

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 26 JANUARY 2001**

**00/0681/FL: PROPOSED AMENDMENT TO ORIGINAL PLANNING APPLICATION  
FOR ERECTION OF A RESIDENTIAL DEVELOPMENT – DELETION OF RAMP AND  
ERECTION OF FENCE AND RETAINING WALL  
OPPOSITE 1, 3 & 5 LADESIDE ROAD, KILMAURS  
BY HORIZON HOUSING ASSOCIATION**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 It is proposed, retrospectively, to delete this pedestrian access, form a low retaining wall and enclose this northern boundary with a 1.2m high timber fence. It was found after construction work commenced that the difference in levels from the site to Ladeside Road was higher than initially anticipated which would result in a much longer ramp interfering further with the internal arrangement of paths and accesses to the houses. Additionally, it was considered by the applicants that the arrangement as proposed was having a detrimental effect on the amenity of the new houses.

#### **2. RECOMMENDATION**

2.1 **It is recommended that this retrospective planning application be approved.**

#### **3. SUMMARY OF ANALYSIS**

3.1 As indicated in paragraph 5.2 there is no specific Development Plan policy applicable in this instance. Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 and NPPG1 confirm that where a proposal does not accord with the Development Plan, it should be refused unless material considerations indicate otherwise. The proposal is, though, not in conflict with the plan. As is indicated in Section 6.0 above there are material considerations relevant to this application. These, however are not of sufficient weight in their own right to merit refusal of the application.

**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

NORTHERN AREA LOCAL PLANNING COMMITTEE: 26 JANUARY 2001

**00/0681/FL: PROPOSED AMENDMENT TO ORIGINAL PLANNING APPLICATION  
FOR ERECTION OF A RESIDENTIAL DEVELOPMENT – DELETION OF RAMP AND  
ERECTION OF FENCE AND RETAINING WALL  
OPPOSITE 1, 3 & 5 LADESIDE ROAD, KILMAURS  
BY HORIZON HOUSING ASSOCIATION**

**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 retrospective proposal to be considered by the Committee under the approved scheme of delegation because it has been subject to objections.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The site comprises a section of the northern boundary of the recently completed housing development off Ladeside Road, Kilmaurs known as Ladeside Gardens (EAC Ref 98/0080/FL). The northern boundary runs along Ladeside Road although there is a drop in level from the road level to the site. In the approved plan there is provision for a pedestrian access to Ladeside Road between the north-most new house and an area of landscaping.

2.2 **Proposed Development:** It is proposed, retrospectively, to delete this pedestrian access, form a low retaining wall and enclose this northern boundary with a 1.2m high timber fence. It was found after construction work commenced that the difference in levels from the site to Ladeside Road was higher than initially anticipated which would result in a much longer ramp interfering further with the internal arrangement of paths and accesses to the houses. Additionally, it was considered by the applicants that the arrangement as proposed was having a detrimental effect on the amenity of the new houses.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads Division have confirmed that they have no objections to the proposal.

***Noted.***

3.2 Kilmaurs Community Council have at the time of writing this report not responded on the application.

***Noted.***

3.3 Housing and Technical Services Department have confirmed that they have no objection to the proposal.

***Noted.***

#### **4. REPRESENTATIONS**

(Two letters of objection have been submitted in respect of this application).

4.1 One objector is supportive of the principal of the fence but feels it is too low and should be increased in height to 2m to replace the fence that was in situ prior to the erection of the houses.

***Noted. The site's previous use was more industrial in character and the higher fence would then have been more appropriate. It is considered that the lower height of the fence as constructed is appropriate given the residential character of the new use and given that a higher fence would be more visually intrusive for both the existing and new residents, and thus potentially detrimental to the appearance of the area.***

4.2 The fence as built is utilised by children as a climbing frame and increasing its height would deter such a use.

***Noted. However there is no guarantee that such action would have the desired affect. In addition, the circumstances on site are such that there are trees to the immediate north of the fence (on the Ladeside Road side) and a sloping landscaped area to the south in the site which should help to mitigate against such use.***

4.3 Part of the fence is built on my land without permission and I intend to remove it.

***Noted. The applicants have confirmed that they own the area affected, but it should be noted that ownership of site is not a material planning consideration.***

#### **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 purpose 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 adopted Strathclyde Structure Plan.

***However, given the nature of the works proposed it is concluded that there is no immediately applicable policy in the development plan, against which to test the specifics of the proposal.***

## **6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

The other material considerations in the assessment of this application are as follows: Current Development Plan Status, representations received and the impact on the amenity of the area.

### **6.1 Current Development Plan Status**

The Adopted Local Plan as stated above (paragraph 5.1) is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expression of policy. The Council has agreed that the East Ayrshire Local Plan Finalised Version should be considered a prime material consideration.

***Again as is the case with the Adopted Local Plan, there is no relevant policy applicable to the exact circumstances of the application.***

### **6.2 Representations Received**

***As detailed above in paragraph 4, two letters that have been submitted in respect of the submission have been assessed and it is considered that the issues of height of fence and appropriateness of the treatment given its purpose to enclose a residential area are acceptable. The use of the fence by children for climbing or the taking of short-cuts is unfortunate but not deemed to be of sufficient significance to warrant the pursuit of an alternative treatment and as detailed above the existing trees and lie of the land within the site should deter such use.***

### **6.3 Impact On Amenity of Area/Neighbouring Properties**

***It is considered that the positioning, height and design of the fencing is such that its provision has no significant detrimental impact on the area as a whole. Indeed the proposal is a sympathetic solution given the character of the area and will in fact improve the amenity of the area and immediate neighbouring properties including that of new residents in the development site.***

## **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 As indicated in paragraph 5.2 there is no specific Development Plan policy applicable in this instance. Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 and NPPG1 confirm that where a proposal does not accord with the Development Plan, it should be refused unless material considerations indicate otherwise. The proposal is, though, not in conflict with the plan. As is indicated in Section 6.0 above there are material considerations relevant to this application. These, however are not of sufficient weight in their own right to merit refusal of the application.

## **9. RECOMMENDATION**

**9.1 It is recommended that this retrospective planning application be approved.**

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

17 January 2001  
(IW/MMM/MS)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory Certificates.
3. Letters of Representation.
4. Previous Application 98/0080/FL.
5. Adopted Kilmarnock Local Plan.
6. East Ayrshire Council Local Plan (Finalised Version).
7. Adopted Strathclyde Structure Plan.
8. NPPG1 "The Planning System".

Anyone wishing to inspect the above papers please contact Ian Walker on 01563 576769.

***Implementation Officer: Dave Morris***

000681FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

00/0681/FL

---

Site of Proposal: Ladeside Gardens  
KILMAURS

Natural of Proposal: Proposed Amendment to Original Planning  
Application for Erection of a Residential  
Development – Deletion of Steps and Erection  
of Fence Opposite, 1, 3 & 5 Ladeside Road, Kilmaurs

Name & Address of Applicant: Horizon Housing Association  
96 East Main Street  
WHITBURN  
Edinburgh EH47 0PI

Name & Address of Agent: Fraser Brown Newman  
c/o McLaren Associates  
52A India Street  
EDINBURGH EH3 6HD

---

DPOs Reference: IW/MMM

The above FULL application should be granted .

**AGENDA**

000681FL