

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 2 AUGUST 2002 02/0389/FL: PROPOSED CHANGE OF USE FROM WASTE GROUND TO GARDEN GROUND AT LAND ADJACENT TO 8 WALDEN ROAD HURLFORD BY BARRY RICHMOND

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal aims to change the use of the area of public open space to private garden ground which would then be incorporated into the curtilage of 8 Walden Road, Hurlford.

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 is indicated at Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, 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. As is indicated at Section 6 of the report, there are material considerations relevant to this application, however it is considered that these are generally supportive of the application. The letters of objection are noted but are not considered in themselves to be of sufficient weight to justify a decision contrary to the development plan.

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 it would not be a significant departure from 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 has been the subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The proposed site is an area of open space on the corner of Walden Road and Morris Crescent, Hurlford. The development site is triangular in shape measuring approximately 21.5 metres by 24.8 metres by 18 metres and is 192.6 metres in area. The site is bounded to the south by the footpath and highway of Morris Crescent, to the west by the gardens of 66 and 64 Morris Crescent Hurlford and to the north by house and garden of 8 Walden Road, Hurlford.

2.2 **Proposed Development:** The proposal aims to change the use of the area of public open space to private garden ground which would then be incorporated into the curtilage of 8 Walden Road, Hurlford.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division have confirmed that they have no objection to the proposal.

Noted.

3.2 Hurlford Community Council have not responded at the time of writing this report.

Noted.

3.3 East Ayrshire Council Homes and Technical Services have indicated that a limited tendering exercise is ongoing between Mr Givens of 66 Morris Crescent and Mr Richmond of Walden Road for the area of land. The service has no objection to this proposal.

The tendering exercise has now been completed with Mr Richmond being the successful bidder.

3.4 East Ayrshire Council Legal Services have indicated that the proposed site was declared surplus to housing requirements at the Housing Committee held on 30 January, 2002.

Noted.

4. REPRESENTATIONS

Three letters of objection from two individuals have been received in relation to this application.

4.1 “My front view (from No. 59) looks onto this area and I object to any building. In the longer term garden ground cannot be the intended use, if the existing garden is anything to go by. “

The possible future use of the application site is not relevant to the determination of the application.

4.2 “The ground formed part of the garden of 66 Morris Crescent and lies wholly in Morris Crescent. The change of use is to make garden ground. If the proposed garden is to be like the applicant’s existing garden I wish to make strong objection and I vigorously oppose the application.”

The issue that the development site was formerly allocated to 66 Morris Crescent is not relevant to the determination of this application. The future condition of the proposed site could be regulated under Section 179 of the Town and Country Planning Act 1997 through which the Planning Authority can protect the amenity of any part of their district.

4.3 The erection of a brick wall will affect the outlook and amenity of our client’s property (66 Morris Crescent). The proposed site has been an area of amenity space for over thirty years , the incorporation of a brick wall around the property will drastically alter the streetscape of Morris Crescent that until now has mainly been bounded by wooden or wire fences and hedges.

No boundary treatment has been proposed for the development site however a condition can be attached to any grant of planning consent regarding future boundary treatment.

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. Policy 4.7.11 of the Adopted Local Plan states that “The District Council shall allow the integration of small parcels of public amenity space into private garden curtilages, where this does not affect the existing provision of public open space in the relevant housing area.”

It is considered that the loss of the area of public open space identified to be changed to private garden ground would not affect the existing provision of public open space in the housing development.

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 1999), consultations and representations.

East Ayrshire Local Plan

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. Policy TLR 8 of the East Ayrshire Local Plan presumes against development on open space identified as safeguarded in the Local Plan, or other open spaces within settlement boundaries which contribute to the setting, character and appearance of the settlement concerned.

The proposal site comprises of a grassed area and is currently maintained by the Council. The site does not include any play furniture or seating and has no decorative landscaping features. The loss of the open space area will not impact significantly on the amenity provision within the immediate area.

Consultation

6.3 The consultations received are supportive of the application.

Representation

6.4 The objections which have been received have been assessed in Section 4 above where it is concluded that they are not of significant weight to justify a decision contrary to the development plan.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 As the proposed development site is owned by the Council there are financial and legal implications for the Council in determining this application, but not such as to impact on the processing of the application.

8. CONCLUSIONS

8.1 As is indicated at Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, 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. As is indicated at Section 6 of the report, there are material considerations relevant to this application, however it is considered that these are generally supportive of the application. The letters of objection are noted but are not considered in themselves to be of sufficient weight to justify a decision contrary to the development plan.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the condition listed 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 it would not be a significant departure from policy.

Alan Neish
Head of Planning and Building Control

24 July 2002 (AN/SA)
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices Certificates.
3. Consultation Replies.
4. East Ayrshire Local Plan (Finalised Version with Modifications).
5. Adopted Kilmarnock Local Plan.
6. Approved Ayrshire Joint Structure Plan.

7. Representations.
8. Approved Strathclyde Structure Plan.

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

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Site of Proposal: Land adjacent 8 Walden Road
HURLFORD

Nature of Proposal: Proposed Change of Use from
Waste to Garden Ground

Name & Address of Applicant: Mr Barry Richmond
8 Walden Road
HURLFORD
KA1 5BP

Name & Address of Agent:

DPOs Reference: CI/SA

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

(1) Notwithstanding the submitted plans, details of the design and construction of all fences and walls to be erected on site shall be submitted to and approved by the Planning Authority before the use of the site for garden ground commences.

REASON To allow the Planning Authority to control the design and construction of such features 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