

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 15 DECEMBER 2006

**06/0804/FL: CHANGE OF USE FROM OPEN SPACE TO PRIVATE
GARDEN GROUND, ERECTION OF REAR EXTENSION, FRONT PORCH
AND ERECTION OF FENCE
AT 7 HOLLYBUSH PLACE, KILMARNOCK
BY MR JOHN HOUSTON**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The current planning application proposes to change the use of an area of approximately 96 square metres of the landscaped open space into private garden ground for the property at 7 Hollybush Place, Kilmarnock. It is proposed to erect a 1.8 metre high timber fence to enclose this piece of ground. The proposal also includes the erection of a single storey monopitched roofed extension projecting 3.0 metres from the rear elevation of the dwellinghouse and measuring 6.0 metres in width. In addition it is proposed to erect a porch measuring 2.2 metres in width by 1.3 metres in depth to the front elevation of the dwellinghouse. The applicant has also recently proposed the erection of a 4.0 metre length of 1.8 metre high fence along the western boundary with number 9 Hollybush Place for screening purposes.

1.2 It is proposed to finish the external appearance of the single storey rear extension and the front porch in red facing brick with concrete roof tiles to match the existing dwellinghouse.

1.3 The proposal would result in the loss of part of the landscaped open space corridor located between Hollybush Place and Fenwick Close and would restrict access through the open space area located to the rear of Hollybush Place. This open space forms part of a larger network of open space throughout this development, which enhances the setting and amenity of the properties.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons on the attached sheet

3. CONCLUSIONS

3.1 As is indicated in Section 5 of the report the application is not 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 refused unless material considerations indicate otherwise.

3.2 As indicated in Section 6 there are material considerations relevant to this application which are considered to be significant enough to support the refusal of the application. It is considered that the relationship between Hollybush Place/Fenwick Close and the development to the east, be it the former commercial garden centre or the subsequent Westfield Road housing site, has consistently been viewed as necessitating either the retention of the hedge or the planted buffer area or both to secure residential amenity. Whilst it is acknowledged that this buffer area has created past difficulties in terms of landscaping, on balance the principle of retaining this buffer area should be continued.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved 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 this would not be a significant departure from Policy.

Alan Neish

Head of Planning, Development and Building Standards Division

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 contrary to the Development Plan.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a two storey detached dwellinghouse with integral garage and associated garden ground, and an area of approximately 96 square metres of open space, located to the rear of the property. This open space forms part of the open space network located between Hollybush Place and Fenwick Close. The site is bounded to the south and east by open space and to the north by Hollybush Place and to the west by a two storey detached dwellinghouse and an area of open space.

2.2 It should be noted that the open space was provided as a landscaped buffer between the proposed residential units of Fenwick Close/Hollybush Place and the former Westfield garden centre previously located to east of the current application site boundary. The provision of the landscape buffer was to ensure a reasonable level of residential amenity for the new residential units adjacent to the Westfield garden centre. Subsequently, the garden centre closed and the site was developed into the Westfield Road housing site. This housing development was conditioned to maintain the hedging along the open space, in the interests of amenity between the two sites.

2.3 Part of the application site is located within an area of landscaped open space which has been the subject of discussion between the owners, The Greenbelt Company, and the Council's enforcement officers. The original species of trees planted within the landscape buffer area were Salix Alba and Populus. However, these species of trees were considered to be inappropriate as they grew too tall for this location. Consequently, the Greenbelt Company removed the Salix Alba and Populus tree species and replanted the area with an appropriate woodland tree mix. The existing

hawthorn hedge located to the rear of the properties at Westfield Road, although separate from but close to this application site, was retained to form a visual screen and prevent overlooking between the properties located at Fenwick Place/Hollybush Place and Westfield Road.

2.4 Proposed Development: The current planning application proposes to change the use of an area of approximately 96 square metres of the landscaped open space into private garden ground for the property at 7 Hollybush Place, Kilmarnock. It is proposed to erect a 1.8 metre high timber fence to enclose this piece of ground. The proposal also includes the erection of a single storey monopitched roofed extension projecting 3.0 metres from the rear elevation of the dwellinghouse and measuring 6.0 metres in width. In addition it is proposed to erect a porch measuring 2.2 metres in width by 1.3 metres in depth to the front elevation of the dwellinghouse. The applicant has also recently proposed the erection of a 4.0 metre length of 1.8 metre high fence along the western boundary with number 9 Hollybush Place for screening purposes.

