

SOUTHERN LOCAL PLANNING COMMITTEE: 29 OCTOBER 2010

**10/0665/PP: CHANGE OF USE OF HARD STANDING AREA TO
GARDEN GROUND AND ERECTION OF BOUNDARY FENCE
AT 5 ROBERTSON AVENUE, CUMNOCK**

APPLICATION BY MR MARTIN RICHARD

Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=10/0665/PP>

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Planning permission is sought for the change the use of the area of hard standing to garden ground for incorporation into the existing curtilage of number 5 Roberston Avenue and for the erection a timber vertically lined fence along a section of the eastern boundary. The fence is proposed at a height of 2.0 metres from the existing timber fence to the front building line of the extension, then reducing in height to 1.2 metres to the rear of the footpath.

1.2 The ground is to be incorporated into the curtilage of the property as additional front garden ground and noted as specifically comprising of soft landscaping with lawn and plants. A 4 metre strip of ground to the west, included in the application site, is retained as a private driveway access.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report there are no specific development plan policies especially applicable to this development and therefore greater weight should be attached to the material considerations in respect of the proposed development. As indicated in Section 6 there are material considerations relevant to the application however it is considered that these are either supportive of the application or are not of sufficient weight to justify refusal in this case.

3.2 The change of use of this area of ground which has been used as an informal parking area to that of front garden ground is not considered to be

development that is out of keeping with the streetscape of Robertson Avenue and assists in creating increased uniformity of the street frontage. The proposed timber fence along the eastern boundary is neither of a scale nor height that would cause any adverse impacts on the residential amenity or road safety grounds.

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 Full 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.

SOUTHERN LOCAL PLANNING COMMITTEE: 29 OCTOBER 2010

**10/0665/PP: CHANGE OF USE OF HARD STANDING AREA TO
GARDEN GROUND AND ERECTION OF BOUNDARY FENCE
AT 5 ROBERTSON AVENUE, CUMNOCK**

APPLICATION BY MR MARTIN RICHARD

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, to be considered by the Southern Local Planning Committee under the scheme of delegation as the application is subject to more than 10 letters of objection to the development.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located within a residential area at Robertson Avenue in Cumnock and comprises of a tarmac hard standing area immediately in front of the existing dwellinghouse at 5 Robertson Avenue. This ground was utilised as an informal area for off road parking/turning which was not part of the existing public road. The dwelling to which the application relates is single storey with a front extension and recessed some 15 metres from the edge of the road.

2.2 Adjacent and immediately to the west of the dwelling a detached garage is located and bounds with the neighbouring property. To the west of the application site a low brick wall with cope encloses the neighbouring properties front garden ground. This property is a significant two storey dwelling with gable frontage onto Robertson Avenue. To the east the application site bounds with a similar style low brick wall forming the boundary with number 7 Robertson Avenue which is positioned at an angle with the side gable fronting onto the road.

2.3 A footpath is present on either side of the application site but does not cross the frontage. The street is standard width with a footpath on both sides. The road rises slightly to the east as traveling along Robertson Avenue to a small crest then drops away. The application site is largely level and covers an area of approximately 110sqm. A site inspection has shown that some ground clearance has taken place and foundation excavation works have been undertaken.

2.4 It is noted that the application site was previously in Council ownership, but has been formally disposed of and sold to the applicant.

2.5 **Proposed Development:** Planning permission is sought for the change the use of the area of hard standing to garden ground for incorporation into the existing curtilage of number 5 Roberston Avenue and for the erection a timber vertically lined fence along a section of the eastern boundary. The fence is proposed at a height of 2.0 metres from the existing timber fence to the front building line of the extension, then reducing in height to 1.2 metres to the rear of the footpath.

2.6 The ground is to be incorporated into the curtilage of the property as additional front garden ground and noted as specifically comprising of soft landscaping with lawn and plants. A 4 metre strip of ground to the west, included in the application site, is retained as a private driveway access.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Cumnock Community Council has raised no objections to the proposed development.

3.2 East Ayrshire Council's Roads and Transportation Service has no objections subject to the following conditions:

- (i) Visibility sight lines of 2.5m by 35m shall be maintained in both directions with no obstruction greater than 1.0m in height to be allowed within this visibility splay.
- (ii) Any gates shall open inward away from the carriageway.

