

EAST AYRSHIRE COUNCIL

SPECIAL SOUTHERN LOCAL PLANNING COMMITTEE: 14 DECEMBER 2007

07/0786/FL: ERECTION OF TWO GABION RETENTION WALLS WITHIN PUBLIC OPEN SPACE AT STEPEND ROAD, HOLMHEAD, CUMNOCK

APPLICATION BY GEORGE WIMPEY WEST SCOTLAND LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

- 1.1 Retrospective planning permission is sought for the erection of two gabion walls within the proposed public open space area. One of the gabion walls is situated to the rear of Nos. 6, 8 and 10 Stepend Road running a length of approximately 30 metres. The gabion wall formed is stepped in three sections giving an overall height at its maximum of 3 metres above ground level. This wall at its closest lies approximately 1.2 metres from the rear garden fences of the aforementioned properties.
- 1.2 The second gabion wall has been erected to the rear of Plots 16 and 17 of the Wallacegate development along the rear garden boundaries. This gabion wall runs a length of approximately 25 metres with a maximum exposed height of 1.5 metres. This wall runs adjacent to an area of proposed public open space to be formed as part of the King Homes residential development site.
- 1.3 In order to mitigate visual impact of the gabion walls, an extensive landscaping scheme has been submitted with the application. The applicant intends to reduce the visual impact of the exposed gabion walls by incorporating matting over the exposed faces that are to be planted out with honeysuckle, clematis and ivy. The erection of timber fencing and further tree and shrub planting is provided in the wider open space area. The landscaping scheme has essentially been implemented on site. The submitted application is also accompanied by details of a surface water drainage system and information relating to the structural integrity of the gabion walls. This information is also supported by independent assessments of the gabion walls, drainage system and landscaping scheme.
- 1.4 A previous planning application (Ref. No. 06/0521/FL) for this retrospective development was refused contrary to recommendation on 03 November 2006. A subsequent planning appeal was dismissed by the Scottish Ministers on 10 April 2007. The appointed Reporter concluded that in the absence of (1) the information which an audit exercise would provide in terms of the structural integrity of the gabion walls and the effectiveness of the surface

water drainage system; and (2) the detailed landscaping proposals, there was insufficient information to justify the grant of planning permission.

2. RECOMMENDATION

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

3. CONCLUSIONS

- 3.1 As is indicated in Section 5 of the report, there are no policies of relevance in the development plan and therefore greater weight should be afforded to the material considerations in respect of this development. As is indicated at Section 6 of the report, there are material considerations relevant to this application.
- 3.2 There are no consultation objections with regard to the development but a number of concerns and objections have been raised by neighbouring properties, some of which have merit in this instance. There is no doubt that the gabion walls did have a significant visual impact and did not form part of the original proposals for the Wallacegate site. However it is considered that, with the amended proposal for the 'greening' of the exposed faces of the wall and the comprehensive landscaping proposals for this area of open space (now implemented on site), these impacts can and have been mitigated to a significant degree.
- 3.3 The issue of surface water run-off from this site is historic but the developer has provided an independent report of proposed drainage installed to address issues of surface water drainage. The design of the drainage system has been undertaken in accordance with Scottish Water requirements and should therefore perform in a satisfactory manner. This system is connected to the existing adopted surface water drainage systems in the locality. Furthermore, it is understood that the developer has carried out some works in the adjacent residential properties to address some of the previous concerns raised by local objectors. It is further noted that Scottish Water has raised no adverse comments on the drainage system.
- 3.4 The developer has also provided a detailed, independent report which confirms the suitability, structural stability and drainage to the gabion retaining walls. Furthermore, it should be noted that a building warrant for the gabion walls, with appropriate structural certification, was issued on 24 July 2007.
- 3.5 In this regard, it is considered that conditions can be imposed on this retrospective development to address the remaining concerns of the objectors which are not of sufficient weight to merit refusal of the application.

CONTRARY DECISION NOTE

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to the Principal Planning Committee as such a decision would not represent a significant departure from the development plan.

