

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 27 MAY 2010

**09/0819/PP: CHANGE OF USE OF PUBLIC OPEN SPACE TO GARDEN
GROUND AND PARKING AREA
AT 24 NEWTON STREET, CATRINE
BY: MR STEPHEN MERCER**

Report by Head of Planning and Economic Development

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Planning permission is sought for the change of use of the area of open space to form part of the garden ground of the adjoining dwelling house at 24 Newton Street to allow for the formation of an enclosed / secure area for off street parking. This will consist of a new vehicular access, the erection of a 900mm boundary wall around the new front and side boundaries, including a gated opening and a 1 metre high fence to the rear.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to conditions.

3. CONCLUSIONS

3.1 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.

3.2 As detailed previously in this report the proposal is considered to be in compliance with the relevant policies contained within the Development Plan. The material considerations are supportive of the proposal and planning conditions can be attached to ensure the boundary treatment is of a suitable material for this location and that the existing tree is safeguarded.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development then the application will not require to be referred to Full Council as this would not be a significant departure from Council 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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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 for consideration by the Southern Local Planning Committee under the scheme of delegation as the Council has an ownership interest in the land to which the application relates.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located within the settlement of Catrine and within the designated Catrine Outstanding Conservation Area. The site takes the form of a relatively small triangular area of maintained open space consisting of a grassed area and a mature cherry tree. The site lies to the east and bounds onto the side curtilage of the existing semi-detached dwellinghouse at 24 Newton Street. The ground is level with the adjoining footpath bounded to the north by a 150mm – 300mm brick wall with pointed concrete coping stone. Closer to the house the ground is bounded by a small retaining wall and to the east by a timber post and rail metal lattice fence that bounds the neighbouring property at 22 Newton Street.

2.2 **Proposed Development:** Planning permission is sought for the change of use of the area of open space to form part of the garden ground of the adjoining dwelling house at 24 Newton Street to allow for the formation of an enclosed / secure area for off street parking. This will consist of a new vehicular access, the erection of a 900mm boundary wall around the new front and side boundaries, including a gated opening and a 1 metre high fence to the rear.

3. CONSULTATIONS RECEIVED

3.1 East Ayrshire Council Roads and Transportation Service has raised no objections to this application.

Noted

3.2 Catrine Community Council has raised a number of concerns:

(i) Replacing the open fence with a brick wall breaches the building line of the development

The existing fence is a timber post and rail structure with wire cross mesh which runs along the northern boundary of the application site. The formation of a brick wall 900mm in height (no greater in height than the existing fence) is not considered to adversely affect the building line of the development. Due to the size of the wall (under 1m in height) this could be constructed (if within the curtilage of a dwelling) under Part 2, Class 7 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 without requiring formal planning consent. A planning condition can be attached to any consent granted to ensure the wall or fence structure is of a suitable design for this prominent location.

(ii) We note that the existing cherry tree is not shown on the plan, this is a feature of the original development and should remain.

The block plan provides detail of the existing tree within the proposed application site and makes reference to its potential removal in order to allow for parking provision. However following discussions with the Council's Outdoor Services the retention of the tree is deemed to be appropriate given its amenity value and conditions should be attached to any consent granted to ensure the tree is safeguarded.

(iii) Public open space has been eroded in Catrine over the years. The community council objects to further infringement of public open space policy.

The application site is not a safeguarded area of open space and the area of ground is not of a size suitable for any practical public use. However it is acknowledged that the area of ground does have a positive visual impact on the streetscape of Newton Street predominantly due to the position of the cherry tree.

3.3 East Ayrshire Council's Outdoor Services has no objection to the proposed change of use provided the existing cherry tree is not damaged and advise that the area proposed for car parking shall be non hard standing surface instead designed with porous matting to prevent compaction of the tree root system.

A condition can be attached to any consent granted to ensure the appropriate protection for the tree is provided in line with the above comments.

4. REPRESENTATIONS

4.1 No third party letters of representation have been received, although Catrine Community Council has objected as indicated in section 3.2 above.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 For the purposes of this application, the Development Plan comprises the Adopted East Ayrshire Local Plan (2003) (EALP).

East Ayrshire Local Plan

5.2 Policy TLR8 presumes against development on safeguarded areas of public and private recreational or amenity open space as identified on the Local Plan maps and on other undeveloped land within settlement boundaries which contributes to the setting, character and appearance of the settlement concerned. However, certain types of development on existing areas of maintained amenity or recreational open space will be considered appropriate, as follows:-

- (i) laying out of new playing fields, bowling greens, putting greens;
- (ii) creation of all-weather sports facilities;
- (iii) creation of new children's play areas; and
- (iv) development of pavilions or other ancillary facilities to serve any existing or proposed outdoor sport and recreational activities in the area.

None of the above uses are relevant to this application therefore the proposal is required to be assessed against Policy TLR 9.

5.3 Policy TLR9 states that the Council will only permit the development of private and public recreational or amenity open space for purposes other than those described in Policy TLR8 above, in three exceptional circumstances. Only one of these circumstances is pertinent to the application, this being as follows:-

- (iii) there is a clear, long term excess of pitches, playing fields and amenity open space in the wider area.

It is considered that there are other larger areas of more practical and useable open space within Catrine. Therefore the principle of the change of use of this relatively small area of open space approx 83 m² does not raise any significant issues.

5.4 Policy ENV1 states that the Council will seek to protect, preserve and enhance all heritage resources requiring conservation including Listed Buildings and Conservation Areas, together with their respective settings, Scheduled Ancient Monuments and Archaeological and Industrial Archaeological sites and landscapes.