2.5 It is proposed to finish the external appearance of the single storey rear extension and the front porch in red facing brick with concrete roof tiles to match the existing dwellinghouse.

2.6 The proposal would result in the loss of part of the landscaped open space corridor located between Hollybush Place and Fenwick Close and would restrict access through the open space area located to the rear of Hollybush Place. This open space forms part of a larger network of open space throughout this development, which enhances the setting and amenity of the properties.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Southcraigs Community Council there is no community council at present for the Southcraigs area.

Noted.

3.2 Scottish Power have made no objection to the proposal.

Noted.

3.3 Scottish Water have raised no objections to the proposal.

Noted.

3.4 East Ayrshire Council's Arboricultural Officer - No reply at the time of writing.

Noted.

4. REPRESENTATIONS

The application was advertised and no letters of objection have been received in relation to the proposal.

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 It is considered that there are not any policies in the Approved Ayrshire Joint Structure Plan relevant to the determination of this planning application.

Adopted East Ayrshire Local Plan (EALP)

5.3 Policy TLR 8 presumes against development on those 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. However, the following types of development on existing areas of maintained amenity or recreational open space will be considered appropriate, subject to compliance with all appropriate Council Development Promotion and Design Guidance:

- (i) laying out of new playing fields, bowling greens, putting greens;
- (ii) creation of all-weather sports facilities;
- (iii) creation of a new children's play area; and
- (iv) development of pavilions or other ancillary facilities to serve any existing or proposed outdoor sport and recreational activities in the area.

The area does not constitute an area of public and private recreational or amenity open space as identified in the Local Plan maps but it is considered to comprise an area of undeveloped land within the settlement boundary of Kilmarnock which contributes to the setting, character and appearance of the settlement. It is considered that the removal of part of the open space area would be detrimental to the setting, character and appearance of the wider area. Approval for the change of use of this section of the open space would erode into the available buffer area and may lead to the ultimate loss of this significant

area of open space which provides valuable amenity space for the surrounding area. These open space areas provide a valuable network within the overall development with both amenity and wildlife benefits.

5.4 Policy TLR 9 states that the development of both private and public recreational or amenity open space for purposes other than those described in Policy TLR8 will be permitted only in exceptional circumstances where:

- (i) the retention or enhancement of the facilities can best be achieved by the redevelopment of part of the site and where the development would not adversely affect the overall sporting, recreational and amenity value of the site itself; or
- (ii) there is a clear, long term excess of pitches, playing fields and amenity open space in the wider area.

The proposal is for the removal of a section of public space that forms part of a larger network of open space within the wider area which is considered to be of community and amenity benefit. In this instance, the proposal to incorporate some of the open space area into garden ground of number 7 Hollybush Place would physically disrupt and fragment the open space network, to the detriment of the character and appearance of the surrounding area and would adversely affect the residential amenity of surrounding properties.

5.5 Policy ENV7 states that all developers will be expected to comply fully with the Council's existing and emerging Design Guidance and Policy documents relating to and advising on the particular type of development proposed. Developments that do not meet the required design standards detailed in these documents will require to be fully justified and may not be supported by the Council. In this instance the relevant Design Guidance document is Householder Development (1).

Included in the proposal is the erection of a monopitched roof single storey rear extension. The proposed extension projects 3.0 metres from the rear elevation of the dwellinghouse and measures 6.0 metres in width, reaching a maximum height of 3.8 metres. To avoid issues of overlooking into the neighbouring property from the proposed window located in the west facing elevation of the extension, the applicant has proposed the erection of a 4.0 metre length of 1.8 metre high fence along the western boundary with number 9 Hollybush Place. In addition to the rear extension, the applicant proposes to erect a porch on the front elevation of the dwellinghouse. The proposed front porch measures 2.2 metres in width, 1.3 metres in depth and will reach a height of 2.4 metres. It is considered that the proposed extensions and fencing in terms of size, scale and design and overlooking issues are in keeping

with the existing dwellinghouse and surrounding area and consequently comply with Policy ENV7 of the Local Plan.