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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APPLICATION BY GEORGE WIMPEY WEST SCOTLAND LIMITED

Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is subject to letters of objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The site lies at the end of Stepend Road in Holmhead in Cumnock and lies to the east of residential properties at Nos.6 – 10 Stepend Road and to the north of residential properties at Nos. 49 – 57 Holmhead Road. The site relates to a proposed area of public open space associated with the new private residential development at Wallacegate. Full planning permission was granted for the erection of 34 dwellings and associated works at the Wallacegate site on 07 October 2005 (Ref. No. 05/0851/FL).

2.2 The application site extends to approximately 1685 m² and comprises steeply sloping ground falling in a general north to south direction. The area is to be utilised as public open space and is the subject of a planning condition on the existing consent requiring a detailed landscaping scheme to be submitted to the Planning Authority for approval. A scheme has been submitted and is included as part of this present application, although it has already been substantially implemented on site.

2.3 **Proposed Development:** Retrospective planning permission is sought for the erection of two gabion walls within the proposed public open space area. One of the gabion walls is situated to the rear of Nos. 6, 8 and 10 Stepend Road running a length of approximately 30 metres. The gabion wall formed is stepped in three sections giving an overall height at its maximum of 3 metres above ground level. This wall at its closest lies approximately 1.2 metres from the rear garden fences of the aforementioned properties.

2.4 The second gabion wall has been erected to the rear of Plots 16 and 17 of the Wallacegate development along the rear garden boundaries. This gabion wall runs a length of approximately 25 metres with a maximum exposed height of 1.5 metres. This wall runs adjacent to an area of proposed public open space to be formed as part of the King Homes residential development site.

2.5 In order to mitigate visual impact of the gabion walls, an extensive landscaping scheme has been submitted with the application. The applicant intends to reduce the visual impact of the exposed gabion walls by incorporating matting over the exposed faces that are to be planted out with honeysuckle, clematis and ivy. The erection of timber fencing and further tree and shrub planting is provided in the wider open space area. The landscaping scheme has essentially been implemented on site. The submitted application is also accompanied by details of a surface water drainage system and information relating to the structural integrity of the gabion walls. This information is also supported by independent assessments of the gabion walls, drainage system and landscaping scheme.

2.6 A previous planning application (Ref. No. 06/0521/FL) for this retrospective development was refused contrary to recommendation on 03 November 2006. A subsequent planning appeal was dismissed by the Scottish Ministers on 10 April 2007. The appointed Reporter concluded that in the absence of (1) the information which an audit exercise would provide in terms of the structural integrity of the gabion walls and the effectiveness of the surface water drainage system; and (2) the detailed landscaping proposals, there was insufficient information to justify the grant of planning permission.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Cumnock Community Council has not responded to the consultation letter.

Noted.

3.2 The Scottish Environment Protection Agency notes that the surface water drainage in the vicinity is in the direction of the gabion walls. It is further understood that at least two properties have experienced flooding from the existing drainage system. It is recommended that the drainage system is suitably designed to ensure that surface water runoff from outwith the site does not impact on the gabion baskets to the detriment of their structural integrity and that suitable overland flow routes through the site are maintained to prevent inundation of properties in the event of exceedance of the drainage system capacity.

The developer has provided an independent report of proposed drainage to be installed to address issues of surface water drainage. The design of the drainage system has been undertaken in accordance with Scottish Water requirements and should therefore perform in a satisfactory manner. This system has now been installed and is connected to the existing adopted surface water drainage systems in the locality. Furthermore, it is understood that the developer has carried out some works in the adjacent residential properties to address some of the previous concerns raised by local objectors. It is further noted that Scottish Water has raised no adverse comments on the drainage system.

3.3 East Ayrshire Council Outdoor Amenities Section states that further to its inspection of the landscaping and site visit, it has one concern regarding the planting that has already been carried out. All of the trees, shrubs and climbers are appropriate

with the exception of quercus robur (oak), which will become too large for the location. The major concern is that a number of young oaks have been planted adjacent to the top of the gabion wall. If these are left to mature there is the possibility of the roots pushing against and into the gabion. Removal of all of the young oaks is advised and replacing them with smaller growing trees which will not damage the wall in future (e.g. sorbus (rowan))

A condition can be attached to any consent granted for the proposed development requiring the removal of the planted oak specimen and their replacement with alternative species to be agreed in consultation with the Outdoor Amenities Section.

3.4 Scottish Water has no objection to the development.

Noted.