Conditions can be attached to any consent granted for the development to meet the requirements of the Roads and Transportation Service.

3.3 East Ayrshire Council's Legal Service has no comments to make on the application.

4. REPRESENTATIONS

4.1 A total of 25 third party letters of representation, from 31 signatories, have been received objecting to the proposed development. Two letters of objection have also been withdrawn. The main points of objection are summarized as follows:

4.2 The loss of the car park area will force more cars onto an already

congested stretch of road at the brow of a hill and a downward bend. This will cause more hazards for both pedestrians and drivers alike.

The Roads and Transportation Service has not raised any concerns regarding the loss of parking or any resultant road safety implications.

4.3 The building of a fence/wall will cause a blind spot for both children and adults and could lead to accidents.

The fence proposed along the eastern boundary is extending the length of the existing 2.00m high fence to the front building line and then reducing to 1.20m in height above ground level from the front building line to meet with the neighbouring wall running to the rear of the footpath. The height and location of the fence is not considered to cause any road safety implications for children or adults. The Roads and Transportation Service has advised visibility sightlines should remain in place and these can be secured by a condition in any consent granted for the proposed development.

4.4 Any structure, be it a fence or wall in this area, would be completely out of character in this previously well kept area.

The application as a whole proposes to extend the front garden ground to meet with that of the neighbouring properties creating uniformity in frontage along Roberston Avenue. In terms of the wall or fence, the application seeks the erection of a timber fence along the eastern boundary which is 2.0m in height (tying in with the existing fence height) to the front building line then reducing to 1.2m from the building to meet with the rear of the footpath and adjacent front boundary wall. This is not considered to be of a height which would be of detriment to the visual amenity of the surrounding area. No details have been included within the application for the boundary treatment along the front (south) boundary.

4.5 The construction, erection or planting of any item above that currently in place would be totally out of character for the area and would adversely affect my families quality of life as it would block daylight to both my living room and bedroom and cast a shadow over the whole frontage of my property.

The erection of the section of 2.00m high timber fence which extends the already erected fence is not considered to have an adverse affect on the daylight levels. The timber fence then reduces in height to 1.20m above ground level on the application site which from site inspection would appear to be below the level of the adjoining

garden to the east, which would therefore not be of a height that would have any detrimental impact on day lighting levels.

4.6 Discrepancies in the application form. Work has already started on site.

The planning application form and all associated plans have been officially validated and provide sufficient information to allow the application to be determined. Any works that have commenced on site would not be verified until a site visit by the planning officer was undertaken. This would then be noted in the file.

4.6 We would question the boundaries on the drawings. This drawing does not look as if it has been done by a professional in this field and we would question that these lines affect the ownership of the land at number 3.

The plans submitted as part of the planning application are acceptable in order to allow an appropriate assessment to be made and the land ownership has been confirmed (land ownership certificate) as part of the application process. There is no formal requirement for the plans to be prepared by a professional.

4.7 It is clearly stated in the application that access must be allowed to 3 Robertson Avenue. We object to the access to No. 3 being sold off in the first place.

The issue raised by the objectors is of a legal nature and is not a material consideration in the determination of this application.

4.8 The application form indicates that there are no plans to incorporate areas to store or aid collection of waste. How does the applicant propose to allow access for No. 3 for this to be facilitated?

The applicant has indicated in the application form that pedestrian and vehicular access to both No. 3 and No. 5 Robertson Avenue will be maintained.

4.9 The public footpath is interrupted as previously this "hard standing area" was used for vehicles. Is this area included in the sold land or does this still belong to East Ayrshire Council and if so will the footpath be extended to the shared entrance for safety? If any works are carried out, who will be responsible?

The area immediately in form of the application site is retained in Council ownership. The Roads and transportation Service, at this time, has not required the continuation of the public footpath across the frontage of the application site. It is understood that any

requirement or proposal to provide the footpath across the site, excluding the shared access, would rest with the Council.

4.10 There will be concerns regarding implementation of the proposal in terms of storage of materials and impact on health and safety and noise.

