

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 13 OCTOBER 2000**

**00/0429/FL: PROPOSED ERECTION OF REAR CONSERVATORY AND 2 METRE HIGH TIMBER FENCE AT 20 FAIRLIE AVENUE, KILMARNOCK BY MR & MRS M WRIGHT**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 It is proposed to erect a rear conservatory extension at the property measuring some 35.2 square metres. The extension will be 0.5 metres off the common boundary with 22 Fairlie Avenue. The extension will be finished with white rendered roughcast and white UPVC windows. The roof will be single sloping and finished in polycarbonate transparent sheeting. The applicant also intends to erect a 2 metre lap larch timber fence between the properties at 20 and 22 Fairlie Avenue. The proposed fence will extend from the existing lap larch fence along the entire boundary of the properties. The first 2.5metres of this fence have already been erected on site. Only this length of the fence requires planning permission with the remainder of the fence extending to some 14 metres in length being permitted development in terms of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) as it will be positioned outwith 20 metres from the road.

**2. RECOMMENDATION**

**2.1 The application should be approved subject to the conditions indicated on the enclosed sheet.**

**3. SUMMARY OF ANALYSIS**

3.1 The proposed development is not considered to be contrary to the East Ayrshire Local Plan Finalised Version. The site is an existing residential property which has a large rear garden capable of accommodating the proposed extension without resulting in an unacceptable loss of amenity to the neighbouring property at 22 Fairlie Avenue. The extension will not result in the over-development of the plot at 20 Fairlie Avenue, nor will it restrict the available daylight and sunlight to the neighbouring property to a degree which would warrant a recommendation of refusal of this planning application. The section of

fence requiring planning permission is also acceptable and will not cause undue loss of amenity. Furthermore both the extension and fence will not be out of character with neighbouring properties in the surrounding 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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BY MR & MRS M WRIGHT**

### **Report by Head of Planning & 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 as it is subject to an objection.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site comprises a rectangular shaped plot at 20 Fairlie Avenue, Kilmarnock occupied by a semi-detached single storey dwellinghouse with an upper floor attic conversion. The site also accommodates a single garage of timber construction measuring some 12.5 square metres. The existing dwellinghouse is finished in white rendered roughcast with a natural slate roof. Windows comprise white upvc.

2.2 **Proposed Development:** It is proposed to erect a rear conservatory extension at the property measuring some 35.2 square metres. The extension will be 0.5 metres off the common boundary with 22 Fairlie Avenue. The extension will be finished with white rendered roughcast and white UPVC windows. The roof will be single sloping and finished in polycarbonate transparent sheeting. The applicant also intends to erect a 2 metre lap larch timber fence between the properties at 20 and 22 Fairlie Avenue. The proposed fence will extend from the existing lap larch fence along the entire boundary of the properties. The first 2.5metres of this fence have already been erected on site. Only this length of the fence requires planning permission with the remainder of the fence extending to some 14 metres in length being permitted development in terms of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) as it will be positioned outwith 20 metres from the road.

### 3. CONSULTATIONS AND ISSUED RAISED

3.1 West of Scotland Water have no comment to make regarding the application. If however, the developer is aware of or discovers any public sewers/water mains affected by the application, they must notify their office immediately.

***A note can be attached to the planning consent if granted to advise the applicant of West of Scotland Water's requirements.***

3.2 Grange/Howard Community Council have not responded to the consultation letter.

***Noted.***

### 4. REPRESENTATIONS

One letter of objection has been received. The grounds of objection are as follows:-

4.1 The amended plan submitted by the applicant, is incorrect in that it shows a doorway adjacent to the dining room window at 22 Fairlie Avenue which is incorrect. The only light available to the dining room of 22 Fairlie Avenue is from the window and there is no doorway to that area of the property at 22 Fairlie Avenue. In fact, the back door is on the other side of the house i.e. the left-hand side facing the rear of the property.

***Noted. The applicant has submitted a revised plan which corrects this error.***

4.2 Although the amended plans show the extension stopping slightly short of the panel fencing which separates 20 and 22 Fairlie Avenue, the proposed extension will still have a detrimental effect on both the privacy and light available to 22 Fairlie Avenue. The proposed extension will place more than half the garden ground at 22 Fairlie Avenue in the shade and the only available light to the dining room window of this property falls from the side i.e. from 20 Fairlie Avenue which will be entirely obscured by the proposed extension.

***The proposed extension will project 4.3 metres from the rear elevation of the dwellinghouse and will be positioned 0.5 metres off the common boundary of the dwellinghouses. The front of the dwelling-houses are south facing, meaning that the rear gardens face in a northerly direction. The sun therefore is predominantly to the front of the properties. It is considered that the extension as proposed will affect the level of daylight into the neighbouring***

***property, although not to a degree that would warrant a recommendation of refusal of the planning application. The extension is positioned off the common boundary and the extent of projection is consistent with that commonly accepted by this Division. The existing lap larch fence already impinges on the levels of daylight to the neighbours dining room as will the tree located outside the dining room window. It is considered that the proposed extension and fence will not have an unacceptable impact. Furthermore, the extension is not considered to be detrimental in any way to the privacy of the neighbouring property. The proposed fence both in terms of the section which requires consent and that which comprises 'permitted development' will ensure that the rear gardens will not overlook one another, thereby enhancing the privacy of both properties.***

4.3 The amended plan does not provide for adequate access to the fence separating 20 and 22 Fairlie Avenue for the purposes of its maintenance.