4. REPRESENTATIONS

4.1 Three letters of representation with a total of 4 signatories have been received regarding the proposed development. The main points of objection are summarised as follows:

4.2 Our visual amenity has been reduced and there is direct line of site into our bedrooms which is an invasion of privacy. Due to excess water draining into our back walls our trees and leylandii hedge have grown beyond a manageable height to the extent they now screen the gabion wall. The developer did offer to send professional help to cut away the excess growth but as on other occasions their offers never seem to materialise into fact.

It is considered that the existing trees and leylandii hedging within the objector's property did provide a degree of screening that mitigated impact on privacy. However, since the receipt of the objector's representations, the trees and hedging have been cut back (it is understood that the developer carried out this work) and has now in itself resulted in loss of privacy. Nonetheless it is considered that with the extensive tree and shrub planting carried out, this should mitigate the impact on privacy, once a degree of maturity has been reached within the site.

4.3 A structural assessment and report must have been undertaken by the developer for them to consider the need for gabion cages. The engineer obviously recommended, for health and safety and support of a building, the erection to at least six high. The developer has since reduced it to three high which is still unacceptable. The developer has not reduced the affected area of wall to re-erect the construction addressing the problem at foundation level. The developer has re-applied for planning permission without addressing a major health and safety concern pertaining to the safety of construction.

The gabion walls constructed are for soil retention purposes only and are not required to secure the structural stability of the dwellinghouse that has been erected on Plot 15 within the Wallacegate development which is understood to have piled foundations. Contrary to the comments of the objector the present application is supported by a detailed, independent report which confirms the suitability, structural stability and drainage to the gabion retaining walls. Furthermore, it should be noted that a building warrant for the gabion walls, with appropriate structural certification, was issued on 24 July 2007.

4.4 As the local authority is aware there has been a water run-off problem in the area of the gabion cages for some time. There was a run-off gully which has been back filled. The gabion cages are erected along this line therefore there is no natural run-off that will now occur. It would appear that the natural run-off would now be into neighbouring properties. The developer has re-applied for planning permission without addressing one of the major issues, which was agreed that the water run-off was totally unacceptable.

Since the refusal of the previous planning application, the developer has, as part of the report referred to in the comments under 4.3 above, provided an independent report of proposed drainage to be installed to address issues of surface water drainage. The design of the drainage system has been undertaken in accordance with Scottish Water requirements and should therefore perform in a satisfactory manner. This system has now been installed and is connected to the existing adopted surface water drainage systems in the locality. Furthermore, it is understood that the developer has carried out some works in the adjacent residential properties to address some of the previous concerns raised by local objectors.

4.5 What plants is the developer going to use to cover the gabion wall once it is covered in Teramesh? What is the durability of this material regarding lifespan and how would earth covering this material bond successfully in the longer term? What is the term the developer will maintain this area and who will maintain it after this timescale?

The landscaping plans and the independent landscaping assessment report submitted in support of the present planning application specify the use of evergreen ivy, honeysuckle and clematis. The purpose of the mesh covering is to assist in the short term establishment of vegetation. The developer will require to maintain the proposed public open space area in perpetuity. The developer has indicated that a factor has been appointed to undertake the future maintenance of this area. The recommendations contained within the landscaping assessment report submitted by the developer should be attached to any planning consent granted for the proposed development in respect of ongoing maintenance arrangements and replacement of plant species where necessary.

4.6 There is an increased risk of security to properties by the erection of this wall as there is now a secluded area where someone could hide and enter the properties which was previously open space viewed from various points. The developer has erected

fencing around this area which is not effective as the kids just climb over to use as a hiding area. The security and safety issue is escalating as the teenagers jump over the fence to stand on the gabion walls to lob their empty drink bottles over fences into neighbouring properties. The new fence and gate denies access to residents should they wish to maintain or repair their boundary fence.

The area referred to by the objectors has now been fenced off with a 1.8 metres high screen fence with a locked access gate. The area has also been planted out in thicket to further deter accessibility to this area. The factor appointed by the developer will be the key holder for this area. Once established it is considered that the area immediately behind the properties at 6-10 Stepend Road will be afforded greater security than existed prior to the development taking place. There are clearly matters of anti-social behaviour raised by the objectors but these are considered to be best addressed as matters of policing. With respect to the point regarding access for maintenance of boundary fences, it is assumed that access would not be unreasonably withheld and that access would be available by contacting the factor as key holder.