The proposed development is minor in nature and is unlikely to have significant impacts on residential amenity through storage of materials or noise arising from construction works. It should be borne in mind that such impacts would be temporary in nature.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 For the purposes of this application the development plan comprises the Adopted East Ayrshire Local Plan 2010.

There are no specific policies which are of particular relevance to the proposed development and therefore greater weight should be afforded to the material considerations in respect of the proposed development.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the impact on the amenity of the area, the consultation responses, the applicant supporting statement, the Planning History of the site and the representations received.

Impact on the Amenity

6.2 The change of use of this area of ground to form front garden ground is not considered to adversely affect the visual or residential amenity of the immediate surroundings. The incorporation of this area of ground within the curtilage of 5 Robertson Avenue assists in creating uniformity within the street frontage.

Consultation Responses

6.3 The submissions detailed in Section 3 of this report do not raise any issues that warrant refusal of the application.

Applicants Supporting Statement

6.4 The applicant has included a brief supporting statement, the main points of which are noted below:

- (i) The enclosing of the area of land and forming a garden area will create a safer environment for my son and his friends to play.
- (ii) Extending my garden out to the footpath will be no different to any other garden in Robertson Avenue and indeed the Glebe. Presently my garden is the only one that does not have a boundary with the footpath.
- (iii) The formation of the new driveway and landscaped garden area will greatly enhance the visual amenity of the area.
- (iv) The area of land previously formed the access to my driveway and the only change to the access will be resurfacing the already worn and potholed surface.
- (v) The proposed fencing is lower than fences recently erected at neighbouring properties. Indeed the proposed fencing to the gable is an extension of the same height fence erected by the owner at number 7.
- (vi) Irrespective of the outcome of the planning application the area of land that I own will be fenced off in accordance with the title.

In relation to point (vi) above, it is understood that a condition of the sale of the ground to the applicant by the Council requires the applicant to enclose the ground by the erection of a fence.

Planning History

6.5 The application site has been the subject of a previous planning application (ref: 10/0342/PP) for the "Change of use of hard standing area to garden ground and erection of boundary fence" which was subsequently withdrawn by the applicant on 17 June 2010.

Representations

6.6 The points raised in the letters of objection have been addressed under Section 4 of this report. Whilst the level of objection received is noted, none of the issues raised are considered to be of sufficient weight to warrant refusal of this application.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in the determination of this application.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report there are no specific development plan policies especially applicable to this development and therefore greater weight should be attached to the material considerations in respect of the proposed development. As indicated in Section 6 there are material considerations relevant to the application however it is considered that these are either supportive of the application or are not of sufficient weight to justify refusal in this case.

8.2 The change of use of this area of ground which has been used as an informal parking area to that of front garden ground is not considered to be development that is out of keeping with the streetscape of Robertson Avenue and assists in creating increased uniformity of the street frontage. The proposed timber fence along the eastern boundary is neither of a scale nor height that would cause any adverse impacts on the residential amenity or road safety grounds.

9. RECOMMENDATIONS

9.1 It is recommended that the application be approved subject to the conditions on the sheet attached to this report.

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 Full Council as this would not constitute a significant breach of policy.

Alan Neish
Head of Planning and Economic Development
15 October 2010
RG/HM/
FV/KD

LIST OF BACKGROUND PAPERS

1. Application Forms/Plans.
2. Statutory Letters/Certificates.
3. Consultations.
4. Adopted East Ayrshire Local Plan.
5. Finalised Draft with Modifications East Ayrshire Local Plan
6. Planning Application 10/0342/PP
7. Applicants Supporting Statement

Anyone wishing to inspect the above papers please contact Robin Ghosh, Senior Planning Officer, on 01563 553505.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

ApplicationNo:10/0665/PP

Site of Proposal: 5 Robertson Avenue, Cumnock

Nature of Proposal: Change of use of hard standing area to garden ground and erection of boundary fence

