

## **EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 5 MARCH 2004**

**04/0029/FL: PROPOSED CHANGE OF USE OF PUBLIC OPEN SPACE  
AND ERECTION OF EXTENSION AND FENCE AT 2 GLENLIVET PLACE,  
KILMARNOCK BY MR AND MRS D WARWICK**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Full planning consent is sought for the change of use of approximately 41.72 square metres of public open space to private garden ground and for the erection of a 2 storey side extension and single storey rear extension. The proposed 2-storey side extension, located to the southern elevation of the property, measures 2.4 metres in width and 7.9 metres in length. The rear extension measures 3.25 metres in depth and 9 metres in width. The 2 storey side extension is to be located approximately 1.4 metres from the proposed new southern boundary, while the single storey rear extension is to be located approximately 1.2 metres from the common boundary with 4 Glenlivet Place. The proposed extension is to be finished in white roughcast, buff facing brick and brown concrete roof tiles to match the existing dwelling house. Planning consent is also sought for the erection of a 1.8 metre high open boarded wooden fence on the proposed new southern boundary of the site and two buff facing brick arch features, measuring 1.8 metres in height, to the northern and southern elevations of the dwelling house.

#### **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 at Section 5 of the report, the application is in accordance with the Adopted East Ayrshire Local Plan and 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 is indicated in Section 6 of the report there are material considerations relevant to this application. The consultees have no adverse comments to make regarding the proposed development. Furthermore, the proposed development does not conflict with Policy ENV7 of the EALP as it is in accordance with advice detailed in the East Ayrshire Council Design Guidance. With regard to the letters of objection it is considered that sufficient

open space will remain within the immediate area to compensate for the loss of a small area of public open space.

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control the application will not require to be referred to the Development Services Committee because there would be no significant breach of policy.

**Alan Neish**  
**Head of Planning and Building Control**

**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.**

## EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 5 MARCH 2004

### 04/0029/FL: PROPOSED CHANGE OF USE OF PUBLIC OPEN SPACE AND ERECTION OF EXTENSION AND FENCE AT 2 GLENLIVET PLACE, KILMARNOCK BY MR AND MRS D WARWICK

#### Report by Head of Planning and Building Control

#### 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 is a detached modern 2 storey villa, constructed in the 1970s and located on Glenlivet Place within the Dean Estate. The property is surrounded by similar detached properties of the same age and design. Immediately to the south of the application site is an area of public open space, while to the east of the application site is a steep embankment of mature trees.

2.2 **Proposed Development:** Full planning consent is sought for the change of use of approximately 41.72 square metres of public open space to private garden ground and for the erection of a 2 storey side extension and single storey rear extension. The proposed 2-storey side extension, located to the southern elevation of the property, measures 2.4 metres in width and 7.9 metres in length. The rear extension measures 3.25 metres in depth and 9 metres in width. The 2 storey side extension is to be located approximately 1.4 metres from the proposed new southern boundary, while the single storey rear extension is to be located approximately 1.2 metres from the common boundary with 4 Glenlivet Place. The proposed extension is to be finished in white roughcast, buff facing brick and brown concrete roof tiles to match the existing dwelling house. Planning consent is also sought for the erection of a 1.8 metre high open boarded wooden fence on the proposed new southern boundary of the site and two buff facing brick arch features, measuring 1.8 metres in height, to the northern and southern elevations of the dwelling house.

#### 3. CONSULTATIONS AND ISSUES RAISED

3.1 New Farm Loch Community Council have not responded to their consultation letter at the time of writing this report.

***Noted.***

3.2 The Coal Authority, Transco, Scottish Water and East Ayrshire Council Roads and Transportation Division have no adverse comments to make regarding the proposed development.

**Noted.**

3.3 The East Ayrshire Council Arboricultural Officer has requested that the existing tree on the southern boundary of the application site be replaced with an appropriate species of tree.

**Noted. An appropriately worded condition can be attached to any grant of planning consent to requiring an appropriate replacement tree.**

#### 4. REPRESENTATIONS

There are five objectors to the proposed development and their grounds of objections are as follows: -

4.1 The proposed single storey extension to the rear of the property will severely restrict the natural light to their house and garden as there are mature trees to the rear of our property the only light that comes into our garden is from the south, across the rear of number 2 Glenlivet Place. The proposed extension will place their garden in shade, encourage dampness and the growth of moss.

***The proposed rear extension is located approximately 1.2 metres from the common boundary between numbers 2 and 4 Glenlivet Place and measures 3.25 metres in depth. It is not considered that the proposed extension will adversely affect the amount of daylight reaching the rear garden of number 4 Glenlivet Place or that the dimension of 3.25 metres represents an unreasonable single storey addition on to the back of the house.***

4.2 The reduction in natural light to their house and garden will reduce the future resale value of their property.

***This is not a material planning consideration relevant to the determination of this application.***

4.3 If this application is approved this will result in other people within the estate seeking to take over public spaces in the same way resulting in less play areas for the children, forcing children to play further away or on the road, endangering lives.