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 area.

Consultations Responses

6.2 It is not considered that any of the consultation responses received indicate that the application should be refused.

Planning History

6.3 Planning permission (KL/W/FL/76/310L) granted on 26/03/96 for the erection of dwellinghouses required that a landscape buffer be provided between the proposed residential units and the existing Westfield Garden Centre along their south western boundary. The landscape buffer was to ensure a reasonable level of residential amenity for the new residential units adjacent to the existing garden centre.

6.4 Subsequently the garden centre closed and the site was developed into the Westfield Road housing site (Planning Permission 99/0387/FL dated 06/08/99). The current proposal would include the removal of part of the existing landscaped open space which separates the residential properties at Fenwick Close from Westfield Road. It is considered that the removal of this area of open space would disrupt and fragment the open space network resulting in an adverse effect on the residential amenity of the neighbouring properties.

6.5 Planning permission (04/1037/FL) was granted on 13/12/04 for the change of use of a section of the landscape buffer to private garden ground to the rear of 9 & 10 Hollybush Place Kilmarnock. In this instance the location of the proposal did not adversely affect issues of access to the open space or result in any detrimental fragmentation of the wider open space network. However, the applicants have failed to acquire these areas of ground and the land remains unchanged as part of the open space area.

6.6 Planning permission 04/0934/FL was granted on 18/02/05 for the change of use of open space to private garden ground at the rear of 18 Westfield Road. However, in this case, the application site boundary did not cover the complete depth of the landscaped area thereby ensuring that access through the open space would not be restricted. As a result of the proposal a section of the open space was removed. However in this instance, the removal of the section of open space concerned did not result in any significant detrimental impact on the residential amenity of the surrounding properties.

6.7 An application (06/0816/GFL) to extend the garden ground of 12 Westfield Road into the open space buffer zone was withdrawn on 20 November 2006.

Impact on Amenity

6.8 The proposal includes the removal of an area of approximately 96 square metres area of open space which would result in the disruption and fragmentation of the wider open space network, originally provided as open space to enhance the character and appearance of the surrounding area. Taking into account that the proposal includes the removal of the full depth of open space at this location it is considered that the proposal would result in an adverse affect on the visual and residential amenity of the neighbouring properties and result in the loss of a valuable landscape feature. The proposed extensions and fences in terms of scale, size and design will not result in a detrimental affect on the residential amenity of the surrounding area.

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 not 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 refused unless material considerations indicate otherwise.

8.2 As indicated in Section 6 there are material considerations relevant to this application which are considered to be significant enough to support the refusal of the application. It is considered that the relationship between Hollybush Place/Fenwick Close and the development to the east, be it the former commercial garden centre or the subsequent Westfield Road housing site, has consistently been viewed as necessitating either the retention of the hedge or the planted buffer area or both to secure residential amenity. Whilst it is acknowledged that this buffer area has created past difficulties in terms of landscaping, on balance the principle of retaining this buffer area should be continued.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved 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 not be a significant breach of Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

05 December 2006
(JL/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Consultation Responses.
3. Adopted East Ayrshire Local Plan (2003).
4. Statutory Notices and Certificates.
6. Relevant Planning applications: KL/W/FL/76/310L; 99/0387/FL; 04/0934/FL; 04/1037/FL; 06/0816/FL.

Anyone wishing to inspect the above papers please contact Jane Little, Planning Officer, on 01563 576768.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No. 06/0804/FL

Site of Proposal: 7 Hollybush Place
KILMARNOCK

Nature of Proposal: Change of Use from Open Space to Private
Garden Ground, Erection of Rear
Extension, Front Porch and Erection of
Fence

Name & Address of Applicant: John Houston
7 Hollybush Place
KILMARNOCK
KA3 6EZ

DPOs Reference: JL/MMM

The above FULL planning application should be refused for the following reasons:-

1. The proposed development does not comply with the requirements of Policy TLR 8 of the East Ayrshire Local Plan because the removal of part of the existing open space buffer would be detrimental to the setting, character and appearance of the wider area.
2. The proposed development does not comply with the requirements of Policy TLR 9 of the East Ayrshire Local Plan because the removal of part of the open space buffer would be detrimental to the residential amenity of the area.

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