Name & Address of Applicant: Mr Martin Richard
5 Robertson Avenue,
Cumnock

DPO's Reference: Robin Ghosh

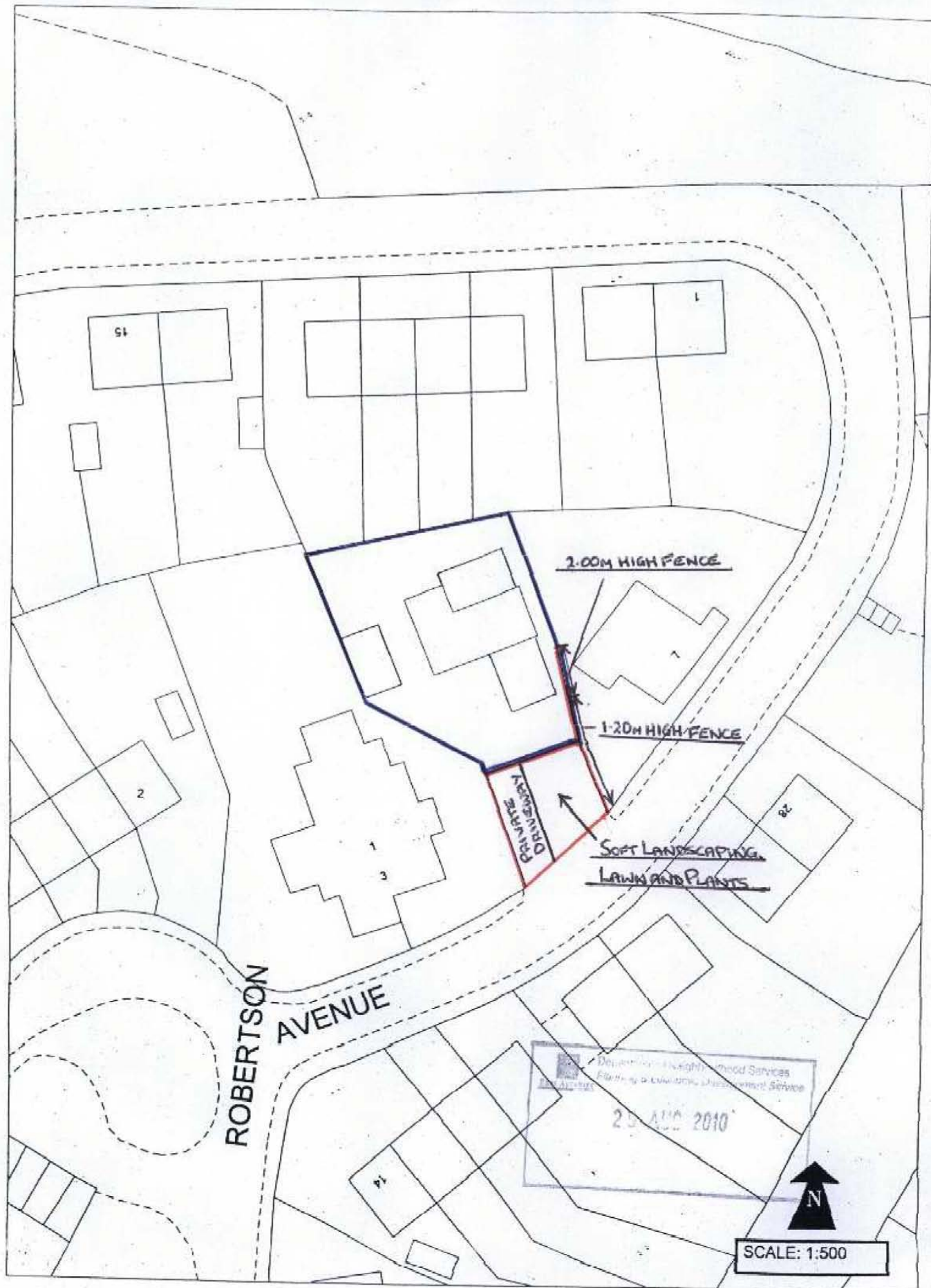
The application for Planning Permission should be granted subject to the following conditions:

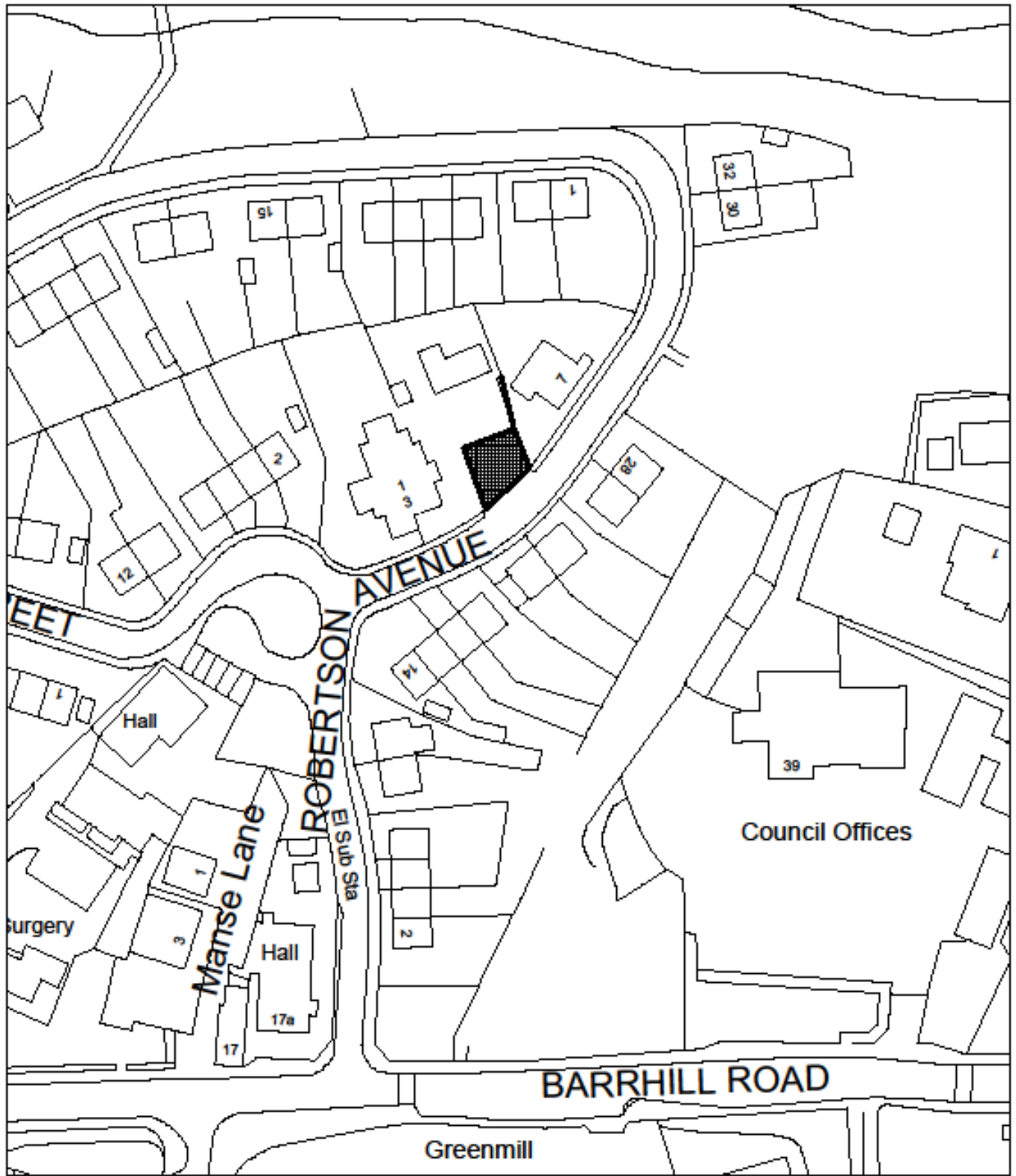
1. Notwithstanding the submitted plans the visibility sightline splays of 2.5m by 35m shall be maintained in both directions with no obstructions greater than 1.0m in height allowed within these splays.



REASON: In the interests of road safety.

2. Notwithstanding the submitted plans any gates shall open inwards away from the public road.

REASON: In the interests of road safety.





<p>Title/Location 5 Robertson Avenue</p> <p>Cumnock</p> <p>Application No. 10/0665/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 Com Date: 29/10/2010</p> <div style="text-align: right;">  </div>
<p>Key</p> <div style="display: flex; align-items: center;">  <p>Application Site</p> </div>	

This map is reproduced from the Ordnance Survey material with permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office(C) Crown copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. East Ayrshire Council. 100023409.