

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 07 DECEMBER 2001

**01/0699/FL: RETROSPECTIVE CONSENT FOR ERECTION OF
TEMPORARY PALISADE SECURITY FENCE 1800 MM HIGH INCLUDING
4000 MM WIDE DOUBLE LEAF GATES
AT SILVERDALE, 30-32 LONDON ROAD, KILMARNOCK
FOR SILVERDALE DEVELOPMENTS LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This retrospective application seeks planning permission for a 1.8 metre high metal palisade fence located along the front of the site set some 2.6 metres back from the site boundary with London Road. The fence is currently a galvanised metal finish although the applicant has verbally expressed a willingness to paint it. The applicant in support of his application has advised that during the application for planning permission for the redevelopment of the site, considerable problems were experienced regarding illegal ingress and squatting. Attempts to secure the building at the surface face with boarding were unsuccessful and workmen have had to repeatedly replace and repair this. Strathclyde Police have continuously been in contact.

1.2 Following the refusal of the planning application for redevelopment illegal access to the building has worsened to the extent that the Police have identified the use of drugs in the building. The refusal of permission is now the subject of an appeal to the Scottish Executive. In the meantime, the concern is to avoid the possibility of a serious incident occurring which would involve the emergency services and this triggered the need to secure the site to prevent access to the buildings. Ingress via the east, north and west boundaries is reasonably avoided because of the height of the boundary wall which also has to be accessed through adjacent private gardens which are well supervised. The fence secures the south boundary to London Road. The choice of palisade fencing allows clear visual supervision of the area in front of the building and greatly reduces the ability to be climbed over. The fence has been set back to avoid possible use of the low wall at the front to gain access.

2. RECOMMENDATION

2.1 It is recommended that permission be granted subject to the conditions indicated on the attached sheet.

3. CONTRARY DECISION

3.1 Should the Committee agree that the application be refused the application will not require to be referred to the Development Services Committee as such a decision would in strict terms be compliant with Council policy.

4. SUMMARY OF ANALYSIS

4.1 As indicated in Section 5 of the report, the proposal is not 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.

4.2 As indicated in Section 6 of the report, there are material considerations relevant to the proposal. Although contrary to the terms of the EALP, the reasons for and temporary nature of the proposal would indicate that an approval may be appropriate. None of the statutory consultees have raised any negative comments and the objection received whilst noted does not raise any matters which would be of such significance that would warrant the refusal of the application.

4.3 The fence whilst not being one which would usually be acceptable in an Outstanding Conservation Area of such high merit and quality as London Road, is of a temporary measure. The site is experiencing vandalism and unauthorised access for unsociable behaviour and in this regard, the comments of Strathclyde Police are noted. It is not considered that the temporary positioning of the fence would cause demonstrable harm to the Conservation Area to a permanent degree. A temporary consent for a period of 2 years is considered appropriate in this instance which would allow the determination of the current planning appeal and for any subsequent development schemes to be finalised. It is also recommended that a condition is attached to any grant of planning consent requiring the fence to be painted within one month of the date of this permission. The painting of the fence would reduce its impact on the surrounding Conservation Area

Alan Neish
Head of Planning and Building Control

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 and Building Control

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 because it is subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the former houses of 30-32 London Road, Kilmarnock, now known as Silverdale Nursing Home. Historically, these properties were separate with the original Silverdale being No 30. In the 1970s and 1980s, various applications were approved with the result that the property is one building with various constituent elements.

2.2 The site is unlisted but lies within the London Road Outstanding Conservation Area and several significant trees are still in the garden, four of which are protected by a Tree Preservation Order. Adjacent properties are predominantly residential and the immediate neighbours are two extensive stone villas set in their own grounds. Immediately to the south beyond London Road lies a hotel on the corner of Glebe Road.

2.3 **Proposed Development:** This retrospective application seeks planning permission for a 1.8 metre high metal palisade fence located along the front of the site set some 2.6 metres back from the site boundary with London Road. The fence is currently a galvanised metal finish although the applicant has verbally expressed a willingness to paint it. The applicant in support of his application has advised that during the application for planning permission for the redevelopment of the site, considerable problems were experienced regarding illegal ingress and squatting. Attempts to secure the building with boarding were unsuccessful and workmen have had to repeatedly replace and repair this. Strathclyde Police have continuously been in contact.

