

EAST AYRSHIRE COUNCIL

**NORTHERN AREA LOCAL PLANNING COMMITTEE:
30 SEPTEMBER 2005**

**05/0839/ FL: PROPOSED REMOVAL OF CONDITION 9 OF PLANNING
PERMISSION 05/0078/FL
AT GLENDOUNE HOUSE, CROOKEDHOLM
BY MR R JARVIE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This planning application proposes to remove condition 9 of planning consent 05/0078/FL. Planning permission 05/0078/FL for a dwellinghouse was granted on the 15 April 2005 by the Northern Area Local Planning Committee. Condition 9 of the Consent requires that "the existing conifer hedge along the eastern boundary of the site shall be retained and during the construction process care shall be taken to ensure that neither the hedge nor its root systems are damaged by such construction works or by the movement or storage of buildings materials or vehicles."

1.2 The applicant requests the removal of said condition to facilitate the construction of the dwellinghouse. As it is considered that the trees adjacent to proposed foundation would have been irretrievably damaged by the installation of the house foundation and therefore could not have been maintained in their current healthy condition. The section of the conifer hedging adjacent to the proposed house has already been removed by the applicant.

2. RECOMMENDATION

2.1 It is recommended that condition 9 of 05/0078/FL be removed, and that it be replaced with alternative conditions securing the boundary treatment, as indicated on the attached sheet.

3. CONCLUSIONS

3.1 Whilst there are policies applicable to the erection of the new house itself, the Local Plan less directly addresses the issues raised by the removal of part of the existing hedge. Consequently greater weight requires to be given to the material considerations.

3.2 As indicated in Section 6 there are material considerations relevant to this application. It is considered that these point to the merits of a revised condition 9 amended to take account of the agreed revised boundary treatment.

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 is 0.0776 hectares in area and is accessed via a private driveway from Main Road, Crookedholm. The northern front section of the site is relatively flat while the southern rear section of the site slopes by approximately 2.5 metres. The site is approximately 48.8 metres long and is 17.6 metres wide on its southern boundary and 14.5 metres wide on its northern boundary.

2.2 The application site is located within the former grounds of the 3-storey sandstone Glendoune House which is located to the north-west of the application site. Glendoune House has been sub-divided into smaller residential units.

2.3 The site is bounded to the east by Glendoune Cottage, to the south by agricultural land and to the west by the communal gardens of Glendoune House. The application site has right of access only over the private driveway of Glendoune House.

2.4 **Proposed Development:** This planning application proposes to remove condition 9 of planning consent 05/0078/FL. Planning permission 05/0078/FL for a dwellinghouse was granted on the 15 April 2005 by the Northern Area Local Planning Committee. Condition 9 of the Consent requires that "the existing conifer hedge along the eastern boundary of the site shall be retained and during the construction process care shall be taken to ensure that neither the hedge nor its root systems are damaged by such construction works or by the movement or storage of buildings materials or vehicles."

2.5 The applicant requests the removal of said condition to facilitate the construction of the dwellinghouse. As it is considered that the trees adjacent to proposed foundation would have been irretrievably damaged by the installation of the house foundation and therefore could not have been maintained in their current healthy condition. The section of the conifer hedging adjacent to the proposed house has already been removed by the applicant.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Hurlford and Crookedholm Community Council have not responded in relation to this proposal.

Noted.

3.2 East Ayrshire Council Outdoor Services have indicated that the trees forming the hedge are not of significant status as would merit their retention other than in the interests of visual amenity/screening.

Noted.

4. REPRESENTATIONS

Nine objectors have made representations in relation to this application they indicate the following:

4.1 The applicant was required to maintain the hedge at this location in the interests of residential and visual amenity.

4.2 The applicant should be made to reinstate the hedge.

4.3 The removal of the hedge will result in the loss of privacy and visual amenity from my property.

The loss of part of the hedge row at this location is contrary to the terms of condition 9 of the original planning consent and would result in the loss of amenity for the adjacent residential property. However, as the section of hedge that has been removed would have been adjacent to the eastern boundary of the site, it would have been largely obscured by the new house from the majority of the objectors. The adjoining neighbours have now reached agreement with the applicant to reinstate the section of hedge removed.

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).

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 As the proposed development is within the settlement boundary of Crookedholm the proposed house accorded with the requirements of policy ADS3 of the Joint Ayrshire Structure Plan.

Adopted East Ayrshire Local Plan (EALP)

5.3 Policy RES 4 of the East Ayrshire Local Plan states that within settlement boundaries the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps.

Planning permission 05/0078/FL was granted by the Northern Area Local Planning Committee on 15 April 2005 for the erection of a dwellinghouse at this location in compliance with Policy RES 4.

5.4 Policy RES 22 requires all developers to observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan. The policy also allows those standards quoted to be relaxed in respect of the conversion of existing properties to flats where this can be fully justified by the developer and where considered appropriate by the Planning Authority.

