

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 2 AUGUST 2002

**02/0327/FL: PROPOSED ERECTION OF DECKING HANDRAILS AT
DRUMMUIR, 48 LADESIDE, NEWMILNS BY MS SHARON STAIRS**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This is a retrospective application to erect wooden handrails on top of an existing area of decking located to the rear of the dwelling. The decking does not form part of this application as no planning consent is required for this construction. However, as the height of the handrails exceeds 1m from ground level, consent is required for the railings. The total height above ground level to the top of the handrail is 1.65m. The handrails themselves extend to 0.93m above the level of the decking. The handrail is located around the edge of decking and approximately 2.3m from the boundary of the site with No. 50.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the condition listed on the attached sheet.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the development plan is out of date and given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise. The material considerations in this regard are of prime importance owing to the age of the development plan. As indicated at paras 6.2 to 6.5 of the report there are material considerations relevant to the determination of this application. In this instance the proposal complies, subject to conditions, with the East Ayrshire Local Plan and the Design Guidance and it is considered that the grounds of objection relating to the handrails can be addressed by means of a condition.

CONTRARY DECISION NOTE

Should the Committee agree to refuse the application contrary to the advice of the Head of Planning and Building Control, the application would not require to be referred to the Development Services Committee for determination as such a decision would not be a significant departure from 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 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 is located to the south east of Newmilns. The site is bounded by Ladeside to the north, the River Irvine to the south and residential properties to the east and west.

2.2 **Proposed Development:** This is a retrospective application to erect wooden handrails on top of an existing area of decking located to the rear of the dwelling. The decking does not form part of this application as no planning consent is required for this construction. However, as the height of the handrails exceeds 1m from ground level, consent is required for the railings. The total height above ground level to the top of the handrail is 1.65m. The handrails themselves extend to 0.93m above the level of the decking. The handrail is located around the edge of decking and approximately 2.3m from the boundary of the site with No. 50.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Newmilns and Greenholm Community Council have not responded at the time of writing.

Noted.

4. REPRESENTATIONS

(Two letters of objection have been received from the neighbouring properties).

Privacy

4.1 “The handrail on this large elevated decking structure, (which I understand is an essential part of it to comply with Building Control Regulations) allows the users to come so far forward, that it results in a total invasion of neighbours privacy, as the applicant now overlooks neighbouring gardens and my conservatory from their elevated position. I have been forced to erect a temporary screen 1.8 metres high just to allow me some privacy to use my garden and conservatory without being watched.

The issue is compounded by the fact that my neighbours like to entertain outdoors most of the time. I have lived in my house for over 15 years very happily having an excellent relationship with all my neighbours. The applicant moved in around June 2001 and since the decking and handrail were erected, I have been unable to use my garden or conservatory without taking a portable screen outside to give me some privacy. I feel I have been confined to live inside my house due to this unsightly combination of handrail and decking.”

Whilst I am not particularly concerned at the area of decking, we are extremely upset at the height.

“Previously we enjoyed a peaceful and secluded garden with a low level patio area which could not be overlooked from any other property.

We now have a situation where we can find no privacy in any part of the garden and, indeed, parts of the inside of our house. The high elevation allows unobstructed views to every area of the garden and into our lounge and kitchen.

With our new neighbours clearly showing that they intend to use their new platform to the full, we are reluctant to use our own garden for relaxation due to the discomforting feeling of intrusion.”

It is considered that the issue of overlooking can be addressed by means of a condition. However, the use of the decking area is not an issue which can be controlled by this Division.

Visual Amenity

4.2 “There is a visual amenity issue as the handrail is completely unsightly from my house and from the other side of the river.

Following a site visit, I understand that Ms. Stairs was advised that should planning permission be granted, then some form of screening, acceptable to myself, would have to be arranged. The applicant’s answer has been to attach open trellis directly to the dividing wall, without any consultation. This trellis now has fairy lights woven through the mesh. Hardly subtle screening..... and only feet from our house.

The decking handrails also have been “adorned” with coloured fairy lights which make the whole construction even more obtrusive.

The decking itself is also being used as a cover for what appear to be industrial type arc lights positioned below the deck and which vividly illuminate the area around the house, the river bank and even the tops of the high trees on the opposite side of the river.”

