

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 03 JUNE 2005

**05/0291/FL: PROPOSED ERECTION OF TWO NO. 2-BEDROOM FLATS
AT 49 ANNANHILL AVENUE, KILMARNOCK
BY MR G MILLOY**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought for the erection of two no. 2-bedroom flats. These are proposed to be cream coloured roughcast render with a brown facing brick base course, similar to the finishes on nearby properties. The roof will be finished with grey interlocking roof tiles, and the windows and doors will be white double glazed upvc. The front elevation is proposed to comprise 3 sets of double window units on each of the two storeys, with the main entrance taken from the side elevation. The building measures approximately 13 metres by 8 metres. Four car parking spaces are proposed in front of the building to accommodate two spaces for each flat.

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 the application is considered to be in accordance with the development plan. Therefore 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.

3.2 As indicated in Section 6 there are material considerations relevant to this application. The consultation responses received raise no adverse comments and the concerns of objectors are not considered to be of sufficient weight to justify a refusal of this application. The applicant has demonstrated that private open space will be provided, which meets with the Council's open space standards. It is considered that the development is of an appropriate size, scale and design that is compatible with the character of the surrounding area. The

development has been designed and sited to minimise its impact on the amenity of adjacent properties.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards it will not require to be referred to the Development Services Committee, as there would be no significant breach of Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

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, Development and Building Standards

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 objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises part of the side and rear garden of No. 49 Annanhill Avenue, and covers approximately 309 metres². The site is bound to the north by a 1.2 metres hedge, to the west by a 0.9 metre fence in front of a 1.8 metres hedge, to the east by a 1.2 metres hedge, and there is currently a 1.5 metres fence running from the west corner of No. 49. The site is currently grassed, and there is a garage with a driveway leading to it from Annanhill Avenue. There are residential properties on all sides of the application site, these are former Local Authority properties, all of which are finished in cream coloured render.

2.2 **Proposed Development:** Full planning consent is sought for the erection of two no. 2-bedroom flats. These are proposed to be cream coloured roughcast render with a brown facing brick base course, similar to the finishes on nearby properties. The roof will be finished with grey interlocking roof tiles, and the windows and doors will be white double glazed upvc. The front elevation is proposed to comprise 3 sets of double window units on each of the two storeys, with the main entrance taken from the side elevation. The building measures approximately 13 metres by 8 metres. Four car parking spaces are proposed in front of the building to accommodate two spaces for each flat.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has no objections subject to conditions, as listed below.

1. The public roadway/footway boundary must be clearly defined by the use of a change of surface material or the installation of a row of edging kerbs.
2. The driveway must be paved for a minimum distance of 2 metres from the rear of the footway edge to avoid overcarry of loose material onto the public road/footway.
3. To aid visibility, no fencing, hedges etc over 1 metre in height will be allowed.
4. Vehicular crossing must be provided and extended over the full frontage of the site, which requires to be constructed in accordance with East Ayrshire Council's Roads and Transportation Division's specification.
5. All appropriate road permits must be obtained prior to any works being started on site.
6. The applicant must be notified that during the proposed erection of the flats, the surrounding area of Annanhill Avenue and Bonnyton Road shall be kept clear of all dirt, mud and material arising from the works.
7. The applicant must contact East Ayrshire Council's Roads and Transportation Division with regards to a joint inspection of the footways/carrage way along the length of the site prior to commencement of any works.

Noted. Points 1, 2 and 6 can be addressed by attaching conditions to any grant of planning consent. Points 4, 5 and 7 may be addressed by advisory notes. With regard to Point 3, any fence over 1 metre high along the frontage with Annanhill Avenue would require planning consent. With regard to hedges, these do not constitute development therefore this is not an issue that can be controlled by the Planning Authority.

3.2 Transco has no adverse comments to make regarding the proposed development.

Noted.

3.3 Scottish Water has not responded to their consultation letter at the time of writing this report.

Noted.

3.4 Bonnyton Community Council has objected to this proposal on the basis that it would set an undesirable precedent, it would adversely affect the amenity of the adjacent residents and there is a lack of amenity space.

