

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 16 AUGUST 2002

**02/0060/FL: PROPOSED DECORATIVE HANDRAIL AND 2 METRE FENCE
PANELS TO REAR OF GARDEN
AT 102 BRIDGEHOUSEHILL ROAD, KILMARNOCK
BY MR & MRS F ANDREWS**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This is a retrospective application for the installation of a decorative handrail and the erection of 2 metre high fence panels at the rear of the garden. The application is in respect of fixing a decorative handrail of 1.5 metres high to the north-western, south-eastern and south-western boundaries of the existing timber decking. The handrail will have an opening of approximately 900mm wide to accommodate access to the lower garden via a set of steps. The handrail provides an enclosure to the decking to prevent people from falling off the decking. The proposal also includes the provision of 2 metre high timber fence panels to the rear (south-west) boundary of the property.

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 at Section 5 of the report, there are no applicable policies in the Adopted Kilmarnock Local Plan and therefore greater weight should be attached to the other material considerations.

3.2 As is indicated at Section 6 of the report, there are no specific relevant policies in the East Ayrshire Local Plan and therefore greater weight should be attached to other material considerations. The decorative handrail is in keeping with the timber decking and the dwellinghouse. The concerns of the objector regarding the issue of overlooking resulting from the presence of the handrail are considered to be misplaced. The decking which affords the elevated level does not require consent and the handrail does not alter the relationship between the site and neighbouring properties. The location and design of the fence panels are considered acceptable.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as there would be no significant breach of Council policy.

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 an application which is to be considered by the Local Planning Committee under the scheme of delegation because it is the subject of an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is a mid-terrace, ex-Council dwellinghouse. The rear garden area is 60 square metres. The garden sits higher than the other domestic gardens to the south-west and the north-west. The garden is bounded to the north-west over the first 2.5 metres by a wall of approximately 1.8 metres high which then drops to approximately 1.2 metres, however due to the decreasing ground level the wall then gradually increases to a height of approximately 1.6 metres at the bottom of the garden. The south-eastern boundary is bounded by a wall of approximately 1.2 metres high at its junction with the house, this increases to approximately 1.6 metres in height due to the ground level decreasing towards the rear of the garden. The rear south-west boundary is a timber fence with horizontal boarding of approximately 1.6 metres in height.

2.2 Timber decking is already in place to the immediate rear of the house and it does not require planning consent in its own right as it is 'permitted development' in terms of the Town & Country Planning General Permitted Development Order 1992.

2.3 **Proposed Development:** This is a retrospective application for the installation of a decorative handrail and the erection of 2 metre high fence panels at the rear of the garden. The application is in respect of fixing a decorative handrail of 1.5 metres high to the north-western, south-eastern and south-

western boundaries of the existing timber decking. The handrail will have an opening of approximately 900mm wide to accommodate access to the lower garden via a set of steps. The handrail provides an enclosure to the decking to prevent people from falling off the decking. The proposal also includes the provision of 2 metre high timber fence panels to the rear (south-west) boundary of the property.

2.4 The applicant has submitted supporting information regarding the handrail. He has stated at no time over the past year has any complaint been received about the handrail which is purely for decoration and acts as a safety device between 100 and 102 Bridgehousehill Road. At present a wall is between the two properties and as the occupant of No. 100 Bridgehousehill Road built the wall back from the boundary and left a gap which cannot be built into (at the request of No. 100 occupants) this means that some type of safety measure was needed. The wall is very high and towers above the decorative handrail although the wall is lower at certain areas. The applicant believes that the handrail has no impact on any adjoining properties and was not built to stand on or lean on. If taken down, the view remains the same and is equally the same whether standing on ground level or the decking. Furthermore if the handrail is removed the applicant could lean on the wall and do the same thing if this were their intention. Also directly above the decking is a bedroom giving an overall view to all gardens and it is not their intention to overlook intentionally.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Homes and Technical Services have no objection to the proposal.

Noted.

3.2 Community Council There is no Community Council in existence for this area.

Noted.

4. REPRESENTATIONS

4.1 One letter of objection has been received in relation to this application. It opposes the development on the basis that the decorative handrail would be used to lean on and therefore it makes it easy to see into adjacent rear windows.

The issue of overlooking by individuals using the decking, which does not require planning consent, would occur whether a handrail was in place or not. Therefore the location of the handrail is considered to be acceptable as it does not exacerbate an existing overlooking situation, nor is it visually inappropriate.

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 it. However there are no policies within the Adopted Local Plan specifically relevant to the consideration of this application and therefore greater weight should be attached to the other material considerations.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan Finalised Version with Modifications (EALP), consultations detailed in Section 3 and representations detailed in Section 4.

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the East Ayrshire Local Plan Finalised Version (EALP) should be considered a prime material consideration. There are no policies specifically relevant to this proposal within the EALP, although the requirement in ENV 7 to have regard to the Council's Design Guidance highlights the Council's general concern that domestic works are in keeping with the existing house and do not impact adversely on neighbouring properties. The handrail complies with these principles. The design of the handrail is in keeping with the dwellinghouse and surrounding area. The proposed fence panels will provide privacy to this property and the adjacent houses. The proposal will not have an adverse impact on the amenity of the adjacent properties.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 Legal implications may arise if the application is refused as enforcement action would have to be considered to seek the removal of the handrail.

8. CONCLUSIONS

8.1 As is indicated at Section 5 of the report, there are no applicable policies in the Adopted Kilmarnock Local Plan and therefore greater weight should be attached to the other material considerations.

8.2 As is indicated at Section 6 of the report, there are no specific relevant policies in the East Ayrshire Local Plan and therefore greater weight should be attached to other material considerations. The decorative handrail is in keeping with the timber decking and the dwellinghouse. The concerns of the objector regarding the issue of overlooking resulting from the presence of the handrail are considered to be misplaced. The decking which affords the elevated level does not require consent and the handrail does not alter the relationship between the site and neighbouring properties. The location and design of the fence panels are considered acceptable.

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 and Building Control, the application will not require to be referred to the Development Services Committee as there would be no significant breach of Council policy.

Alan Neish
Head of Planning and Building Control

7 August 2002
(CSI/MMM/IMB)

FV/IMB

LIST OF BACKGROUND PAPERS

1. Application Forms.
2. Statutory Notices/Certificates.
3. Consultations.
4. Letters of Objection.
5. Kilmarnock Adopted Local Plan 1986.
6. Approved Strathclyde Structure Plan.
7. Approved Ayrshire Joint Structure Plan.
8. East Ayrshire Local Plan Finalised Version with Modifications.

Anyone wishing to inspect the above papers please contact Craig Iles on 01563 576770.

Implementation Officer: Dave Morris

020060FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

02/0060/FL

Site of Proposal: 102 Bridgehousehill Road
KILMARNOCK

Nature of Proposal: Proposed Decorative Handrail and 6ft Fence
Panels at Rear of Gardens

Name & Address of Applicant: Mr & Mrs F Andrews
102 Bridgehousehill Road
KILMARNOCK KA1 4QD

Name & Address of Agent:

DPOs Reference: CSI/MMM/IMB

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

1. The proposed development shall be carried out in accordance with the application form and plans submitted on 1 February 2002 as revised by the proposed plan and sections received by the Planning Authority on 28 May 2002.

REASON To ensure that the development is carried out in accordance with the approved details.

2. Notwithstanding the submitted plans, details of the design of the fence panels to be erected shall be submitted to and approved by the Planning Authority prior to the commencement of development on site.

REASON 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.

AGENDA