

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 7 FEBRUARY 2003

**02/0505/FL: FORMATION OF TENNIS COURT AND PERIMETER FENCE AT
KING GEORGE V PLAYING FIELDS OFF KIRKTON ROAD, FENWICK
BY FENWICK TENNIS CLUB, C/O MR W LOUDOUN**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Planning permission is sought for the formation of a tennis court in the north most corner, but situated off the boundary of the playing fields. Information submitted in support of the application confirms that the court will be bounded by a 2.75m high chain link fence and will not be provided with flood-lighting. According to information submitted, the court is for the use of pupils of the nearby Primary School during school hours. The location is as proposed because of its close proximity to the school and the changing facilities in the playing fields.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet.

3. CONCLUSIONS

3.1 As is indicated above in paragraph 5 of the report the application is not specifically supported by the Development Plan, however the relevant policies do not preclude consideration of such facilities elsewhere where appropriate. Therefore, given the terms of Section 25 and 37(2) of the Town and Country Planning (Act) 1997, greater weight should be applied to the other material considerations. As indicated in Section 6 of the report there are material considerations relevant to this application. These considerations are generally supportive of the application, the submitted letters of objection are noted but are not considered in themselves to be of sufficient weight to justify a recommendation of refusal.

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 constitute a significant departure from policy.

Alan Neish
Head of Planning and Building

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 site is part of the existing King George V playing fields in Fenwick, an extensive grassed area with community facilities in place, i.e. football pitch, basketball area and children's play area. The playing fields area is accessed off Kirkton Road and is bounded predominantly by residential properties but with agricultural fields to the north.

2.2 **Proposed Development:** Planning permission is sought for the formation of a tennis court in the north most corner, but situated off the boundary of the playing fields. Information submitted in support of the application confirms that the court will be bounded by a 2.75m high chain link fence and will not be provided with flood-lighting. According to information submitted, the court is for the use of pupils of the nearby Primary School during school hours. The location is as proposed because of its close proximity to the school and the changing facilities in the playing fields.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division, Scottish Water and the Scottish Environment Protection Agency have advised that they have no objections to the application.

Noted.

3.2 East Ayrshire Council's Environmental and Waste Management Division have confirmed that they do not object to the proposal as submitted. They have confirmed that it would be advisable to ensure that the construction works are carried out in a manner to ensure the noise nuisance is kept to a minimum. They consider it "extremely unlikely" that the playing of tennis would cause any nuisance under the

Environmental Protection Act. Any public order complaints would be for the police to investigate.

Noted.

3.3 East Ayrshire Council's Education and Social Services Department have advised after being notified of the proposal that they have no objection to the works.

Noted.

3.4 The Coal Authority have confirmed that they are not aware of any ground conditions that could impact on the ability of the proposal to be implemented.

Noted.

3.5 East Ayrshire Council's Community Services Department have advised of the minimum clearance that would be required from the mature tree in the rear garden of a house on Skernieland Road. This tree is now the subject of a Tree Preservation Order.

Noted. Due to the orientation with the site the distance specified (12m) is achieved.

3.6 Fenwick Community Council have not responded to the consultation at the time of writing this report.

Noted.

4. REPRESENTATIONS

Three letters of objection have been submitted in respect of this application from residents of Skernieland Road. The grounds of objection vary as follows:

4.1 The position selected for the court is adjacent to rear gardens thus raising the potential for noise nuisance already experienced from the use of the football pitch.

This aspect has been assessed and it is considered that this issue will not be as intrusive as perceived by those residents.

4.2 Currently the rear boundary of our gardens suffers from under age, anti-social behaviour and the proposal will add to this problem.

Noted. See above.

4.3 The use of the court will add considerably to the nuisance currently experienced.

It is not considered that the proposal will add to the nuisance experienced.

4.4 The nuisance element could result in health problems through additional stress.

Noted. It is considered that any concerns about the impacts of the proposal have been overstated.

4.5 The court should be moved to a more suitable location at the far end of the playing fields.

Noted. The suggested repositioning would mean that the court would be at the east of the playing fields further away from the rear gardens of the objectors but also further away from the changing facilities. Such a repositioning if possible would bring the court closer to houses on Creelshaugh Road (within 30 metres). The court is currently proposed with its playing surface more than 80m (260 feet) from the houses of objectors on Skernieland Road who currently enjoy the benefit of generous long gardens.