***Each planning proposal is to be determined on the merits of that individual application and therefore an application should not be refused due to the possibility that future applications may or may not be made to change the use of further areas of open space into***

***private garden ground. It is considered that there is a sufficient amount of public open space in the immediate area and that the proposed change of use would not lead to a significant loss of amenity space within the Dean estate. Any future applications which did lead to such a loss can be determined on their merits at that time.***

4.4 They object to the fact the fence has already been erected obviously without any permission being granted.

***The applicant has sought to rectify the breach of planning control by the present planning application under consideration.***

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Sections 25 and 37 (2) of the Town & 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 Adopted East Ayrshire Local Plan (EALP) and Ayrshire Joint Structure Plan. The Structure Plan addresses issues of a more strategic nature requiring that prime importance be applied to the Local Plan.

### Adopted East Ayrshire Local Plan

5.2 Policy TLR8 presumes against development on safeguarded areas of public and private, recreational or amenity open space and on other undeveloped land within settlement boundaries which contributes to the setting, character and appearance of the settlement concerned. Policy TLR9 of the EALP is also relevant and permits the development of private and public recreational or amenity open space in exceptional circumstances, where:

- ii) alternative provision of equal community benefit and accessibility can be made available within close proximity to the site; or
- (iii) There is a clear, long term excess of pitches, playing fields and amenity open space in the wider area.

***It is considered that due to the location of the development in close proximity to the Dean Country Park and the availability of open space in the immediate area, the proposal would not be detrimental to the amenity of other residential properties in the area. Furthermore the proposal involves taking only a small area of space for private garden ground. The proposal would not lead to a significant loss of public open space within the area.***

5.3 Policy ENV 7 of East Ayrshire Council Local Plan is relevant and expects all developers to comply fully with the Council's Design Guidance and policy documents relating to and advising on the particular type of development proposed. The Design Guidance advises that extensions to existing properties shall be sited and designed to minimise any overlooking of neighbouring properties and to ensure maximum provision of privacy and daylight. The materials and colours used in the construction of extensions to residential properties should match the finish of the existing dwelling house.

***It is not considered that the proposed extension would have a detrimental impact on neighbouring properties as there are no windows overlooking neighbouring residential properties and the size and design of the extension is considered to be in keeping with the existing dwelling house.***

## **6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of the application are the consultation replies that are detailed in Section 3 of the report and the letter of objection received, detailed in Section 4 of the report.

### Consultation Responses and Representations Received

6.2 It is not considered that any aspects of the consultation replies or the letters of objection received indicate that the application should be refused.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial or legal implications for the Council in the determination of this application. The open space area is in the combined ownership of the residents of the Dean Estate.

## **8. CONCLUSIONS**

8.1 As is indicated at Section 5 of the report, the application is in accordance with the Adopted East Ayrshire Local Plan and 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 is indicated in Section 6 of the report there are material considerations relevant to this application. The consultees have no adverse comments to make regarding the proposed development. Furthermore, the proposed development does not conflict with Policy ENV7 of the EALP as it is in accordance with advice detailed in the East Ayrshire Council Design Guidance. With regard to the letters of objection it is considered that sufficient open space will remain within the immediate area to compensate for the loss of a small area of public open space.

## **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 and Building Control the application will not require to be referred to the Development Services Committee because there would be no significant breach of policy.

**Alan Neish**  
**Head of Planning and Building Control**

25 February 2004 (BD/SA)  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of Representation.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.

Any person wishing to inspect the above papers please contact Barry Douglas on (01563) 576770.

***Implementation Officer: Dave Morris***

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No:04/0029/FL

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Location: 2 Glenlivet Place, Kilmarnock

Nature of Proposal: Change of use of Public Open Space and erection of extension and fence

Name & Address of Applicant: Mr and Mrs D Warwick  
2 Glenlivet Place  
Kilmarnock  
KA3 7UF

Name & Address of Agent:

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DPO's Ref: BD/SA

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

1) Notwithstanding the submitted plans, the materials to be used in the construction of the extension shall match the external materials of the existing dwelling house.

REASON – To ensure the extension matches the external appearance of the existing dwelling house and thereby maintain the visual quality of the area.

2) Notwithstanding the submitted plan the existing tree located on the proposed southern boundary shall be replaced with a tree of a similar size and species and in a location to be agreed in writing by the Planning Authority, prior to the use of the extension.

REASON – In the interest of visual amenity and in order to maintain the visual contribution made by tree planting to the amenity of the area.

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