The handrail is constructed of wood which is considered to be an acceptable material for this type of development. It is not considered that the handrail is detrimental to the visual amenity of the area and the surrounding properties. A suitable boundary treatment can be achieved and agreed by the Planning Authority by means of attaching a condition to any grant of planning permission. The addition of lighting is not a planning consideration relevant to the determination of this application.

Retrospective

4.3 The applicants have been using the decking and handrail since around last August against planning regulations.

Noted. The Council is in receipt of a retrospective application for the decking which is the subject of this report. Planning permission is not required for the decking in this location.

Residential Amenity

4.4 The handrail should be removed permanently and subsequently the decking, which would then fail to comply with regulations, which would allow neighbours to enjoy their properties to the full as they did prior to its construction.

In terms of the planning legislation there is no requirement for planning consent for the decking and therefore the potential removal of the handrail has no effect on the decking for the purposes of planning. However, where an area of decking exceeds 600mm above ground level Building Control require a handrail for safety purposes.

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 Ayr County Development Plan (1953).

5.2 The Adopted Ayr County Development Plan however is now considerably out of date. Given the age of this plan, its relevance to this application is negligible and, as a consequence, significant weight must be attached to more recent expressions of policy.

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), East Ayrshire Council Design Guidance (April 2001), consultations and objections detailed above.

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 with Modifications (EALP) should be considered a prime material consideration.

6.3 Policy ENV 7 of the EALP requires that all developments shall comply fully with the Council's existing and emerging Design Guidance. The Design Guidance for householder developments states that "whilst alterations and extensions to a dwelling can improve and prolong the life of a building, careful consideration should be given to the effect any changes will have on the property, on neighbouring properties and the surrounding area." Section 3 (a) of the Guidance provides that "extensions to existing properties shall be sited and designed to minimise any overlooking of neighbouring properties and to ensure maximum provision of privacy and daylighting."

The handrail is constructed of wood which is considered to be an acceptable material for this type of development. Being a Building Control requirement, the handrail enables the use of the decking. The decking in turn, due to its proximity to the adjacent property at No. 50, allows individuals to stand within 2.3m of the boundary fence, at an elevated height. It is considered that a Condition should be attached to any grant of planning permission requiring adequate boundary treatment to minimise the potential for overlooking.

Consultation Replies

6.4 No consultation replies have been received.

Objections

6.5 The objections have been detailed above and it is considered that the issues raised regarding privacy can be dealt with by means of a condition.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Should the application be refused and the applicants do not remove the handrail, then enforcement action may have to be taken.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the development plan is out of date and given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise. The material considerations in this regard are of prime importance owing to the age of the development plan. As indicated at paras 6.2 to 6.5 of the report there are material considerations relevant to the determination of this application. In this instance the proposal complies, subject to conditions, with the East Ayrshire Local Plan and the Design Guidance and it is considered that the grounds of objection relating to the handrails can be addressed by means of a condition.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

Should the Committee agree to refuse the application contrary to the advice of the Head of Planning and Building Control, the application would not require to be referred to the Development Services Committee for determination as such a decision would not be a significant departure from Council Policy.

Alan Neish
Head of Planning and Building Control

24 July 2002 (YN/SA)
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultation replies.
4. Ayr County Development Plan.

5. East Ayrshire Local Plan (Finalised Version with Modifications).
6. East Ayrshire Council Design Guidelines for Householder Development.
7. Approved Ayrshire Joint Structure Plan.
8. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers please contact Yvonne Nisbet on (01563) 576771.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Site of Proposal: Drummuir
48 Ladeside
NEWMILNS

Nature of Proposal: Proposed Erection of Decking Handrails

Name & Address of Applicant: Ms Sharon Stairs
Drummuir
48 Ladeside
NEWMILNS KA16 9BE

Name & Address of Agent:

DPOs Reference: YN/SA

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

(1) Details of a boundary treatment to be provided along the eastern and western boundaries to the rear of the dwellinghouse shall be submitted to and approved by the Planning Authority within 1 month of the date of this consent and shall be erected within 2 months of approval of these details. The boundary treatment shall provide for the maintenance of privacy in respect of adjacent neighbouring properties.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual and residential amenity.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**

AGENDA