The proposed building would be approximately 4 metres from the adjacent house to the north, and approximately 7.4 metres from the house to the south. This is not unusually close relative to other properties in the near vicinity. Additionally, there are no windows proposed on either side elevation. There are therefore no overlooking issues, and it is not considered that this proposal would have a negative impact on the amenity of the neighbouring properties. The proposed development meets the open space standards as required by Policy RES 22 of East Ayrshire Local Plan.

4. REPRESENTATIONS

4.1 There are two objections to the proposed development (one from Bonnyton Community Council which is detailed in Section 3.4 above). The grounds of objection are detailed as follows.

4.2 Any such development would set an undesirable precedent, not only in the areas of Bonnyton but also in Scott Road, Wilson Avenue and Riccarton, all of which were built around the same time with the same design, and many of the houses have large gardens.

It is noted that a feature of these areas is the long gardens, often with the gardens of several properties backing onto each other. This is an established feature of the Bonnyton area, however the siting of this proposal is not considered to be detrimental to the grouping of gardens to the rear of the site since it does not affect the rear building line. Any future application for residential development will be assessed on its individual planning merits.

4.3 The owner and occupier of 49 Annanhill Avenue is claiming that his garden is too much for him, but this is not the case as he is fit and active, and other options would include slabbing, chipping or turfing the garden, or employing a gardener. This application is pure and simply a commercial venture, as the houses would be put on the open market.

No information regarding the ability or otherwise of the owner and occupier of the donor property to maintain his garden has been submitted as part of this application, and in any case it is not considered that this is material to the determination of this application. This application has been considered on its planning

merits only, and the future sale or otherwise of the proposed properties is not material to the consideration of this application.

4.4 Mr Bull bought his property with a massive discount available to a sitting tenant, but it seems he wishes to capitalise on this further.

The possible profits to the owner and occupier of the donor property are not a material planning consideration.

4.5 If this planning proposal is allowed to go ahead, the area will be over-run with such proposals, indeed there is a similar application only yards away. This application should be refused as it would set an undesirable precedent.

Any future applications for similar proposals will be considered on their individual planning merits.

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 and the Adopted East Ayrshire Local Plan (EALP). The proposed development does not raise any strategic issues in terms of the Ayrshire Joint Structure Plan.

East Ayrshire Local Plan

5.2 Policy RES 5 is supportive of the sub-division of existing house curtilages for the development of dwellinghouses subject to three criteria being met, as follows:

- (i) the proposal being fully in keeping with the existing residential character and appearance of the area within which it is located;

It is considered that the proposal is in keeping with the existing residential character of the area, in terms of its siting, size, design and materials and the remaining garden ground.

- (ii) the proposal meeting all the design requirements of the Council and not creating unacceptable damage to the amenity of surrounding properties; and

The design is considered to be acceptable and would not affect the amenity of surrounding properties in terms of overlooking or be visually intrusive.

- (iii) acceptable levels of privacy being maintained to neighbouring properties and to the new housing proposed.

The proposed development is not considered to have an adverse impact on the privacy of adjacent properties.

5.3 Policy RES22 requires all developers to observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan.

The proposed development meets with the Council's private open space requirements for flats.

5.4 Policy ENV 7 of the EALP requires all developers to comply fully with the Council's Design Guidance. It states that the house design of infill or gap site residential development shall recognise and reflect the scale, design features, rhythm of doors and windows, storey height, density and materials of surrounding building. Furthermore the Design Guidance also states that any new housing development shall not result in unacceptable overlooking or have a visually intrusive impact on neighbouring properties.

It is considered that the proposed development accords with Design Guidance as it is sympathetic to nearby residential properties in terms of design, scale and materials. It does not affect the front building line or adversely affect the privacy or amenity of adjacent residential properties.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received which are addressed in Section 3 of this report, the letter of objection addressed in Section 4 of this report and the planning history of the site.

Consultation Responses and Representations Received

6.2 The consultations and representations received are addressed in Sections 3 and 4 of the report, neither of which indicate that the application should be refused. The principal concerns raised by the objectors relate to the setting of an undesirable precedent, the amenity of adjacent properties and the lack of amenity.

Planning History

6.3 04/0724/FL: This application was for 2 No. semi-detached properties and was withdrawn by the applicant.

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 is indicated in Section 5 of the report the application is considered to be in accordance with the development plan. Therefore 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.