The dwellinghouse granted planning permission under 05/0078/FL meets the private open space standards as detailed in Schedule 4 of the local plan.

5.5 Policy ENV 15 of the East Ayrshire Local Plan indicates that the Council will seek to preserve and supplement existing broadleaf and native tree species throughout East Ayrshire.

It is considered that Policy ENV 15 does not relate to the conifer hedging referred to in this application.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received, the letters of objection, the planning history and the impact on the amenity of the surrounding area and immediately adjacent house.

Consultations Responses

6.2 It is not considered that any aspects of the consultations received indicate that the application should be approved.

Representations Received

6.3 It is not considered that any aspects of the letters of objection are of significant enough weight as to merit the refusal of the planning application.

Planning History

6.4 A Non Material Variation was approved on 20 September 2005 which clarified the full extent of underbuilding for the house and also included elevational changes to the house, resulting in the eastern elevation now being blank. The Non-Material Variation, also showed indicative details of the replacement conifer hedging, boundary treatment and foundation protection details, but these did not form part of that application and have not been sanctioned at this time.

6.5 Planning permission 05/0078/FL was approved on 15 April 2005 for the erection of a dwellinghouse.

6.6 Planning Application 04/0998/FL for the erection of a dwellinghouse was withdrawn on the 26 January 2005 in lieu of 05/0078/FL.

6.7 Planning Application 03/1033/FL for the erection of one dwellinghouse was withdrawn on 14 April 2004.

6.8 Planning Application 02/0954/FL for the erection of three houses was withdrawn on 24 July 2003.

6.9 Planning Application 01/0701/FL for the erection of four houses was withdrawn on 26 September 2001.

6.10 Planning Application 01/0361/OL for the erection of a dwellinghouse was withdrawn on 07 June 2001.

Impact on Amenity

6.11 It is considered that, rather than concede the removal of Condition 9, the condition should be replaced to ensure that the dwellinghouse can be constructed and an appropriate boundary treatment formed between the proposed dwellinghouse and Glendoune Cottage.

6.12 As indicated above a Non-Material Variation has been approved in respect of the design of the house. That submission indicatively showed the provision of a 12 conifer tree screen boundary treatment to the mutual boundary between the properties and also a technical solution which will allow the trees to be grown in this location without detriment to the foundations of

the dwellinghouse. A revised planning condition could look to include this landscaping arrangement and foundation protection as well as the longer term maintenance of the boundary treatment.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Should the application be refused there would be a requirement to assess the need for enforcement action to secure the alternative boundary feature, however this would be tempered by the understanding that the applicants and the neighbour have now reached with respect to the replacement boundary feature.

8. CONCLUSIONS

8.1 Whilst there are policies applicable to the erection of the new house itself, the Local Plan less directly addresses the issues raised by the removal of part of the existing hedge. Consequently greater weight requires to be given to the material considerations.

8.2 As indicated in Section 6 there are material considerations relevant to this application. It is considered that these point to the merits of a revised condition 9 amended to take account of the agreed revised boundary treatment.

9. RECOMMENDATION

9.1 It is recommended that condition 9 of 05/0078/FL be removed, and that it be replaced with alternative conditions securing the boundary treatment, as 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

22 September 2005
CSI/RH
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Previous Planning Applications.
4. Letters of Objection.
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Craig Iles Senior Planning Officer on 01563 576772.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 05/0839/FL

Site of Proposal: Glendoune
Main Road
Crookedholm
KILMARNOCK
KA3 6JZ

Nature of Proposal: Proposed Removal Of Condition 9 of the
Approved Application Ref No. 05/0078/FL

Name & Address of Applicant: Mr R Jarvie
2 Glebe Court
KILMARNOCK
KA1 3BD

Name & Address of Agent: James W Mair
25 Woodside Avenue
KILMARNOCK
KA1 1TU

DPOs Reference: CSI/RH

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

1. That the wording of Condition 9 of Planning Consent 05/0078/FL be superseded as follows, "details of the replacement conifer hedging and boundary treatment along the eastern boundary of the site, adjacent to Glendoune Cottage, shall be submitted to and approved in writing by the Planning Authority within 28 days of the date of this consent. Thereafter, the approved scheme shall be implemented prior to the occupation of the new dwellinghouse or by the conclusion of this planting season (ending February 2006) whichever is the earlier, and shall be retained and maintained to the satisfaction of the Planning Authority thereafter".

REASON In the interests of the residential and visual amenity of the surrounding area.

2. The remaining section of conifer hedging on the eastern boundary of the site shall be protected during the remainder of the new houses construction process and shall be retained and maintained to its existing height, unless otherwise agreed in writing by the Planning Authority.

REASON In the interests of the residential and visual amenity of the surrounding area.

**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.**