

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 18 FEBRUARY 2005

**04/0934/FL: PROPOSED CHANGE OF USE OF LANDSCAPED AREA
COMPRISING OF YOUNG WOODLAND TO EXTEND PRIVATE GARDEN
GROUND
AT LAND TO REAR OF 18 WESTFIELD ROAD KILMARNOCK
BY MR COLIN CLIVE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The planning application proposes to change the use of a section of the landscape area into private garden ground for the property at 18 Westfield Road Kilmarnock. The proposal would not result entirely in the loss of the landscaping between Fenwick Close/Dalgarven Mews and Westfield Road due to the sizeable depth of the landscaped zone at this point. The proposal includes the provision of a 1.8metre high timber fence around the extended garden .

1.2 The proposal would result in a 4.5m landscape buffer being maintained between the proposed private garden area and the properties at 15 Dalgarven Mews and 12 Fenwick Close. The proposal would result in a 10metre deep landscaping area being retained where it bounds onto the hammerhead of Fenwick Close.

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 in Section 5 of the report the application is 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 approved unless material considerations indicate otherwise.

3.2 As indicated in Section 6 there are material considerations relevant to this application however none are of significant enough weight as would merit the refusal of the application.

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.

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 subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is 216msq of the landscape area between Fenwick Close/Dalgarven Mews and Westfield Road. The application site is located directly behind 18 Westfield Road (the Applicant) and forms a 10m deep strip along the northern boundary of the applicants' property.

2.2 It should be noted that the landscape buffer was provided between the proposed residential units of Fenwick Close/Hollybush place and the former Westfield garden centre to their south western boundary. This proposal was to ensure a reasonable level of residential amenity for the new residential units adjacent to the existing non residential use. Subsequently the garden centre has now closed and the site has been developed into the Westfield Road housing site (see planning history below)

2.3 At the time the application was submitted the site consisted of young woodland approximately 8 years old. Subsequently the area of woodland has been stripped back due to an ongoing planning enforcement issue relating to the area being planted with inappropriate trees by the original developer. The trees planted in the area were Salix Alba and Populus which would have become too tall for this location. The factors for the area (The Greenbelt Group) have confirmed that it will be replanted with an appropriate range of trees for the location. The Division is monitoring this to ensure such planting takes place during the next available planting season.

2.4 **Proposed Development:** The planning application proposes to change the use of a section of the landscape area into private garden ground for the property at 18 Westfield Road Kilmarnock. The proposal would not result entirely in the loss of the landscaping between Fenwick Close/Dalgarven Mews and Westfield Road due to the sizeable depth of the landscaped zone at this point. The proposal includes the provision of a 1.8metre high timber fence around the extended garden .

2.5 The proposal would result in a 4.5m landscape buffer being maintained between the proposed private garden area and the properties at 15 Dalgarven Mews and 12 Fenwick Close. The proposal would result in a 10metre deep landscaping area being retained where it bounds onto the hammerhead of Fenwick Close.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Southcraig Community Council has made no comment on the proposal.

Noted

3.2 East Ayrshire Outdoor Services have made no objection to the proposal.

Noted

4. REPRESENTATIONS

There is one letter of objection in relation to this proposal that relates to the following matters:

4.1 The proposal will impact on the privacy of my rear garden.

It is considered that due, to the retention of 4.5m landscaping between the proposal and 15 Dalgarven Mews, the proposed development would not have a significant detrimental impact on the residential amenity of the objector's property.

4.2 The woodland area screens the noise from the houses at Westfield Road but this would be reduced if part of the woodland were removed.

It is considered that, due to the retention of 4.5m landscaping between the proposal and 15 Dalgarven Mews, the proposed development would not result in a significant increase in neighbourhood noise heard from the objector's property. Thus the proposed development would not have a significant detrimental impact on the residential amenity of the objector's property.

4.3 The proposed garden extension will result in an extension of the dwellinghouse at a later date thus having a detrimental impact on the light available to the garden of 15 Dalgarnen Mews.

Any future extension of the property at 18 Westfield Road, if requiring planning permission, would be assessed to take account of the impact of the proposal on adjacent properties during the determination process of any subsequent planning application.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 requires 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 open space identified in the Local Plan and against development on undeveloped land that otherwise contributes to the character or appearance of the settlement.

It is not considered that this proposal will diminish to an unacceptable degree the amenity value of this area.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

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

Consultations responses

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

Representations received

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

Planning History

6.4 Planning permission (KL/W/FL/76/310L) granted on 26/3/96 for the erection of dwellinghouses required that a landscape buffer be provided between the proposed residential units and the existing Westfield Garden Centre to their south western boundary. This proposal was to ensure a reasonable level of residential amenity for the new residential units adjacent to the existing non residential use. Subsequently the garden centre has now closed and the site has been developed into the Westfield Road housing site (Planning Permission 99/387/FL dated 6/8/99) .

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.

Impact on Amenity

6.5 It is considered that, due to the area of landscaping which would remain between the residential units, following the implementation of the proposed development, the proposal would not have a significant detrimental impact on the residential or visual amenity of the 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 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 approved unless material considerations indicate otherwise.

8.2 As indicated in Section 6 there are material considerations relevant to this application however none are of significant enough weight as would merit the refusal of the application.

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 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.

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Planning Permissions. 04/1037/FL, KL/W/FL/76/310L and 99/387/FL
4. Letter 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 on 01563 576772.

Implementation Officer: Dave Morris

3 February 2005

CSI/IMB

FV/DVM

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No. 04/0934/FL

Site of Proposal: Land to rear 18 Westfield Road
KILMARNOCK

Nature of Proposal: Proposed Change of Use of Landscaped
Area Comprising of Young Woodland to
Extend private Garden Area

Name & Address of Applicant: Mr Colin Clive
18 Westfield Road
KILMARNOCK
KA3 6GA

Name & Address of Agent:

DPOs Reference: CSI/IMB

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

1. Notwithstanding the submitted plans, details of the design and construction of all fences to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site. Said approved fencing shall be erected prior to the use of the application site as private garden ground.

REASON

To allow the Planning Authority to control the design and construction of such features in the interest of visual amenity.

**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.**