

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 5th AUGUST 2005

**05/0438/FL: SITE CLEARANCE & ERECTION OF HERAS FENCE
(RETROSPECTIVE)
AT FENWICK ROAD/ MILLHILL AVENUE, KILMAURS, KA3 2TD
BY HOPE HOMES, SCOTLAND**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The retrospective application consists of the erection of 2.04m high 'heras' fencing and site clearance works. The 'heras' fencing has already been erected around the perimeter of the site and the site clearance works consisted of the removal of overgrown hedging and soil and the levelling of the site at the Fenwick Road side.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore it should be approved unless material considerations indicate otherwise.

3.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the refusal of the application given the application of appropriate conditions.

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, the application will not require to be referred to the Development Services Committee as it would not be a significant departure from 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 due to the fact that the application is subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located at the end of Millhill Avenue and Fenwick Road in Kilmaurs. The site is approximately 0.22 hectares in area, is currently vacant ground and has a steep gradient. The site is located within Kilmaurs Conservation Area and is surrounded by residential properties to the north, east and south and by commercial buildings to the west.

2.2 **Proposed Development:** The retrospective application consists of the erection of 2.04m high 'heras' fencing and site clearance works. The 'heras' fencing has already been erected around the perimeter of the site and the site clearance works consisted of the removal of overgrown hedging and soil and the levelling of the site at the Fenwick Road side.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have made comments on the application advising that any fencing should be sited outwith the footway and not present a hazard to pedestrians and any damage to the footway would require the applicant to repair the footway to the satisfaction of the Roads Division.

Hope Homes have confirmed that no damage occurred to the footpaths during the operations, however a note can be attached to

any grant of planning consent. From site inspection it is considered that the fencing has been erected outwith the footway.

3.2 Transco have recommended that a site meeting is required prior to the commencement of works.

The applicants have been informed of Transco's comments and confirm that there is no gas apparatus represented on site .

3.3 West of Scotland Archaeology Service have advised that that the application does not raise any know archaeological issues.

Noted.

3.4 Kilmaurs Community Council object to the application on the basis that the works are retrospective and should be removed until full plans are submitted. Concern is raised regarding the developer's lack of respect or sympathy for the residents of Fenwick Road and the village.

The concerns of the Community Council are noted.

4. REPRESENTATIONS

Twelve objectors have submitted representations in relation to the proposal including the objections raised from Kilmaurs Community Council as detailed in section 3.4 of this report.

4.1 The grounds of objection are summarised as follows;

- The application is a delaying tactic by Hope Homes who have disregarded the requirements for planning permission therefore the applicants should be refused permission and required to reinstate the site.

The concerns of the residents regarding the process by which the applicants carried out the works are noted.

- The developers may consider approval of the application as the clearance to continue with engineering work such as formation of foundations/ drains etc.

The applicants have applied solely for the site clearance works and erection of 'heras' fencing any unauthorised works carried out thereafter may be the subject of enforcement action.

- Such a large area of uncultivated earth and the fencing are considered visually intrusive to the area.

The application site is not identified as a site of protected open space and is therefore it is acknowledged that the site is likely to be developed should planning consent be granted. Thus it is considered unreasonable to require the applicants to plant hedging given that the applicants have submitted an application for planning permission for a residential development on the site.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that 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 (2003).

Ayrshire Joint Structure Plan

5.2 With regard to the Structure Plan it is considered that no policies specifically relate to the current application.

East Ayrshire Local Plan

5.3 Policy ENV4 seeks to ensure that all development within or affecting the setting of a Conservation Area.

As detailed in Section 4 the applicants have submitted a planning application for a residential development on the site, and it is considered that the visual impact of the works are not of a significant scale to warrant refusal of this application. In this instance it is considered appropriate to grant temporary consent for the fencing and site clearance works.

In conclusion it is considered that the proposal is in accordance with the provisions of the Development Plan.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations received, the planning history of the site and the impact on the amenity of the area.

Consultation Responses

6.2 The consultation responses do not indicate that the application should be refused.

Representations

6.3 The representations received have been summarised in Section 4 of the report and are not considered to be of such weight as to merit refusal of the application.

Impact on the amenity of the area

6.4 It is considered that the 'heras' fencing is a common feature of development sites and given that there is no valid planning consent for the redevelopment of the site it is considered appropriate in this instance to limit the timescale for any grant of planning permission.

Planning History

6.5 Two detailed planning applications for residential developments (03/0628/FL and 04/0610/FL) were refused on 10th February 2004 and 29th October 2004 and an additional application (02/0544/FL) was withdrawn on 18th July 2003 for a residential development on this site.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications imposed by this application.

8. CONCLUSIONS

8.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore it should be approved unless material considerations indicate otherwise.

8.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the refusal of the application given the application of appropriate conditions.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the condition 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, the application will not require to be referred to the Development Services Committee as it would not be a significant departure from Council policy.

Alan Neish
Head of Planning, Development and Building Standards

22 July 2005
(GC/SA/MMM)

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Planning Application 02/0544/FL.
8. Planning Application 03/0628/FL.
9. Planning Application 04/0610/FL.

Anyone wishing to inspect the above papers please contact Gillian Craig on 01563 576769.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0438/FL

Site of Proposal:	Fenwick Road/Millhill Avenue KILMAURS KA3 2TD
Nature of Proposal:	Site Clearance and Erection of Heras Fencing - Retrospective
Name & Address of Applicant:	Hope Homes Scotland Watson Terrace Drongan AYR KA6 7AB
Name & Address of Agent:	N/A

DPOs Reference: GC/SA

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

1. Permission is granted for a limited period of eighteen months from the date hereof, and at the expiration of this period the fencing shall be removed from the land and the land shall be restored in accordance with a scheme to be agreed by the Planning Authority, unless planning permission is granted for the redevelopment of the site and works in connection with such a consent are commenced prior to the expiration of this period.

REASON To allow the Planning Authority to retain control over the site in the interests of visual amenity.

NOTES TO APPLICANT

1. The developer should contact Blackwater SC A, 95 Kilbirnie Street, Glasgow, G5 8JD (Tel: 0141 418 4121) with regards to works on or in proximity to a gas main.
2. The fencing should be outwith the footway and not present a hazard to pedestrians.

3. The developer will require to repair any damage to the footway resulting from the operations to the satisfaction of the Roads Division.

**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.**