
NORTH AYRSHIRE COUNCIL

20th March 2024

Planning Committee

Locality	Isle of Arran
Reference	24/00114/ALO
Application Registered	19th February 2024
Decision Due	19th April 2024
Ward	Arran

Recommendation	Approved with no Conditions
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Location	Clauchlands View Cottage Clauchlands Farm Lamlash Brodict Isle Of Arran North Ayrshire KA27 8LH
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Applicant	Mrs Ann Reid
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Proposal	Removal of Section 75 agreement from planning permission 06/00498/PP to remove occupancy restriction
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1. Description

This can be ascertained by reference to the attached plans and photographs.

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 into 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 single storey house for self-catering holiday letting use (ref:06/00498/PP) was approved by the Planning Committee on 14th August 2006, subject to a Section 75 Agreement and conditions.

The planning permission was subsequently issued on 6th October 2006 following the signing of the Section 75 Agreement which limited occupancy of the house for the purpose of short-term letting and restricted the sale or letting of the property on the open housing market. The S75 agreement also limited occupation of the house as a permanent residence

or for more than four consecutive weeks or more than twelve weeks in total by the same person or persons in a calendar year.

Clauchlands Farm is sited 1km north east of the settlement of Lamlash. The detached single storey house is sited at the south west corner of the main grouping of farm buildings of the main farmyard grouping and c.195m west 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 farmer). That other house is also subject to a legal agricultural occupancy agreement.

The three bedroom single storey house is of simple design with a footprint of some 96m² and is of traditional design and finishes. It shares the main farm access road which leads from Clauchlands Road to the south. It is otherwise bounded by agricultural land within the farm.

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 Creamery closed in 2019, the dairy business has reduced, much of the herd has been sold and staff made redundant due to the reduced workload;
- Due to the imminent complete retirement of the applicants' parents from the farm business, the workforce will be reduced from four to two people;
- The current farm/holiday letting business model is being re-considered, in an effort to allow the farm business to continue to some extent and more flexibility is required in the use of the cottage in the long term with the idea that it could be offered as a long term let rather than for restricted short-term holiday letting only to ensure a steady income to be fed back into the farming operation.
- The applicants do not consider that there would be any amenity issues arising from the removal of the occupancy restriction.

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 policies are Strategic Policy 1: the Countryside Objective and Strategic Policy 2: Placemaking.

A similar agricultural occupancy was previously removed from Clauchlands Cottage No.3 in 2019 (19/00573/ALO) for similar reasons, immediately following the closure of the Torrylinn Creamery, as farm staff were initially released from employment.

Relevant Planning History

None.

Relevant Development Plan Policies

SP1 - The Countryside Objective The Countryside Objective

We recognise that our countryside areas play an important role in providing homes, employment and leisure opportunities for our rural communities. We need to protect our valuable environmental assets in the countryside while promoting sustainable development which can result in positive social and economic outcomes. We want to encourage opportunities for our existing rural communities and businesses to grow, particularly on Arran and Cumbrae, and to support these areas so that they flourish.

We also recognise that, in general, countryside areas are less well suited to unplanned residential and other developments because of their lack of access to services, employment and established communities. We will seek to protect our prime and locally important agricultural land from development except where proposals align with this spatial strategy. In principle, we will support proposals outwith our identified towns and villages for:

- a) expansions to existing rural businesses and uses such as expansions to the brewery and distillery based enterprises in the area.
- b) ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry.
- c) developments with a demonstrable specific locational need including developments for renewable energy production i.e. wind turbines, hydroelectric schemes and solar farms.
- d) tourism and leisure uses, where they would promote economic activity, diversification and sustainable development, particularly where they develop our coastal tourism offer/ infrastructure.
- e) developments which result in the reuse or rehabilitation of derelict land or buildings (as recognised by the Vacant and Derelict Land Survey) for uses which contribute to the Green and Blue Network such as habitat creation, new forestry, paths and cycle networks.
- f) sensitive infilling of gap sites consolidating existing developments where it would define/provide a defensible boundary for further expansion.
- g) small-scale expansion of settlements on Arran and Cumbrae for community led proposals for housing for people employed on the island, where a delivery plan is included, and infrastructure capacity is sufficient or can be addressed by the development and where the proposal meets an identified deficiency in the housing stock and is required at that location. All proposals will be expected to demonstrate the identified housing need cannot be met from the existing housing land supply.
- h) new housing in the countryside where it is a replacement or converted building or it is a house of exceptional design quality.
- i) sympathetic additions to existing well-defined nucleated groups of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Additions will be limited to 50% of dwellings existing in that group as of January 2005 up to a maximum of four new housing units (rounded down where applicable).

Strategic Policy 2 Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

Six qualities of a successful place

Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

2. Consultations and Representations

There is no statutory requirement for neighbour notification or other publicity for this type of application and no consultations were required.

Publicity:- Not Advertised

Site Notices:- No Site Notice

3. Analysis

Essentially, the proposal is to allow permanent occupation of a house already in-situ which was approved for short term occupation only. The proposal requires to be considered in terms of Strategic Policy 1: the Countryside Objective and Strategic Policy 2: Placemaking in the adopted Local Development Plan.

SP1 accepts new development in the countryside which is ancillary to existing rural uses and the house was initially justified and approved in these terms as being intended to support the existing farm operation. The policy does not specifically address a change in circumstances such as is requested here.

In terms of the requested removal of the occupancy condition, the following points are considered to be material:

- (i) Since it was initially built eighteen years ago, the house has been let in association with the rural business against which it was justified;
- (ii) The agricultural unit continues to operate but there have been significant developments in the dairy business outwith the applicants' control, ie. the loss of the main client, Arran Creamery.
- (iii) Retention of the occupancy restriction would cause difficulty for the applicants due to the uncertainty of the holiday letting market and the ongoing administrative work involved in managing the property;
- (iv) Since the time of the original approval, Scottish Government advice, in a 2011 letter from the Chief Planner to local authorities, indicates that little weight should now be afforded to the use of occupancy conditions for housing in the countryside. Instead, the planning considerations should focus on siting, design, environmental impacts, access etc.

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, eg. mortgage borrowing: and that the house is suitably sited and designed and provides a reasonable level of residential amenity.

The house was granted in 2006 and was justified against the needs of the business at that time. The intervening changes to the farm business, outwith the applicants' control, are noted and it is accepted that circumstances have changed in the eighteen years since the original Legal Agreement. 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.

Discussions with the applicant and the previous similar application outlines the significant impact on the farm business of the closure of its main client, Arran Creamery, the circumstances of the farm business have changed, as has national planning policy and guidance on rural housing and it is not considered that there would be any specific risk to the existing farm unit arising from the removal of the restriction. The proposal therefore accords with Strategic Policy 1.

In terms of siting and amenity, the house provides a good level of residential amenity and outlook which would be unchanged by the requested removal of the short term letting restriction. It does not impact on the privacy or residential amenity of any other properties. The house can be accessed independently of the working farm and the siting is acceptable. Again, it is 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.

The proposal also therefore complies with Strategic Policy 2: Placemaking in the LDP.

The application has also been assessed against the approved National Planning Framework 4 and it has been determined that the proposal does not raise any significant strategic planning issues which conflict with the foregoing assessment.

Taking all of these factors into consideration, it is considered that there is no longer a requirement to retain the short term 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

Allan Finlayson
Chief Planning Officer

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

Appendix 1 – Location Plan

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