2.4 Following the refusal of the planning application for redevelopment, illegal access to the building has worsened to the extent that the Police have identified the use of drugs in the building. The refusal of permission is now the subject of an appeal to the Scottish Executive. In the meantime, the concern is to avoid the possibility of a serious incident occurring which would involve the emergency services and this triggered the need to secure the site to prevent access to the buildings. Ingress via the east, north and west boundaries is reasonably avoided because of the height of the boundary wall which also has to be accessed through adjacent private gardens which are well supervised. The fence secures the south boundary to London Road. Palisade fencing allows clear visual supervision of the area in front of the building and greatly reduces the ability to be climbed over. The fence has been set back to avoid possible use of the low wall at the front to gain access.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The East Ayrshire Council Roads Division, The Coal Authority, Scottish Civic Trust and Transco have no objections to make regarding the development

Noted.

3.2 The Architectural Heritage Society of Scotland , Piersland/Bentinck Community Council, Strathclyde Police have not replied to their consultation letters at the time of writing this report.

Noted.

3.3 Historic Scotland advise that the fencing should be painted in a colour that reflects the tones of the area to reduce its impact and be limited to one year temporary consent to encourage the applicant to proceed with redeveloping the area.

It is the applicant's intention to paint the fence and should Members grant planning permission, this can be controlled by attaching a condition to any grant of planning consent. It is considered that a temporary consent of 2 years is more appropriate in this instance as this would allow adequate time for the determination of the planning appeal and for any subsequent development schemes to be finalised.

3.4 West of Scotland Water advise that if the developer is aware of or discovers any public sewers/water mains affected by this application they must notify their office immediately.

Noted.

3.5 Strathclyde Police have commented that the Police National Computer shows that during a period from 01 May 2001 until 20 November 2001, 110 incidents were reports in and around the London Road area of Kilmarnock. Of these, there are three which refer directly to Silverdale Nursing Home. It is fair to say that there are a number of other incidents within close proximity to the home during the period stated.

Noted.

4. REPRESENTATIONS

One letter of objection has been received.

4.1 The fence has been built without consultation or planning permission.

The fence has been built without planning permission and is currently a breach of planning control. Should Members choose to refuse planning permission, enforcement action will be considered to seek the removal of the fence. The fence was erected as a matter of priority to prevent unauthorised access to the buildings.

4.2 The fence is an eyesore and with posts set into the ground in concrete, it can hardly be construed as temporary.

The fence is of a commercial design and it would not in normal circumstances be considered as being appropriate in a residential area let alone an Outstanding Conservation Area. The fence for safety reasons must obviously be affixed securely to the ground and the reference to 'temporary' in the development description relates to the applicant considering the fence to be a temporary measure until development proposals commence on site.

4.3 The effectiveness of this fence should be questioned as a 'security' measure as witnessed by recently opened and broken windows. The unusual positioning of the fence merely encourages potential intruders to gain access via the boundary walls of 28 and 34 London Road.

Members are referred to the consultation response of Strathclyde Police in paragraph 3.5 above and to the applicant's supporting information in paragraph 2.3. The fencing will act as a deterrent to prevent unauthorised access to the site and buildings.

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 Kilmarnock Local Plan (1985). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the proposal would fall to be considered against Policy 4.7.2 which states that in Conservation Areas there shall be a presumption against alterations to any building which will be detrimental to the character of the Conservation Area.

The alterations under consideration are not of an appropriate standard which would be acceptable on a permanent basis within an Outstanding Conservation Area. The metal fence is of a modern industrial design which would conflict with the character of the area. The fence is not a permanent feature and noting in particular the reasoning for its installation and that it will not cause permanent harm to the amenity of the area, the proposal is considered to be acceptable as an exception to policy.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan Finalised Version with Modifications (EALP), the consultation responses and representations received, planning history and the impact on the amenity of residential properties.

