
NORTH AYRSHIRE COUNCIL

20th March 2024

Planning Committee

Locality	North Coast and Cumbraes
Reference	24/00083/ALO
Application Registered	2nd February 2024
Decision Due	2nd April 2024
Ward	North Coast

Recommendation	Approved with no Conditions
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Location	Glenview Cottage Brisbane Glen Road Largs North Ayrshire KA30 8SL
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Applicant	Mr Iain McIntyre
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Proposal	Removal of Section 75 Condition relating to application ref: N/04/00111/PP
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1. Description

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

The application seeks permission to discharge a legal obligation that was entered into under Section 75 of the Town and Country Planning (Scotland) Act 1997 in relation to the erection of a detached dwellinghouse at Middleton Farm, Largs (ref: 04/00111/PP). The house was built and is currently known as Glenview Cottage.

This permission was granted on the 20th of May 2005 following the signing of a Section 75 legal agreement. The S.75 agreement limits the occupation of the house to a person solely or mainly employed, or last employed, in agriculture or forestry at Middleton Farm or a dependant or widow or widower or the offspring of such a person.

The house consists of a one and half storey dwellinghouse, sited in the south-eastern corner of the Middleton Farm grouping and is accessed via a private access from Brisbane Glen Road to the west.

The applicant was the applicant of the 2005 permission (ref: 04/00111/PP). They have provided a supporting statement which states that S.75 causes difficulty in raising finance

for the farm and it is difficult to finance on-going maintenance for the house itself. The applicant, his brother and mother are the only persons permitted to live in the house by the terms of the S.75. The S.75 restricts the flexibility of the farm to continue to operate including preventing it being split into separate units between the applicant and his brother.

The applicant considers that there would be no amenity issues in allowing the house to be occupied separately to Middleton Farm. They note that Planning Circular 3/2012 which gives advice on planning obligations states that "imposing restrictions on use are rarely appropriate and so should be generally avoided."

The application site is allocated as countryside in the Adopted Local Development Plan (LDP) and therefore the Countryside Objective of Strategic Policy 1 (Spatial Strategy) applies. All applications require to be assessed against Strategic Policy 2 (Placemaking) of the LDP and National Planning Policy 4.

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 requirement for neighbour notification nor other forms of publicity for this category of application. No consultations were carried out.

Publicity:- Not Advertised

Site Notices:- No Site Notice

3. Analysis

The proposal requires to be considered in terms of the Countryside Objective of Strategic Policy 1 (Spatial Strategy) of the LDP which in principle supports proposals outwith identified towns and villages for:

- a) Ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry; and
- b) New housing in the countryside where it is a replacement or converted building or it is a house of exceptional design quality.

The above policy does not specifically address a change of circumstances as has been presented in this case. The application seeks to discharge the occupancy restriction attached to the Section 75 obligation and includes a support statement which offers a justification for the removal of this restriction.

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

- (i) Since it was built around 19 years ago, the house has been occupied in association with the rural business against which the grant of planning permission was justified;
- (ii) The associated agricultural unit continues to be operated;
- (iii) Scottish Government advice dating from 2011, in a letter from the Chief Planner, 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 and so on.

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

The farm remains in operation with both the application property and Middleton Farm remaining in the ownership of the family. It is considered that 19 years is a sufficiently long period following the imposition of the occupancy restriction.

The supporting information provided with the application states that the S.75 makes it difficult to raise finance against the house. The operation of the farm has changed in the intervening years and the current farming generation are now considering the succession. It is possible that the farming unit may have to be split to allow continued operation, either within the family or with another operator. It is also likely that the next generation of farmer may come from outwith the family.

The circumstances of the farm are noted, and it is considered reasonable that circumstances will have changed in the 19 years since planning permission was originally granted. Whilst removal of the restriction could result in the house being occupied in isolation from the operation of the farm unit, the circumstances of the farm business have changed, as has national planning policy and guidance for rural housing. It is not considered there is any risk to the farm unit by the removal of restriction.

The application also requires to be assessed against Strategic Policy 2 (Placemaking) which identifies six qualities of a successful place which all applications for planning permission are expected to meet. It is considered that the 'Distinctive' and 'Safe and Pleasant' qualities are most relevant in this case. The house has been in occupation for several years and provides a reasonable level of residential amenity and outlook. Although it has a shared access with Middleton Farmhouse, it is considered to be sufficiently separate from that building (approx. 25m at its closest point) and to have no significant impacts on that property. The house has its own separate parking and tuning area and garden space.

The proposal therefore accords with Strategic Policy 2 of the LDP. Policy 14 of NPF4 is essentially a re-iteration of Strategic Policy 2, albeit with slightly different wording. Notwithstanding the proposal also accords with Policy 14 of NPF4.

4. Full Recommendation

Approved with no Conditions.

Allan Finlayson
Chief Planning Officer

For further information please contact Mr Iain Davies on 01294 324320.

Appendix 1 – Location Plan

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