The proposal is located within the Catrine Outstanding Conservation Area and it is considered that the proposal could potentially have an impact on the setting of the Conservation Area if the mature cherry tree is removed which is considered to the

enhance the character and appearance of this area. In this regard a condition should be attached to require retention of the cherry tree.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the Alteration to the East Ayrshire Local Plan, the consultation responses, the impact on the amenity of the area and the applicants supporting statement.

Alteration to the East Ayrshire Local Plan

6.2 Through policy RES22, the Council will, at all times, seek to protect, preserve and enhance the residential character and amenity of existing residential areas. In this regard, there will be a general presumption against:

(i) the establishment of non residential uses within, or in close proximity to, residential areas and which have potentially detrimental effects on local amenity or which cause unacceptable disturbance to local residents;

The application does not introduce any non residential uses.

(ii) the development of locally important areas of recreational or amenity open space which contribute significantly to the character and appearance of the residential area concerned;

The proposal involves the change use of an area of amenity open space to private garden ground. It is considered that the loss of this area of ground could potentially have an impact on the character and appearance of the area.

(iii) the removal of play equipment from areas of recreational open space;

No removal of play equipment is proposed.

(iv) the closure or disruption of existing footpaths which provide important links between housing areas and areas of public open space, local shops and other community facilities, transportation nodes etc.;

The proposal will not result in any loss of existing footpaths or linkages.

(v) any development which, by reason of its size, scale, design or material finish, is out of keeping with and detrimental to the character and appearance of the residential area concerned;

The proposal will result in the erection of a new boundary. It is not considered that the erection of a brick boundary wall or timber fence of 900mm would be out-of-keeping with the character and appearance of the residential area.

(vi) any development which, by reason of its size, scale, location or material finish would be unacceptably visually intrusive or which would adversely impact on the amenity or privacy of neighbouring properties.

It is not considered that the proposal would adversely impact on the amenity of neighbouring properties.

6.3 Strategic Policy ENV1 states that the Council will seek to protect, preserve and enhance all built heritage resources requiring conservation including Listed Buildings and Conservation Areas, together with their respective settings, Historic Gardens and Designed Landscapes, Scheduled Ancient Monuments and Archaeological and Industrial Archaeological Sites and Landscapes.

The proposal is located within the Catrine Outstanding Conservation Area and it is considered that the proposal would not have any significant adverse impact on the setting of the Conservation Area.

Consultation Responses

6.4 The concerns raised within the consultation responses have been adequately addressed and are not considered to be of sufficient weight to justify refusal of the application.

Impact on Amenity

6.5 It is considered that the change of use of this area of ground will have a level of impact on the streetscape specifically in relation to this area of Newton Street. However the area of ground in question is not of a scale large enough to be a useable piece of public open space and is not noted in the local plan as safeguarded open space. An additional larger area of open space lies to the south west in front of the adjacent properties and it is considered that this adjacent area has a higher amenity value. However the cherry tree positioned within the application site does have a positive amenity impact on the streetscape and therefore it is considered that its removal would have an adverse affect and therefore should be retained.

Applicant's Supporting Statement

6.6 The son of the applicant's partner suffers from severe Autism which impacts on his ability to assess and react to situations that may endanger his personal safety to avoid exiting the car directly onto the carriageway the applicant is making this proposal to ensure that risks are reduced to a minimum by the provision of an enclosed and secure off street parking area.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 Financial and legal implications will arise through the proposed sale of the land to the applicant should consent be granted. Although the Council has an ownership interest in the land in question, there is no requirement to

notify the Scottish Government under Circular 3/2009: 'Notification of Planning Applications', should Members be minded to grant consent.

8. CONCLUSIONS

8.1 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.

8.2 As detailed previously in this report the proposal is considered to be in compliance with the relevant policies contained within the Development Plan. The material considerations are supportive of the proposal and planning conditions can be attached to ensure the boundary treatment is of a suitable material for this location and that the existing tree is safeguarded.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to conditions.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development then the application will not require to be referred to Full Council as this would not be a significant departure from Council Policy.

Alan Neish
Head of Planning and Economic Development

18 May 2010
RG/HM/RG

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application forms and plans
2. Statutory Notices and Certificates
3. Consultation Responses
4. Adopted East Ayrshire Local Plan
5. East Ayrshire Local Plan, Finalised Draft with Modifications
6. Applicant's supporting statement

Anyone wishing to inspect the above papers should contact Robin Ghosh, Senior Planning Officer on 01563 555305.

Implementation Officer: Dave Morris

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 09/0819/PP

Location	24 NEWTON STREET, CATRINE
Nature of Proposal:	CHANGE OF USE OF PUBLIC OPEN SPACE TO GARDEN GROUND AND PARKING AREA
Name and Address of Applicant:	MR S MERCER 24 NEWTON STREET, CATRINE
Name and Address of Agent	N/A

DPO's Ref: Robin Ghosh
PPO's Ref: Hugh Melvin

The above application for planning permission should be approved subject to the following conditions:

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and prior to the commencement of any development works on site, details of the proposed boundary treatment, shall be submitted to and approved in writing by the Planning Authority.

REASON: In the interests of the visual amenity of the Conservation Area.

2. Notwithstanding the plans hereby approved, no hard standing shall be introduced within a 5 metre radius from the trunk of the existing cherry tree in order to reduce compaction of the tree root system. Instead a porous membrane shall be used to create a surface for car parking, the details of which shall be submitted to and approved in writing by the Planning Authority in consultation with the Council's Outdoor Services prior to any development works commencing on site, including site/ground clearance works.

REASON: In the interests of safeguarding an existing mature tree within the Catrine Outstanding Conservation Area.

Reason for the decision:

The proposal is considered to be in compliance with the applicable policies of the Development Plan and the material considerations relative to the application are supportive of the proposal.