

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 1 APRIL 2011

**11/0026/PP ERECTION OF 1.8 METRE HIGH FENCE AROUND GARDEN
AT: 23 BURNFOOT PLACE, ONTHANK, KILMARNOCK
BY: MR WILLIAM DOUGLAS**

Report by Head of Planning and Economic Development

Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=11/0026/PP>

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This proposal seeks planning permission for the erection of a 1.8 metre high close boarded timber fence 62 metres in length which is approximately $\frac{3}{4}$ of the length of the footpath on the south western boundary and 30 metres on the eastern boundary at the rear of the site. Some of the works have already been undertaken on site however the applicant has stopped works until this application has been determined.

1.2 Following discussion with the applicant, if planning permission is granted by Members, the applicant proposes to relocate the proposed timber fence to position it behind the metal railing reducing the 1 metre void. The timber fence would be positioned immediately behind the railing as per the arrangement at the neighbouring property at 25 Burnfoot Place.

1.3 The initial development proposals submitted by the applicant included a proposed shed which has subsequently been omitted from the application as it was found to be "permitted development" and did not require planning permission.

2. RECOMMENDATION

2.1 It is recommended that the application should be approved subject to the conditions indicated on the attached sheet.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report the application is in accordance with the Development Plan noting that the proposal can be considered to accord with Policy ENV9 of the Adopted Local Plan.

3.2 There are no outstanding issues raised by the consultees. 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. The objection that the application has generated is noted, however the proposed fencing comprises acceptable materials, is no greater than 1.8 metre in height above existing ground levels and is compatible with existing materials found within the residential area. If Members choose to grant consent, the fence will also be appropriately positioned within the curtilage of the application site to ensure that it does not create a void area to avoid maintenance issues which could otherwise have been detrimental to visual amenity.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to the Council as this would not constitute a significant breach of policy.

Alan Neish
Head of Planning and Economic Development

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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BY: MR WILLIAM DOUGLAS

Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an application for planning permission which is to be considered by the Northern Local Planning Committee under the scheme of delegation as the Council has an interest in the property.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a semi-detached dwellinghouse with triangular shaped garden. To the north is the adjoining semi-detached dwellinghouse. To the south west, the site is bounded by a remote footpath some 40 metres long linking Burnfoot Place with Ettrick Terrace. The boundary of the footpath is defined by a metal railing fence of 1.8 metres in height. To the east is an open space area known as Knockinlaw Mount and residential properties to the south east. At the eastern rear garden boundary, part of the proposed fence has already been erected and fencing posts installed along the south western boundary adjacent to the footpath. At the south west boundary, the partly erected fencing has been positioned approximately 1 metre inside the existing metal fence of the footpath creating a "void" area. Ground levels appear to vary between 0.5 and 0.7 metres higher than the footpath. The ground slopes from the front at Burnfoot Place to the rear at Ettrick Terrace. At the opposite side of the footpath is a 1.8 metre high metal railing fence and there is a close boarded timber fence positioned as close as possible to this metal railing, beyond which is garden ground of 25 Burnfoot Place.

2.2 **Proposed Development:** This proposal seeks planning permission for the erection of a 1.8 metre high close boarded timber fence 62 metres in length which is approximately $\frac{3}{4}$ of the length of the footpath on the south western boundary and 30 metres on the eastern boundary at the rear of the site. Some of the works have already been undertaken on site however the applicant has stopped works until this application has been determined.

2.3 Following discussion with the applicant, if planning permission is granted by Members, the applicant proposes to relocate the proposed timber fence to position it behind the metal railing reducing the 1 metre void. The timber

fence would be positioned immediately behind the railing as per the arrangement at the neighbouring property at 25 Burnfoot Place.

2.4 The initial development proposals submitted by the applicant included a proposed shed which has subsequently been omitted from the application as it was found to be “permitted development” and did not require planning permission.

3. CONSULTATIONS AND ISSUES RAISED

3.1 North West Kilmarnock Community Council is not currently active and it was not therefore possible to consult the community council on this proposal.

4. REPRESENTATIONS

4.1 1 letter of objection has been received from East Ayrshire Council’s Housing Service following neighbour notification and public advertisement of the proposals. The main points of objection are as follows:

4.2 The proposed fence is at a height which is out of keeping with surrounding properties and creates a void space between the actual boundary fence. The tenant also plans to return the fence at the front gable of the property and fit double gates creating a yard within the garden area. I would also object to the proposed erection of a large dog kennel within the garden area as it would be situated on an elevated part of the garden, again at an unacceptable height and out of keeping with the surrounding properties.

