

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 23 JANUARY 2003

**01/0715/FL: PROPOSED ERECTION OF DETACHED DOUBLE GARAGE
AT 13 ELMBANK DRIVE, KILMARNOCK
BY MR & MRS W STEWART**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The applicant proposes to erect a detached double garage of 43 square metres in floor area and 5.4 metres in height beside the gable elevation of the dwellinghouse. The garage would be finished with a slate roof and the front elevation finished in dressed smooth face red sandstone. All remaining elevations would be finished in red smooth facing brick. Two stainless steel sectional garage doors finished in white are proposed.

On the site boundary at Elmbank Drive, a facing brick wall with metal railings above to a maximum height of 1.24 metres is proposed. A vehicle access is proposed via a single folding gate to the western site boundary from the rear access lane to the Dick Institute. The land to the rear of the garage would be fenced with a 1.85m high timber fence.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.

3. CONCLUSIONS

3.1 As indicated at Section 5 of the report the application is not in accordance with the Adopted Local 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.

3.2 The design and location of the garage does not conflict with Policy ENV7 of the EALP as it accords with the advice detailed in the East Ayrshire Design Guidance. The proposed garage however could have a potentially serious effect on the Dick Institute not to mention other pedestrian and road users. The garage is located in very close proximity to a mature lime tree which is protected by a TPO. The BS standards which govern works close to mature trees cannot be achieved without removal of the tree itself. It is not therefore considered that the garage is acceptable in its proposed location as it would result in the loss of the tree which would be detrimental to the character and setting of the listed building and

Conservation Area. A significant level of work has been undertaken and discussions held with the applicant and Outdoor Services to try to achieve an acceptable solution. However owing to the physical characteristics of the site this has not proven possible.

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 because 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.

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 23 JANUARY 2003

01/0715/FL: PROPOSED ERECTION OF DETACHED DOUBLE GARAGE
AT 13 ELMBANK DRIVE, KILMARNOCK
BY MR & MRS W STEWART

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 as it is recommended for refusal and is subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site relates to a semi-detached red sandstone villa and associated ground at 13 Elmbank Drive within the London Road Outstanding Conservation Area. The site is bound to the north by a rear access lane to residential properties on London Road and Elmbank Drive, to the south by Elmbank Drive beyond which are residential properties, to the west by the Dick Institute which is a category B listed building and to the east by other residential properties on Elmbank Drive. The area of land where the garage is proposed is elevated from the public road and currently comprises grass. The western boundary is defined by three mature lime trees. The land forms part of the curtilage of 13 Elmbank Drive although it is an open area of ground outwith the enclosed rear garden area of the residential property.

2.2 **Proposed Development:** The applicant proposes to erect a detached double garage of 43 square metres in floor area and 5.4 metres in height beside the gable elevation of the dwellinghouse. The garage would be finished with a slate roof and the front elevation finished in dressed smooth face red sandstone. All remaining elevations would be finished in red smooth facing brick. Two stainless steel sectional garage doors finished in white are proposed.

On the site boundary at Elmbank Drive, a facing brick wall with metal railings above to a maximum height of 1.24 metres is proposed. A vehicle access is proposed via a single folding gate to the western site boundary from the rear access lane to the Dick Institute. The land to the rear of the garage would be fenced with a 1.85m high timber fence.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Piersland/Bentinck Community Council have not replied to their consultaton at the time of writing this report.

Noted.

3.2 The Coal Authority, The Architectural Heritage Society of Scotland, East Ayrshire Council Roads & Transportation Division and Scottish Water have no objections to the application.

Noted.

3.3 Outdoor Services have objected to the application because the ground excavation for the garage will be within 6 metres of the base of a mature lime tree near the site boundary. Work within this distance could lead to the tree becoming unstable in high winds with an increased risk to passing road users. It has also been brought to Outdoor Services attention that the Dick Institute houses many artefacts of an irreplaceable nature and they would therefore insist that the standard 6 metres distance (BS5837) from the tree is adhered to and that the tree root system is protected to 6 metres by a Chespaie fence prior to any construction work.

Noted. The applicant is unable to meet the required 6 metre distance for excavation works from the base of the tree in terms of the proposed position of the garage. If the garage was to be re-positioned further back into the site this would affect the roots of other mature lime trees all of which are protected by a Tree Preservation Order. Outdoor Services have also considered the condition/health of the trees and do not believe that the trees are in a dangerous condition.

4. REPRESENTATIONS RECEIVED

4.1 There is one letter of objection to the proposed development from Outdoor Services which is detailed in Section 3.3 of the report.

