

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY 2007**

**06/0840/FL: PROPOSED ERECTION OF 1800 MM HIGH TREATED TIMBER  
FENCE (IN RETROSPECT)  
AT 2 - 12 NESS GARDENS, HURLFORD  
BY SHIRE HOUSING**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 The proposal is for the erection of a 1800mm high timber fence in retrospect, around the eastern garden ground of the flatted development at 2-12 Ness Gardens. The fence is located 2 metres back from the heel curb of the road thus maintaining the road service strip and the necessary road junction sightlines. The fencing matches that which has been erected previously by the Housing Association on the site.

1.2 Since the planning application was lodged with the Planning Authority, Shire Housing have erected the fence which is the subject of this application however the position of the fence as erected varies from that now proposed in this application.

1.3 It should be noted that this proposal concerns a revised set of plans showing an altered fence position rather than that previously presented to committee.

#### **2. RECOMMENDATION**

**2.1 The application should be approved subject to the condition on the attached sheet.**

#### **3. CONCLUSIONS**

3.1 As indicated at Section 5 of the report, applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The proposed development accords with the Development Plan and there are no material considerations to indicate that the application should be otherwise determined. It is therefore recommended that the application be approved.

## **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 this would not be a significant departure from 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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BY SHIRE HOUSING**

**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 an objection.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the two storey flatted residential units at 2-12 Ness Gardens, Hurlford. The application site is located at the eastern end of the newly built residential development. The proposed fence is adjacent to the access/egress road serving the new development and faces towards a public footpath, on the opposite side of the road, referred to locally as the "ashy path" leading from Cessnock Avenue to Galston Road. The area is generally residential however the eastern boundary of the site comprises an area of vacant ground. The residential area has a no through road and is within a 20 miles per hour zone.

2.2 **Proposed Development:** The proposal is for the erection of a 1800mm high timber fence in retrospect, around the eastern garden ground of the flatted development at 2-12 Ness Gardens. The fence is located 2 metres back from the heel curb of the road thus maintaining the road service strip and the necessary road junction sightlines. The fencing matches that which has been erected previously by the Housing Association on the site.

2.3 Since the planning application was lodged with the Planning Authority, Shire Housing have erected the fence which is the subject of this application however the position of the fence as erected varies from that now proposed in this application.

2.4 It should be noted that this proposal concerns a revised set of plans showing an altered fence position rather than that previously presented to committee.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objection to the proposal.

***Noted.***

3.2 Hurlford Community Council have not responded to their consultation at the time of writing this report.

***Noted.***

### 4. REPRESENTATIONS

4.1 One letter of objection has been received from Lomond Avenue Residents Association Neighbourhood Watch in relation to the original scheme however they have made no further representations in relation to the revised scheme. The grounds of objection are outlined below:-

4.2 The construction of the fence commenced on 12 October 2006. In the Kilmarnock Standard of 13 October 2006, Shire Housing applied for Planning Permission. This means the fence was erected before consent had been granted. Does this enable fellow residents to erect such a fence at the front of their property without planning consent?

***The application was reported in the Kilmarnock Standard as a news item on 13 October 2006. However, the planning application had been received by the Planning Authority on 13 September 2006. The erection of the fence prior to the determination of this application should not prejudice the determination of the application. Each planning application is required to be determined on its merits.***

***The erection of this fence prior to the determination of the application does not give other residents in the area the right to erect any fence which requires planning permission, without the benefit of planning permission.***

4.3 The residents have voiced concerns about the reduction in visibility to both motorists and pedestrians. We now in effect have four blind bends in the scheme. Towards the completion of the Ness Gardens development, the Residents Association asked for a one way system to be implemented. Neither East Ayrshire Council nor Shire would take responsibility for such a measure.

***The Council's Roads Division have indicated that they have no objection to the proposal. It is noted that the road has 20 miles per***

**hour markings and is a no through road, serving part of Lomond Avenue and the new residences in Ness Gardens.**

**The implementation of a one way system is not a matter which is relevant to the determination of this planning application.**

4.4 While existing residents know the dangers presented by these blind bends, visitors do not. There are no road markings or give way signs at any of these bends. Does the Council or Shire Housing need an accident to happen before something is done?

**The Council's Roads Division have indicated that they have no objection to the proposal. It is expected that any road user should adhere to the appropriate speed limits of the area and drive at an appropriate speed given the road and weather conditions at the time.**

4.5 I would be grateful if you could tell me why was the fence erected in the first place when it was not required? Is it necessary when it poses such a threat to the safety of motorists and pedestrians?

**The fence has been erected to allow Shire Housing to provide a suitable environment for one of its tenants; an environment that can limit incidents of anti social behaviour directed at the tenant.**

## **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.

### Approved Ayrshire Joint Structure Plan

5.2 The application does not raise any strategic issues that would require assessment against the provisions of the Approved Ayrshire Joint Structure Plan.

### Adopted East Ayrshire Local Plan

5.3 Policy ENV 7 is relevant and states that developers will be expected to comply fully with the Council's Design Guidance. It advises that careful consideration should be given to the effect any changes will have on the property, on neighbouring properties and the surrounding area. Development that is out of scale and character with its surroundings can be detrimental to the appearance of the wider area.

***As the front elevations of the houses at Lomond Avenue/Leven Drive are internally facing onto common open spaces, the rear gardens back onto the access/service road. This results in large timber fences and garages being located adjacent to said access road. Therefore given the propensity for timber fences adjacent to the road in the locality, the scale and design of the fence is considered acceptable for a residential property in this residential area. Thus the proposed fence is considered acceptable in terms of Policy ENV 7.***

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

6.1 The principal material considerations relevant to the determination of this application are the consultations received, the letter of representation and the impact of the proposal on the amenity of the area and immediate neighbours.

### Consultations and Representations

6.2 The consultation responses and representations received are detailed in Section 3 and Section 4 of this report. The consultation received is supportive of the proposal. The letter of objection raises issues of road safety which are not supported by the Council's Roads Division.

### Impact on the Amenity of the Area and Neighbours

6.3 The circumstances of the proposed development are such that it is considered that the proposed development will not have a detrimental impact on the residential amenity of the area nor have a negative impact on road safety.

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

7.1 There are no financial or legal implications for the Council in determining this application.

## **8. CONCLUSIONS**

8.1 As indicated at Section 5 of the report, applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The proposed development accords with the Development Plan and there are no material considerations to indicate that the application should be otherwise determined. It is therefore recommended that the application be approved.

## **9. RECOMMENDATION**

**9.1 The application should be approved subject to the condition 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 this would not be a significant departure from policy.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

08 February 2007  
(CSI/RH)  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Forms/Plans.
2. Statutory Letters/Certificates.
3. Consultations.
4. Letter of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local 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

06/0840/FL

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Site of Proposal:	2 - 12 Ness Gardens Hurlford KILMARNOCK
Nature of Proposal:	Erection of New 1800 MM High Treated Timber Boundary Fencing (in Retrospect)
Name & Address of Applicant:	Shire Housing Association Netherthird House Netherthird CUMNOCK KA18 3DB
Name & Address of Agent:	Taylor Associates 17 Barns Street AYR KA7 1XB

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DPOs Reference: CSI/RH

The above FULL application should be granted subject to the following condition.

1. The fence hereby approved shall be erected on site within 2 months of the date of this consent.

**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.**