

**EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE – 28 SEPTEMBER 2001**

**00/0776/FL, 00/0777/LB: ERECTION OF BESPOKE CONSERVATORY  
AT NO. 11 MILL AVENUE, KILMAURS  
BY MR & MRS HORNER**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

**1.1** It is proposed to erect an “L-shaped” custom designed conservatory in an enclosed area on the south elevation of the building and reopen old doorways to access the conservatory. The conservatory is detailed as being finished with a stone base, and timber framed vertical walls with glass. The proposed roof is polycarbonate.

**2. RECOMMENDATION**

**2.1** It is recommended that the **Listed Building Consent and Planning Application be refused for the reasons indicated on the attached sheets.**

**3. SUMMARY OF ANALYSIS**

**3.1** As is indicated at Section 5 of the report the proposal is considered to be contrary to the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country (Scotland) Act 1997, the applications should be refused unless material considerations indicate otherwise. As is indicated at paragraph (6) of the report, there are material considerations relevant to these applications, however, it is considered that these considerations, in particular the informal comments of Historic Scotland on the principle of the proposal, add weight to the presumption in favour of the development plan.

**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 an objection and is recommended for refusal.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site is a two storey detached property within its own garden enclosed by Morton Park in the Kilmaurs Conservation Area.

The building is a baronial type mansion and is recorded as a Category B Listed Building. Currently it is finished predominantly in white with contrasting detailing and roofed in natural slate. The remains of a stone built tower are situated immediately adjacent to the west of the house.

2.2 **Proposed Development:** It is proposed to erect an “L-shaped” custom designed conservatory in an enclosed area on the south elevation of the building and reopen old doorways to access the conservatory. The conservatory is detailed as being finished with a stone base, and timber framed vertical walls with glass. The proposed roof is polycarbonate.

#### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Historic Scotland have informally confirmed that they are strongly opposed to the conservatory addition as proposed. They have further confirmed that the quality of the existing building is such that no such addition should be sanctioned.

*This response has been relayed to the applicants and there have been discussions on site to determine if a compromise solution was available. However, agreement on such a matter has not been reached and the applicant would like the proposal determined as submitted.*

3.2 The Architectural Heritage Society of Scotland have submitted detailed observations but have confirmed that they do not object to the proposed development as detailed.

***Noted.***

3.3 Kilmaurs Community Council have not responded at the time of writing this report.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 No letters of objection have been received from third parties in respect of this application. There is however an objection from Historic Scotland (see para 3.1 above).

#### **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 these applications, 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 Policy 4.8.4 which relates to the design criteria that will require to be adhered to in conservation areas. This Policy is comprehensive in nature and was formulated to maintain the character of the conservation areas.

***In this instance the proposal is for what would otherwise be a good quality conservatory with a high standard of finish. However, it is considered that the proposal is sufficiently inappropriate in its context, attached to a characterful Category B Listed Building in a designated Conservation Area, to be viewed as contrary to the above policy. In arriving at this conclusion the observations of Historic Scotland are of particular relevance.***

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

6.1 The principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan (Finalised Version with Modifications) and the consultations.

6.2 East Ayrshire Local Plan (Finalised Version with Modifications)

As stated above the Adopted Plan is considerably out of date and therefore it is considered appropriate that greater weight 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.

The relevant policies in the EALP against which the proposal requires to be assessed are ENV 4 and 7. Both these policies were prepared to assist in maintaining high standards of design and to minimise any adverse impact of proposals affecting Listed Buildings as follows:-

#### Policy ENV 4

“The Council will seek to ensure that all development within or affecting the setting of a Conservation Area or affecting the appearance or setting of a Listed Building, is sympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish. Wherever possible, all proposals should seek to preserve, enhance or incorporate features, which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.”

#### Policy ENV 7

“All developers will be expected 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. Developments which do not meet the required design standards detailed in these documents will require to be fully justified and may not be supported by the Council.”

***The proposal has been assessed against the criteria of these policies and is considered in respect of ENV4, to be contrary to the terms of that policy due primarily to the comments of Historic Scotland on the principle of the conservatory (see para 3.2).***

***The position of the Architectural Heritage Society of Scotland is noted in respect of this point. However it should be borne in mind that under the terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, if the Council was of a mind to approve the application for Listed Building Consent, it would have to be referred to Historic Scotland for formal consideration prior to the Council being able to issue any consent.***

Policy ENV7 refers specifically to the Councils new design guidance. The relevant section is as follows:

“(ii) the design of alterations or extensions should reflect and enhance the overall character and appearance of the Conservation Area or Listed Building concerned in terms of size, scale, fenestration, finish and materials used.”

***As referred to above and notwithstanding the standard of finish of the conservatory and taking into account the comments of Historic Scotland, it is considered that the proposed conservatory is contrary to the above policy.***

### 6.3 Consultations

There is a mixed response from the consultations on these applications but, as stated above, the response from Historic Scotland is considered to be an objection to the proposal and to be of sufficient weight to merit the refusal of the two applications.

## **7. FINANCIAL OR LEGAL IMPLICATIONS**

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

## **8. CONCLUSIONS**

8.1 As is indicated at Section 5 above, the proposal is considered to be contrary to the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country (Scotland) Act 1997, the applications should be refused unless material considerations indicate otherwise. As is indicated at paragraph (6) above, there are material considerations relevant to these applications, however, it is considered that these considerations, in particular the informal comments of Historic Scotland on the principle of the proposal, add weight to the presumption in favour of the development plan.

## **9. RECOMMENDATION**

**9.1 It is recommended that the Listed Building Consent and Planning Application be refused for the reasons indicated on the attached sheets.**

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

(IW/MLS/SA)  
FV/DVM  
18 September 2001

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**Form TP24**

**TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997**

**Application No: 00/0776/FL**

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Location	11 Mill Avenue KILMAURS
Nature of Proposal	Proposed Conservatory of Bespoke Victorian Style Hardwood Conservatory
Name & Address of Applicant	Mr & Mrs Horner 11 Mill Avenue KILMAURS KA3 2NL
Name & Address of Agent	C R Smith Conservatories Head Office Gardeners Street DUNFERMLINE KY12 0RN

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DPO's Ref: IW/SA

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

1. The proposed extension would, by reason of introducing an unsympathetic extension, have a detrimental effect on the architectural design of this Category 'B' listed building and would also be detrimental to the visual amenity of the Kilmaurs Conservation Area.
2. The proposed development would be contrary to Policy 4.8.4 of the Adopted Kilmarnock Local Plan and Policies ENV 4 and ENV 7 of the East Ayrshire Local Plan Finalised Version with Modifications by reason of introducing an incongruous and unsympathetic extension onto a Category B Listed Building.

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Name & Address of Applicant	Mr & Mrs Horner 11 Mill Avenue KILMAURS KA3 2NL
Name & Address of Agent	C R Smith Conservatories Head Office Gardeners Street DUNFERMLINE KY12 0RN

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DPO's Ref: IW/SA

The above LISTED BUILDING application should be refused on the following grounds:

1. The proposed extension would, by reason of introducing an unsympathetic extension, have a detrimental effect on the architectural design of this Category 'B' listed building and would also be detrimental to the visual amenity of the Kilmaurs Conservation Area.
2. The proposed development would be contrary to Policy 4.8.4 of the Adopted Kilmarnock Local Plan and Policies ENV 4 and ENV 7 of the East Ayrshire Local Plan Finalised Version with Modifications by reason of introducing an incongruous and unsympathetic extension onto a Category B Listed Building.

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**AGENDA**