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 this document and its associated policies. Conservation Area Design Guidance in the Adopted Local Plan requires that garages shall be of a scale and design appropriate to the building. Materials shall be compatible with the existing buildings and adjacent buildings and shall be appropriate in the particular location. Extensions to existing buildings including garages shall not be permitted on front elevations or between the front and rear walls on side elevations. Garages shall be located behind the rear elevation of the dwellinghouse.

The proposed garage is not consistent with the above Design Guidance as it involves a garage sited to the side of a dwellinghouse and it is located behind the rear elevation of the dwellinghouse.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other material considerations relevant to the determination of the application are the East Ayrshire Local Plan Finalised Version with Modifications (EALP), the consultation responses, representations received and the impact on the neighbouring 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.

6.3 Policy ENV7 of the EALP expects all developers to comply fully with the Council's existing and emerging Design Guidance and Policy documents relating to and advising on the particular type of development proposed. The Design Guidance requires all free standing garages to be erected within the curtilage of a dwellinghouse to be located behind the front building line of the property and incorporate a dual pitched roof. Extensions in Conservation Areas require to remain subordinate to the original building and their design should reflect and enhance the overall character and appearance of the Conservation Area in terms of size, scale, fenestration, finish and materials used. Traditional finishes and details will require to be appropriate to the particular building concerned.

The proposed garage is in accordance with the above Design Guidance. It has been designed and sited to minimise its impact on the red-sandstone villa and the character of the Outstanding Conservation Area. The materials of the proposed garage are appropriate for the Conservation Area and would not detract from the adjacent sandstone villas and the setting of the 'B' Listed Dick Institute.

Consultation Replies and Representations Received

6.4 The only consultation response to raise significant issues that would affect the granting of planning permission is the response from Outdoor Services. The trees are covered by a Tree Preservation Order and the construction of the garage owing to the necessary ground excavations to form the foundations, could affect the stability of the nearest lime tree which lies within 1 metre of the garage. There is a risk that if the root system of the lime tree was affected, the tree could be a risk to the Dick Institute. Any damage to this building could in theory risk the retention of the building and its contents.

Impact on Amenity

6.5 The garage is acceptable in terms of size and scale. Its materials will match the existing dwellinghouse and whilst the garage is slightly larger than a standard single garage it is of standard height with a pitched slate roof. The siting of the garage has been designed to reduce its impact on adjacent residential properties.

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 at Section 5 of the report the application is not in accordance with the Adopted Local 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 The design and location of the garage does not conflict with Policy ENV7 of the EALP as it accords with the advice detailed in the East Ayrshire Design Guidance. The proposed garage however could have a potentially serious effect on the Dick Institute not to mention other pedestrian and road users. The garage is located in very close proximity to a mature lime tree which is protected by a TPO. The BS standards which govern works close to mature trees cannot be achieved without removal of the tree itself. It is not therefore considered that the garage is acceptable in its proposed location as it would result in the loss of the tree which would be detrimental to the character and setting of the listed building and Conservation Area. A significant level of work has been undertaken and discussions held with the applicant and Outdoor Services to try to achieve an acceptable solution. However owing to the physical characteristics of the site this has not proven possible.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons 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 because there would be no significant breach of Council policy.

Alan Neish
Head of Planning and Building Control

14 January 2003

(FMF/MS)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Certificates.
3. Consultation Replies.
4. Letter of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted Kilmarnock Local Plan.
7. East Ayrshire Local Plan Finalised Version with Modifications.
8. Approved Strathclyde Structure Plan.

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

Implementation Officer: Dave Morris

I:CLPC/010715FL

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 01/0715/FL

Location: 13 Elmbank Drive
KILMARNOCK

Nature of Proposal: Proposed Erection of Detached Double Garage

Name & Address of Applicant: Mr & Mrs W Stewart
13 Elmbank Drive
KILMARNOCK KA1 3AT

Name & Address of Agent:

DPO's Ref: FMF/MS

The above FULL application should be refused on the following grounds:

1. The garage as proposed cannot meet the terms of BS 5837 which requires a 6 metre distance between development and the base of a tree to allow ground excavations to be undertaken. The garage if erected would therefore result in a serious public safety risk to the Category 'B' Listed Dick Institute and pedestrian road users, if the tree is to be retained.
2. To meet the terms of BS 5837, the location of the proposed garage would require the loss of one of the existing protected lime trees which would have a detrimental effect on the character and setting of the listed building and London Road Outstanding Conservation Area.

**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.**