4.7 We have concerns that a company as knowledgeable in the building industry failed to appropriately liaise with the properties adjacent to their development regarding the planning and construction of the gabion wall. The developer is aware of the major concerns and issues and the ground planning was refused in the initial instance.

The lack of consultation with neighbouring owners was an issue raised by the Southern Local Planning Committee at its meeting on 03 November 2006. However, in respect of the present application, it is understood that the developer has made efforts to consult with the objectors in the development of the landscaping proposal in an effort to try to address some of their concerns. This has also resulted in some remedial works being undertaken to objector' properties outwith the scope of this planning application.

4.8 The developer has made a few minor remedial visual changes and has re-submitted a planning application without addressing the real issues.

Comments as per 4.6 above. Furthermore, the developer has taken on board the reasons intimated by the Scottish Ministers for the dismissal of the planning appeal on the original planning application. This has resulted in the developer providing independent scrutiny of the structural integrity of the gabion walls and the surface water drainage system installed to address issues of inundation of neighbouring properties. Substantial planting of both the gabion walls and the open space area has also been completed, although it is noted from a recent site inspection that an area remains to be treated in this regard.

4.9 The gabion walls are significantly detrimental to the visual and residential amenity of the existing houses at Stepend Road.

It is considered that with the landscaping scheme as implemented on site, visual impact of the gabion walls has been sufficiently mitigated. It is recognised however that, in terms of the greening and naturalisation of the gabion walls, it will take up to 3 years before vegetation has sufficiently matured in this regard.

4.10 The value of my house has decreased by up to one quarter of its value prior to the erection of the gabion walls. This is currently subject to legal proceedings with the developer although to date they have done little more than acknowledge my legal representation.

This is not a material consideration in the determination of this application.

4.11 The detrimental impact of the development on surface water drainage in the vicinity of the development site has led to the destruction of my garden.

Since the refusal of the previous planning application, the developer has, as part of the report referred to in the comments under 4.3 above, provided an independent report of proposed drainage to be installed to address issues of surface water drainage. The design of the drainage system has been undertaken in accordance with Scottish Water requirements and should therefore perform in a satisfactory manner. This system has now been installed and is connected to the existing adopted surface water drainage systems in the locality. Furthermore, it is understood that the developer has carried out works to the objector's property to address the condition of the garden.

4.12 Why is the proposed fencing erected on top of the gabion wall only 1.2 metres in height when other boundary fencing is 1.8 metres in height? I fully understand that the developer intends to plant mature trees and shrubbery with a view to attempting to increase the general privacy of my property. However consideration should be given to further increase my privacy by reviewing the height of the proposed fencing increasing this from 1.2 to 2 metres in height.

The fencing provided within the proposed open space area is designed for safety purposes and not particularly for any screening purpose. Nonetheless it is agreed that the said fence should be increased in height to 1.8 metres to provide a degree of mitigation for privacy and also to deter scaling of the fence and entry to the gabion wall area.

4.13 Consideration should be given to removing these gabion cages and having a proper acceptable and aesthetically pleasing retaining wall erected to retain this ground.

The application requires to be considered on its merits and it is considered that the combination of gabion walls with appropriate screening and planting would be a more acceptable solution rather than a bland retaining wall.

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 be 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 (2007) and the Adopted East Ayrshire Local Plan (2003).

Ayrshire Joint Structure Plan

5.2 There are no structure plan policies directly relevant to this application.

Noted.

East Ayrshire Local Plan

5.3 There are no policies within the adopted local plan that are directly relevant to this application.

Noted.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation replies, representations received and the planning history of the site.

Consultation Replies

6.2 The consultation replies would generally indicate that approval of the application would be appropriate subject to appropriate conditions.

Representations

6.3 The representations received do raise points of material consideration in the determination of this application. It is considered that some of the points raised can be satisfactorily addressed by the imposition of appropriate conditions. Given the independent assessments of the structural integrity of the gabion walls, the drainage system and the landscaping scheme, the representations received are not considered to be of sufficient weight to justify refusal of the application.