***As with the majority of boundary features, maintenance on the neighbours' side is undertaken either by or with the co-operation of that neighbour. Maintenance on the applicants side will be difficult but not impossible in the circumstances proposed..***

4.4 The plan submitted by the applicant shows lap larch fencing six foot in height extended the length of the garden ground between 20 and 22 Fairlie Avenue. At the present time, the fence extends to only three panels and not the entire length of the garden. When this fence was being erected, a conscious decision was taken not to have lap larch fencing six foot in height along the entire length of the garden as this would clearly have a detrimental effect on the light available to the garden ground at 22 Fairlie Avenue. At the present time, there are three fence sections each six feet in height and the remainder of the garden is separated by a three foot six, picket style fence. The objector has requested that if the submitted plan is simply incorrect in showing a six foot high fence extending the length of the property, this be amended. If however this is proposed, the objector has stated her objection on the above grounds and on the basis that it will place the entire garden ground in the shade. The garden faces northwards and all sunlight is gained from 20 Fairlie Avenue. As such, the proposed six foot fence would cast the entire garden ground at 22 Fairlie Avenue in shade at all times. This would clearly have a detrimental effect on the property at 22 Fairlie Avenue.

***The applicants have advised that it is their intention to erect a fence along the full length of the garden boundary between 20 and 22 Fairlie Avenue. This is accurately represented on the submitted plans. In terms of Class 7 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, fences***

***under 2 metres in height within domestic curtilages do not require planning permission if they are being erected outwith 20 metres from a road. The section of fence under consideration as part of this application therefore, extends to some 2.5 metres immediately to the rear of the house. It is further not a material planning consideration that the previous occupiers agreed not to extend the fence line, if indeed this was the case.***

4.5 The amended plan submitted by the applicant still ensures that together with the large garage presently situated at 20 Fairlie Avenue, the proposed extension will cover more than 30% of the total garden ground at Fairlie Avenue.

***According to the submitted plans, the curtilage of the dwellinghouse extends to some 425 square metres in area and including the proposed extension, the buildings within the plot will amount to some 120 square metres. This will result in 28.2% of the curtilage being occupied by buildings and consequently the proposed extension will not result in the over-development of the plot. There will be more than sufficient garden ground remaining for use.***

***The objector has also raised the issue of more than 30% of the plot being covered by buildings. This figure is referred to in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 which states the basis against which the requirement for planning permission is assessed in respect of enlarging, improving or altering a dwellinghouse. The Regulations state that should the total area of ground covered by buildings within the curtilage (other than the original dwellinghouse) exceed 30% of the total area of the curtilage (excluding the ground area of the original dwellinghouse), then planning consent will be required. This is not the same as saying that planning consent should not be granted. The proposed level of development is not unreasonable and would not sustain any refusal of the application.***

4.6 The extension proposed by 20 Fairlie Avenue is also far greater than any other development within the local area and accordingly will have a detrimental impact on the surrounding environment.

***The proposed extension extends to some 35 square metres projecting 4.3 metres from the rear elevation of the dwellinghouse. The extension is also located at the rear of the property not readily exposed to public view. It is therefore not considered by this Division that the extension will result in a property of substantially different character to those in the local area. The extension will not be visible from the public road and will not alter the streetscape of Fairlie Avenue. The extension will be finished in materials to match***

***the existing dwellinghouse and will not extend higher than the eaves level of the house.***

## **5. DEVELOPMENT PLAN STATUS**

5.1 The relevant policy document is the East Ayrshire Local Plan Finalised Version and the application site is located within a residential area.

***The proposed development does not conflict with the policies of the East Ayrshire Local Plan Finalised Version or with the design guidance within the earlier Finalised Kilmarnock and Loudoun District Plan.***

## **6. OTHER PLANNING CONSIDERATIONS**

6.1 There are no other planning considerations.

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

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

## **8. CONCLUSION**

8.1 The proposed development is not considered to be contrary to the East Ayrshire Local Plan Finalised Version. The site is an existing residential property which has a large rear garden capable of accommodating the proposed extension without resulting in an unacceptable loss of amenity to the neighbouring property at 22 Fairlie Avenue. The extension will not result in the over-development of the plot at 20 Fairlie Avenue, nor will it restrict the available daylight and sunlight to the neighbouring property to a degree which would warrant a recommendation of refusal of this planning application. The section of fence requiring planning permission is also acceptable and will not cause undue loss of amenity. Furthermore both the extension and fence will not be out of character with neighbouring properties in the surrounding area.

## **9. RECOMMENDATION**

**9.1 The application should be approved subject to the conditions indicated on the enclosed sheet.**

**Alan Neish  
Head of Planning & Building Control**

4 October 2000  
(FMF/MS)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation replies.
4. Letter of objection.
5. East Ayrshire Local Plan Finalised Version.
6. The Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

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

***Implementation Officer: Dave Morris***

TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 00/0429/FL

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Location: 20 Fairlie Avenue  
KILMARNOCK KA1 1UA

Nature of Proposal: Proposed erection of a rear conservatory &  
erection of 2m high timber fence.

Name & Address of Applicant: Mr M Wright  
11 Glen Lyons Crescent  
KILMARNOCK KA2 0LJ

Name & Address of Agent:

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DPO's REF: FMF/MS

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 received on 16 June 2000 and the amended plans received by the Planning Authority on 06 September 2000.

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

2. The proposed extension shall be finished in materials to match those of the existing dwellinghouse.

REASON In the interests of visual amenity.

Note: The applicant shall contact West of Scotland Water, 35 Glenburn Road, Prestwick, KA9 2NS, if they are aware of or discover any public sewers/water mains affected by the development.

000429

**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

