

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 1 JUNE 2001

**01/0207/FL: PROPOSED FORMATION OF DOG RUNS AND RABBIT RUN
AT 82 MURE AVENUE, KILMARNOCK
BY S THOMSON**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought for the erection of two dog runs and a rabbit run to the rear of a residential property. The dog runs and rabbit run are 1.8 metres in height with timber panels and wire mesh above. The wire mesh and timber panels are attached to three timber sheds integral to the various runs. The sheds are used by the dogs as kennels and for the storage of household and garden goods. There is an existing 2.1 metre high closely boarded fence between no. 82 and 80 Mure Avenue. There are 4 dogs in the runs and a rabbit in the rabbit run. The runs are used by the dogs between 9.00am to 4.00pm and the dogs are not kept in the dog runs at night. This application is retrospective as the development has already been erected on site. The applicant does intend to renew some of the existing rotten timber panels.

2. RECOMMENDATION

2.1 It is recommended that this application be approved subject to the conditions on the attached sheet.

3. SUMMARY OF ANALYSIS

3.1 As indicated in Section 5 of this 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 There are no relevant policies within the EALP which would affect the determination of this application. Therefore greater weight should be attached to the other material considerations. With regard to the objections based on noise from the dogs and smell from the dog runs, Environmental Health have visited the property and have not raised any objection to the development. There have been complaints in the past regarding noise from the dogs but in the last year there have been no such complaints. Smell and odour from the dog runs can be

kept to a minimum if the dog runs are well maintained and clean. A condition could be attached to any grant of planning consent to ensure that the use is operated without detriment to adjoining properties in terms of noise, smell or general disturbance.

3.3 The design of the dog runs is considered acceptable. The dog runs are screened on all three boundaries of the site by 2 metre high closely boarded fences. The dog runs are not readily visible from the Western Road or adjacent properties. It is considered that the presence of 2 metre high closely boarded fences reduces the impact of the development on the adjacent residential properties to an acceptable degree.

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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BY S THOMSON

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 objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a two-storey detached dwellinghouse and its curtilage. The site is surrounded to the North by Western Road and to the South, West and East by residential properties.

2.2 **Proposed Development:** Full planning consent is sought for the erection of two dog runs and a rabbit run to the rear of a residential property. The dog runs and rabbit run are 1.8 metres in height with timber panels and wire mesh above. The wire mesh and timber panels are attached to three timber sheds integral to the various runs. The sheds are used by the dogs as kennels and for the storage of household and garden goods. There is an existing 2.1 metre high closely boarded fence between no. 82 and 80 Mure Avenue. There are 4 dogs in the runs and a rabbit in the rabbit run. The runs are used by the dogs between 9.00am to 4.00pm and the dogs are not kept in the dog runs at night. This application is retrospective as the development has already been erected on site. The applicant does intend to renew some of the existing rotten timber panels.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads Division and West of Scotland Water have no adverse comments to make regarding the proposed development.

Noted.

3.2 Scottish Environment Protection Agency have no objection provided any wash water from the runs is directed to the Local Authority foul sewer.

Noted.

3.3 Environmental Health and Waste Management is aware of previous complaints regarding noise from the dogs. The last complaint received about these premises was more than a year ago. One of their officers spoke to the householder at that time and they have had no occasion to contact her since then. The owner of the property has been advised that the dog and rabbit runs must be maintained to a high degree of cleanliness and that any complaints with respect to this will be investigated. The owner assures the Department that the runs will be satisfactorily maintained.

These comments are of specific relevance as regards the objections raised in Section 4 of this report.

3.4 Dean Community Council are not currently in existence.

Noted.

4. REPRESENTATIONS

There are two objectors to the proposed development.

4.1 The noise of the dogs – bouts of barking at all hours. The Police have been called regarding the noise (not by the objector but by tenants in Onthank) as the noise was prohibitive.

There have been previous complaints regarding noise from the dogs. However, the last complaint received about these dogs was more than a year ago. If residents feel aggrieved by the level of dogs barking they may also instigate a private action in terms of the Civic Government (Scotland) Act 1982.

4.2 The smell that emanates from the runs in hot weather, even when hosed daily.

If the dog runs are well maintained and cleaned, smells or odour emanating from the dog runs should be minimised.

4.3 The deeds to the properties in Mure Avenue state that no more than 1 dog per household should be kept and that no kennels should be built in the rear of the premises.

This is a legal matter and is not a planning consideration.

5. DEVELOPMENT PLAN STATUS

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 Adopted 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 this document and its associated policies. There are however no relevant policies and therefore greater weight should be placed on the 'other material considerations' as identified in Section 6 of this report.

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 and the impact on the amenity of residential properties.

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. There are no relevant policies within the EALP and therefore greater weight should be attached to the other material considerations.

6.3 The comments of Environmental Health and Waste Management have been detailed in Section 3.3 of the report. Whilst there have been previous complaints regarding noise from the dogs, in the last year there have been no such complaints. If the dog runs are well maintained and cleaned there should be no problems regarding smell and odour. There is no evidence that a business is being operated from the application site and the dogs are being kept for domestic purposes only.

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

8.2 There are no relevant policies within the EALP which would affect the determination of this application. Therefore greater weight should be attached to the other material considerations. With regard to the objections based on noise from the dogs and smell from the dog runs, Environmental Health have visited the property and have not raised any objection to the development. There have been complaints in the past regarding noise from the dogs but in the last year there have been no such complaints. Smell and odour from the dog runs can be kept to a minimum if the dog runs are well maintained and clean. A condition could be attached to any grant of planning consent to ensure that the use is operated without detriment to adjoining properties in terms of noise, smell or general disturbance.

8.3 The design of the dog runs is considered acceptable. The dog runs are screened on all three boundaries of the site by 2 metre high closely boarded fences. The dog runs are not readily visible from the Western Road or adjacent residential properties. It is considered that the presence of 2 metre high closely boarded fences reduces the impact of the development on the adjacent residential properties to an acceptable degree.

9. RECOMMENDATION

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

Alan Neish
Head of Planning and Building Control

23 May 2001
(PC/MS)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Letters of objection.
4. Adopted Kilmarnock Local Plan
5. East Ayrshire Local Plan Finalised Version with Modifications.

Anyone wishing to inspect the above papers please contact Pamela Clifford on (01563) 576772.

I:CentralLPC/010207

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 01/0207/FL

Location: 82 Mure Avenue
KILMARNOCK

Nature of Proposal: Proposed Formation of Dog Runs and Rabbit Run

Name & Address of Applicant: S Thomson
82 Mure Avenue
KILMARNOCK
KA3 1TT

DPO's Ref: (Pamela Clifford)
PPO's Ref: (PC)

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

1. The use of the dog runs and rabbit run shall be restricted to private use incidental to the enjoyment of the dwellinghouse on the site and no related commercial activity shall be carried out in or from the site.

REASON In order to safeguard the residential amenity of the surrounding area.

2. The dog runs shall be occupied and maintained such that there is no detriment to adjoining residential properties by reason of noise, dirt, smell or general disturbance.

REASON In order to safeguard the residential amenity of neighbouring properties.

3. The existing fences along the Western, Eastern and Northern boundaries of the site shall be retained intact. If these fences are removed, they shall be replaced by a fence of similar design and height.

REASON In the interests of residential 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