Planning History

6.4 A full planning application for the erection of 70 new dwellings, on a larger site including the current application site, was approved by the former Cumnock and Doon Valley District Council on 27 August 1979 (Ref. No: CD/79/145). This consent was partly implemented.

6.5 A subsequent full application for the erection of 36 dwellings on the current application site was approved on 11 April 1980 (Ref. No: CD/80/53). Again this consent was partly implemented and consequently this consent remains extant at this time.

6.6 A full application for the substitution of house types on the current application site was refused on 01 February 1991 (Ref. No: CD/90/384). This was refused due to the proposal for two storey development on the top part of the development site, north of the proposed residential loop road.

6.7 A further full application for the erection of 21 dwellings on the current application site was refused on 05 November 1991 (Ref. No: CD/91/231). This was also refused due to the proposal for two-storey development on the top part of the development site, north of the proposed residential loop road. This decision was subsequently appealed but the appeal was dismissed.

6.8 A detailed application for the erection of 37 dwellings on this site was approved on 10 September 2004 (Ref. No: 04/0241/FL).

6.9 A revised full planning permission was granted for the erection of 34 dwellings and associated works at the Wallacegate site on 07 October 2005 (Ref. No. 05/0851/FL).

6.10 A retrospective planning application (Ref. No. 06/0521/FL) for the erection of the gabion walls at Wallacegate was refused by the Southern Local Planning Committee on 03 November 2006. A subsequent planning appeal (Ref. No. P/PPA/190/156) was dismissed on 10 April 2007. The present application seeks to address the reasons for refusal and comments of the appointed reporter in respect of the dismissing of the appeal.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Legal implications may arise through potential enforcement procedures should the Committee be minded to refuse this application.

8. CONCLUSIONS

8.1 As is indicated in Section 5 of the report, there are no policies of relevance in the development plan and therefore greater weight should be afforded to the material considerations in respect of this development. As is indicated at Section 6 of the report, there are material considerations relevant to this application.

8.2 There are no consultation objections with regard to the development but a number of concerns and objections have been raised by neighbouring properties, some of which have merit in this instance. There is no doubt that the gabion walls did have a significant visual impact and did not form part of the original proposals for the Wallacegate site. However it is considered that, with the amended proposal for the 'greening' of the exposed faces of the wall and the comprehensive landscaping

proposals for this area of open space (now implemented on site), these impacts can and have been mitigated to a significant degree.

8.3 The issue of surface water run-off from this site is historic but the developer has provided an independent report of proposed drainage installed to address issues of surface water drainage. The design of the drainage system has been undertaken in accordance with Scottish Water requirements and should therefore perform in a satisfactory manner. This system is connected to the existing adopted surface water drainage systems in the locality. Furthermore, it is understood that the developer has carried out some works in the adjacent residential properties to address some of the previous concerns raised by local objectors. It is further noted that Scottish Water has raised no adverse comments on the drainage system.

8.4 The developer has also provided a detailed, independent report which confirms the suitability, structural stability and drainage to the gabion retaining walls. Furthermore, it should be noted that a building warrant for the gabion walls, with appropriate structural certification, was issued on 24 July 2007.

8.5 In this regard, it is considered that conditions can be imposed on this retrospective development to address the remaining concerns of the objectors which are not of sufficient weight to merit refusal of the application.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to the Principal Planning Committee as such a decision would not represent a significant departure from the development plan.

Alan Neish
Head of Planning and Economic Development

HM/HM
05 December 2007
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Letters of representation.
5. Adopted East Ayrshire Local Plan (1993).
6. Approved Ayrshire Joint Structure Plan (2007).
7. Previous applications CD/79/145, CD/80/53, CD/90/384, CD/91/231, 04/0241/FL, 05/0851/FL and 06/0521/FL.
8. Planning Appeal Ref. P/PPA/190/156

Any person wishing to inspect the background papers listed above, should contact Mr. Hugh Melvin on 01563 555481.

Implementation Officer: Dave Morris

REASON – In the interests of the proper drainage of the site.

5. The existing timber palisade fence located at the top of the main gabion wall shall be increased in height to 1.8 metres. The fence shall also be strengthened in accordance with the recommendation in the Structural Stability report by the Civil and Structural Partnership Report (Ref. 691/A) dated August 2007; such works being undertaken within two months of the date of this consent

REASON – In the interests of residential amenity and public safety.

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