East Ayrshire Local Plan, Finalised Version with Modifications

6.2 The Council has agreed that the EALP should be considered as a prime material consideration. In terms of the EALP the application site is located in a residential area within the settlement boundary of Kilmarnock. Policy ENV 4 is relevant and states that development within or affecting the setting of a Conservation Area should be sympathetic in terms of scale, design, siting, materials and colour of finish. Wherever possible all proposals should seek to preserve, enhance or incorporate features which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned. This Policy has been formulated in order to have due regard to the architectural and historic qualities of the area concerned.

As stated in Section 4 of this report, the fence is of a standard which would not generally be appropriate to the amenity and character of the Outstanding Conservation Area. The fence, being required for a temporary period of time, will not cause permanent, demonstrable harm to the area. The proposal therefore, although contrary to Policy ENV 4 of the EALP, would be acceptable as an exception to policy.

Planning History

6.3 Applications for Planning Permission and Conservation Area Consent for the redevelopment of the site for the “demolition of the existing vacant nursing home and erection of two flatted blocks”, were refused on 01 June 2001 by the Central Local Planning Committee. These applications are now with the Scottish Executive at appeal, awaiting determination.

Consultations and Objections

6.4 None of the consultees have raised any objections and it is worth noting in particular the comments of Strathclyde Police. The letter of objection has been noted and addressed in detail in Section 4 of this report.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 Legal Implications would arise if the Council refuse the application as enforcement action would have to be considered to seek the removal of the fence.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the proposal is not 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 of the report, there are material considerations relevant to the proposal. Although contrary to the terms of the EALP, the reasons for and temporary nature of the proposal would indicate that an approval was appropriate. None of the statutory consultees have raised any negative comments and the objection received whilst noted does not raise any matters which would be of such significance that would warrant the refusal of the application.

8.3 The fence whilst not being one which would usually be acceptable in an Outstanding Conservation Area of such high merit and quality as London Road, is of a temporary measure. The site is experiencing vandalism and unauthorised access for unsociable behaviour and in this regard, the comments of Strathclyde Police are noted. It is not considered that the temporary positioning of the fence would cause demonstrable harm to the Conservation Area to a permanent degree. A temporary consent for a period of 2 years is considered appropriate in this instance which would allow the determination of the current planning appeal and for any subsequent development schemes to be finalised. It is also recommended that a condition is attached to any grant of planning consent requiring the fence to be painted within one month of the date of this permission. The painting of the fence would reduce its impact on the surrounding Conservation Area.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet.

Alan Neish
Head of Planning and Building Control

27 November 2001
(FMF/MMM/IMB)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Public Advertisement.
4. Consultation Responses.
5. Letter of Objection.
6. Approved Ayrshire Joint Structure Plan.
7. Adopted Kilmarnock Local Plan.
8. East Ayrshire Local Plan Finalised Version with Modifications.
9. Planning Application and Conservation Area Consent Applications
Nos: 98/0372/FL and 98/0370/CA.
10. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576768.

Implementation Officer: Dave Morris
010699FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0699/FL

Site of Proposal:	Silverdale 30-32 London Road KILMARNOCK
Nature of Proposal:	Retrospective Consent for Erection of Temporary Protective Palisade Security Fence 1800 high including 4000 wide Double Leaf Gates
Name & Address of Applicant:	Silverdale Developments Ltd 3 Fitzroy Place GLASGOW G3 7RH
Name & Address of Agent:	Keir and Fraser Architects Unit 38 Six Harmony Row Govan GLASGOW G51 3BA

DPOs Reference: FMF/MMM

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

1. Permission is granted for a limited period of 2 years from the date hereof and at the expiration of this period the fence 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 further permission is granted.

REASON The proposed fence is of a temporary nature.

2. Within one calendar month of the date of this permission the applicant shall paint the fence in a colour to be agreed by the Planning Authority and the fence shall be maintained thereafter in that colour.

REASON In the interests of the character of the Outstanding Conservation Area.

AGENDA

**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.**