8.2 As indicated in Section 6 there are material considerations relevant to this application. The consultation responses received raise no adverse comments and the concerns of objectors are not considered to be of sufficient weight to justify a refusal of this application. The applicant has demonstrated that private open space will be provided, which meets with the Council's open space standards. It is considered that the development is of an appropriate size, scale and design that is compatible with the character of the surrounding area. The development has been designed and sited to minimise its impact on the amenity of adjacent properties.

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 that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards it will not require to be referred to the Development Services Committee, as there would be no significant breach of Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

25 May 2005
(CP/MMM/IMB)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of objection
5. Adopted East Ayrshire Local Plan
6. Approved Ayrshire Joint Structure Plan.
7. Application No. 05/0291/FL.

Anyone wishing to inspect the above papers please contact Claire Peters on 01563 576779.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0291/FL

Site of Proposal: 49 Annanhill Avenue
KILMARNOCK
KA1 2NX

Nature of Proposal: Proposed erection of 2 No. 2 bedroom flats

Name & Address of Applicant: Mr G Milloy
3 Holmes Park Gardens
KILMARNOCK
KA1 1RE

Name & Address of Agent: Pryce Architectural & Construction Consultants
8 Grougar Road
Crookedholm
KILMARNOCK
KA3 6LA

DPOs Reference: CP/MMM/IMB

The above FULL application should be approved subject to the following conditions:-

1. The proposed development shall be carried out in accordance with the application form received on 10 March 2005 and the plans received by the Planning Authority on 03 February 2003.

REASON To ensure that development is carried out in accordance with the approved details.

2. Notwithstanding the submitted plans, the proposed roof shall be covered in natural slate or a high quality slate substitute tile; this shall be approved in writing by the Planning Authority before any development commences on site and shall be implemented on site as approved thereafter.

REASON In the interests of visual amenity and to match the visual quality of the area.

3. Notwithstanding the submitted plans, details and samples of all external materials shall be submitted to and approved in writing by the Planning Authority before any development commences on site and shall be implemented on site as approved thereafter.

REASON In the interests of visual amenity.

4. No construction work, site clearance or preparation works shall take place before 08:00 hours and after 17:00 hours on Monday to Friday before 9:00 hours and after 13:00 hours on Saturday nor at any time on Sunday.

REASON In the interests of residential amenity.

5. Notwithstanding the submitted plans, the boundary of the development site onto the footway shall be clearly defined by a change of surface material or the installation of a row of edging kerbs details of which shall be submitted to and approved in writing by the Planning Authority before any development commences on site and shall be implemented on site prior to the occupation of the flats.

REASON To delineate private garden ground from the public footway.

6. Notwithstanding the submitted plans, the driveways will require to be paved for a minimum distance of 2 metres from the boundary with the public footway prior to the occupation of the flats.

REASON To avoid overcarry of loose material onto the public road/footway in the interests of road safety.

7. The developer of this site shall ensure that during the development phase, adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other materials carried from the site.

REASON In the interests of the amenity of the area and road safety.

NOTES:-

(a) Vehicular crossing shall be provided and extended over the full frontage of the site; in accordance with the specifications of East Ayrshire Council's Roads and Transportation Division, Greenholm Street, Kilmarnock (01563 576358).

(b) It is the responsibility of the applicant to ensure that all appropriate permits are obtained from East Ayrshire Council's Roads and Transportation Division, Greenholm Street, Kilmarnock (01563 576358).

- (c) The applicant must contact East Ayrshire Council's Roads and Transportation Division with regard to a joint inspection of the footways/carriageway along the length of the site, prior to the commencement of any works on site.
- (d) Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.
- (e) The applicant must forward details of the highest water fitting related to Ordnance Datum and the proposed demands to Scottish Water in order that hydraulic testing can be carried out.
- (f) The applicant should contact Scottish Water (Clyde House, 419 Balmore Road, Glasgow; Tel: 0845 601 8855) regarding compliance with current bylaws and use of water for building purposes.
- (g) The applicant should satisfy himself, by site investigation if necessary, that relative levels are such as will allow the development to be connected at a gradient acceptable to Scottish Water.
- (h) The applicant must make separate application to Developer Services for permission to connect to the public sewerage system at the appropriate time.
- (i) The applicant is advised that a totally separate drainage system of foul and surface water sewers will be required.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**