at the time and the passing of the running of the farm to his son. The expected changes took place and the house has been occupied by a worker of the farm and his family for the ten years since it was built. It is therefore accepted that the house has been occupied in line with the agreement for a sufficiently long period following the imposition of the occupancy restriction.

The supporting statement outlines the significant impact on the farm business of the closure of its main client, Arran Creamery and advises that the changes in the dairy business necessitate a reduction in the farm workforce to where the accommodation is no longer required by the business. Evidence of the termination of the milk supply agreement with First Milk was submitted in support of the application. In pre-application discussions, the applicants advised that there is unlikely to be identified any replacement arrangement on a similar scale, and note that the Creamery was first put on the market a couple of years ago.

The applicants have previously gained planning permissions for several holiday let units on the farm to supplement its income (ref. 06/00498/PP and 19/00019/PP) but intend to offer this house to its current occupants for sale or rent as it would not be economically feasible for the survival of the farm business to allow it be un-occupied for periods of time.

In terms of siting and amenity, the house provides a good level of residential amenity and outlook. It is 50m from the original farmer's 2002 house across intervening hedgerows and does not impact on its privacy or residential amenity. The house can be accessed independently of the working farm and the siting is acceptable. It is also noted that the Chief Planner's most recent advice on the desirability of avoiding occupancy restrictions, other

than to guard against identified impacts on road safety, amenity etc. is a material planning consideration.

Taking all of these factors into consideration, it is considered that there is no longer a requirement to retain the occupancy restriction. It is therefore recommended that the occupancy restriction be removed, and the associated Section 75 agreement be discharged.

#### **4. Full Recommendation**

Approved with no Conditions

Russell McCutcheon  
Executive Director (Place)

For further information please contact Mr Neil McAteer Planning Officer on 01294 324316.

## Appendix 1 – Location Plan

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