4.6 The applicants submitted a letter in support of the application which clarifies the following:-

(i) The court is for the use of Primary school children, during school hours and is ideally located for that purpose.

Noted.

(ii) The site selected is close to the existing facilities.

Noted.

(iii) The site chosen is reasonably level.

Noted.

(iv) The tennis court could be screened by a hedge or trees to reduce any impact on the amenity of residents likely to be affected.

Noted. It is considered that no additional boundary treatment is required.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 requires 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 Ayrshire Joint Structure Plan and the Adopted Stewarton Local Plan 1987.

5.2 Notwithstanding the age of the Adopted Plan the application would require to be assessed against the terms of Policy 4.5.1 of the plan which confirms the planning authority's support for proposals for tennis courts although not specifically in this location.

The policy assists with identifying areas where such proposals would be favourably considered but does not specifically include the site. This in itself does not preclude the consideration of alternative sites such as that proposed.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the assessment of this application are the East Ayrshire Local Plan Finalised Version with Modifications, consultation responses, letters of objection and impact on the amenity of the area.

East Ayrshire Local Plan

6.2 The Adopted plan is considerably out of date and therefore it is considered appropriate to attach greater weight to more recent expressions of policy. The Council has agreed that the EALP should be considered a prime material consideration. For the purposes of this application the most appropriate policy is TLR8 of this plan. This policy provides that there is a presumption in favour of appropriate development within areas of safeguarded open space.

The playing fields are so designated and the application is considered to be in accordance with the terms of this policy.

Consultations

6.3 As detailed in Section 3 above, the consultations are supportive of the application.

Representations

6.4 The matters raised by the objectors have been assessed but are considered to be of insufficient weight to justify the refusal of the application.

Impact on the Amenity of the Area

6.5 The circumstances of the site are such that it is considered that the proposal can be accommodated with no significant additional impact on the amenity of the area in general or on the residential amenity of the nearest residents.

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 is indicated above in paragraph 5 of the report the application is not specifically supported by the Development Plan, however the relevant policies do not preclude consideration of such facilities elsewhere where appropriate. Therefore, given the terms of Section 25 and 37(2) of the Town and Country Planning (Act) 1997, greater weight should be applied to the other material considerations. As indicated in Section 6 of the report there are material considerations relevant to this application. These considerations are generally supportive of the application, the submitted letters of objection are noted but are not considered in themselves to be of sufficient weight to justify a recommendation of refusal.

9. RECOMMENDATION

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

Alan Neish
Head of Planning and Building Control

29 January 2003

(IW/MS)

FV/DVM

List of Background Papers

1. Application Form/Plans.
2. Statutory Notices/Certificates.
3. Consultations.
4. Representations.
5. Adopted Strathclyde Local Plan.
6. EALP Finalised Version with Modifications.
7. Approved Strathclyde Structure Plan.
8. Approved East Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers should contact Ian Walker on (01563 576769).

Implementation Officer: Dave Morris

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/0505/FL

Location: King George V Playing Fields
Kirkton Road
FENWICK

Nature of Proposal: Proposed Formation of Tennis Court and
Perimeter Fence.

Name & Address of Applicant: Fenwick Tennis Club
C/o R Loudon
Laigh Wylieland
Wylieland
FENWICK KA3 5DA

Name & Address of Agent:

DPO's Ref: IW/MS

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

1. The proposed development shall be carried out in accordance with the application form and location plan/court layout plans received on 11 June 2002 and the amended proposed site plan received on 23 January 2003.

REASON To ensure the development is carried out in accordance with the approved details.

2. Full details of the fencing treatment to the court shall be submitted to and approved by the Planning Authority before any development commences on the site and thereafter implemented as approved.

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

3. Construction works associated with the formation of the tennis court and perimeter fence shall be undertaken only between the hours of 08.30 hours and 18.00 hours Monday to Saturday and at no time on a Sunday.

REASON In the interests of residential amenity.

Note to Applicant:

1. Should the applicant be aware of or discover any public sewers/water mains affected by the development, they must notify Scottish Water.

**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.**