The fence height is 1.8 metres above the ground level. As noted, the ground levels are between 0.5 and 0.7 metres above the height of the remote footpath and ground level of the footpath falls away to the south east of the site. This type of boundary treatment is usually specified for the side and rear in new residential development. The owner of property at number 25 Burnfoot Place (on the opposite side of the footpath) has erected a 1.8 metre high timber fence of similar design which is positioned as close as possible to the existing metal railing. Accordingly, the type and height of fence proposed by this application is compatible with existing fencing types found in the immediate residential area and is considered acceptable for residential estates. The application details do not show formation of gates at the gable end of the property. In relation to the void area, the applicant has subsequently advised that the line of the fence will be moved back to the mutual footpath fence. As detailed at paragraph 2.4, the dog kennel does not require planning consent and has been removed from the application.

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 are 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 (AJSP) (2007) and the Adopted East Ayrshire Local Plan (EALP) (2010).

Approved Ayrshire Joint Structure Plan (AJSP) (2007)

5.2 It is not considered that there are any policies within the AJSP relevant to the determination of this application and the proposal is therefore assessed against the EALP.

Adopted East Ayrshire Local Plan (EALP) (2010)

5.3 The Council will, through Policy ENV9, encourage and demand the highest possible standards of design from applicants in the formulation of their development proposals. All developers will be expected to comply fully with the Council's existing design documents relating to, and advising on, the particular type of development proposed. Development which does not meet the required design standards detailed in these documents will require to be justified and may not be supported by the Council.

The relevant design guidance states that rear and side boundary treatments behind the front building line of a residential property shall generally be no greater than 1.8 metres in height. Walls, hedging and timber board fencing are all acceptable materials, however, materials shall be compatible with the area in which they are located.

It is noted that the application is for a 1.8 metre high timber fence and is considered to be acceptable in terms of the design guidance. The application therefore is in accordance with Policy ENV9.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the consultation responses and representations detailed in Sections 3 and 4 of the report and the planning history of the site.

Representations Received

6.2 The concerns raised generally relate to the visual impact of the fence. Whilst noted, the concerns of the objector are not considered to be of sufficient weight to justify refusal of the application. The relocation of the

fence to reduce the void area will be a significant improvement and would be acceptable to ensure that there are no resulting concerns where the void area could otherwise become overgrown and unkempt if it was not maintained properly. If Members choose to grant consent this matter could be appropriately conditioned.

Planning History

6.3 There is no relevant planning history which would warrant refusing planning permission for this application.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are financial or legal implications for the Council in the determination of this application as the Council, as landlord of the dwellinghouse and garden ground has an interest in the site.

7.2 There is no requirement to refer this application to Scottish Ministers however in terms of Circular 4/2009: Notification of Planning Applications.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report the application is in accordance with the Development Plan noting that the proposal can be considered to accord with Policy ENV9 of the Adopted Local Plan.

8.2 There are no outstanding issues raised by the consultees. 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. The objection that the application has generated is noted, however the proposed fencing comprises acceptable materials, is no greater than 1.8 metre in height above existing ground levels and is compatible with existing materials found within the residential area. If Members choose to grant consent, the fence will also be appropriately positioned within the curtilage of the application site to ensure that it does not create a void area to avoid maintenance issues which could otherwise have been detrimental to visual amenity.

9. RECOMMENDATION

9.1 It is recommended that the application should be approved subject to the conditions indicated 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 Economic Development, the application would not require to be referred to the Council as this would not constitute a significant breach of policy.

Alan Neish
Head of Planning & Economic Development

RB/RH

21 March 2011

FV/DVM

List of Background Papers

1. Application form, plans and statutory notices/certificates
2. Representations
3. Approved Ayrshire Joint Structure Plan
4. Adopted East Ayrshire Local Plan

Anyone wishing to inspect the above papers should contact Robert Beaton, Planning Officer on 01563 576770.

Implementation Officer: Hugh Melvin

East Ayrshire Council

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 11/0026/PP

Implementation Officer: Dave Morris

Location	23 Burnfoot Place Onthank Kilmarnock East Ayrshire
Nature of Proposal:	Erection of 1.8 metre high fence around garden
Name and Address of Applicant:	Mr William Douglas 23 Burnfoot Place Onthank Kilmarnock East Ayrshire KA3 2BN
Name and Address of Agent	

Officer's Ref: Robert Beaton
01563 576770

The above Planning Permission Application should be Approved subject to the following conditions.

1. Notwithstanding the approved plans the line of the timber fence within the application site is not approved. Within one month of the date of this consent, a revised plan shall be submitted to and approved in writing by the Planning Authority before any further development is undertaken on site. The plan shall show that the position of the fence along the south western boundary of the application site shall be as close to as possible to the existing metal railing fence.

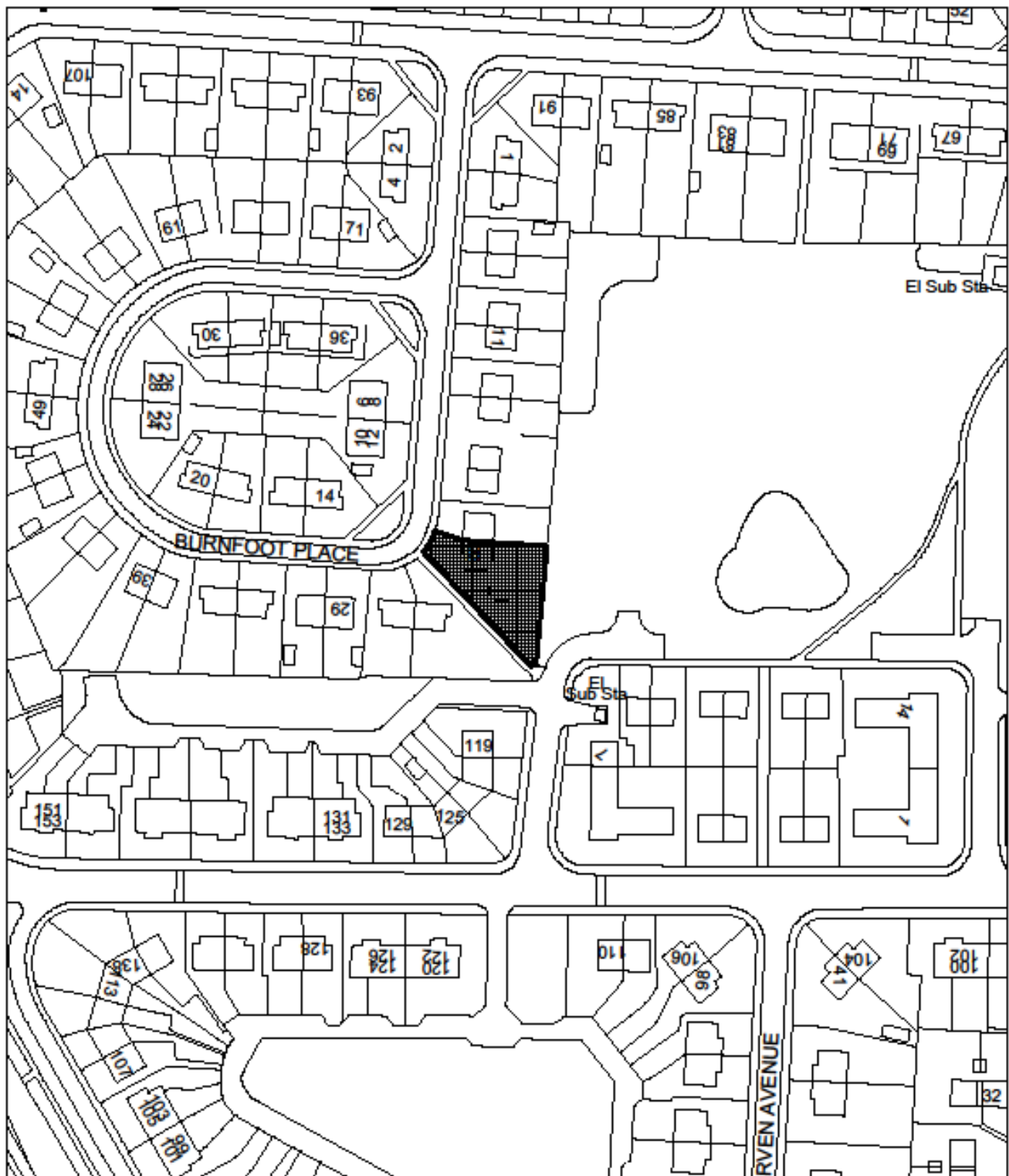
Reason: In the interests of residential amenity.



2. Further to Condition 1 above, the approved timber fence shall be erected on site as approved within a timescale to be agreed in writing with the Planning Authority. Thereafter the fence shall be maintained as approved.

Reason: In the interests of residential amenity.

Reason for the Decision

The application is considered to be appropriate relative to the policies of the Development Plan and there are no material considerations which would warrant refusal of the application.



<p>Title/Location 23 Burnfoot Place, Onthank, Kilmarnock Application No. 11/0026/PP</p>	<p>East Ayrshire Council Department of Neighbourhood Services Planning & Economic Development Service. 6 Croft Street Kilmarnock KA1 1JB Tel: (01563) 576790 Fax: (01563) 576774 E-Mail : Planning@east-ayrshire.gov.uk</p>
<p>Key</p> <p> Application Site</p>	<p style="text-align: center;"></p> <p>Com Date: 1/4/2011</p>

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