

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 7 FEBRUARY 2003

02/0810/FL: PROPOSED ERECTION OF FEATURE BRIDGE FROM REAR GARDEN OF 15 CARNALEA COURT TO SOUTHBANK OF BURNAWN BY MR JAMES SCOULLER

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT PROMOTION

1.1 Full planning permission is sought for the erection of a feature bridge from the rear garden of 15 Carnalea Court to the south bank of the Burnawn and Cemetery Road. The bridge is a wooden structure approximately 4.8 metres long by 1.2 metres in width. The floor level of the bridge is approximately 1.9 metres above the Burnawn and there is a handrail on either side of the walkway which is approximately 1.2 metres in height. Three steps provide access to the bridge from the northern side of the garden and the bridge is level with the ground on the southern side of the burn at Cemetery Road.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.

3. CONCLUSIONS

3.1 As is indicated at paragraph 5.2 of the report, the strategic policies within the Ayrshire Joint Structure Plan are not of relevance to a proposal of this nature and the Ayr County Development Plan and the Galston Town Map are considerably out of date. Therefore, given the terms of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 of the report, there are material considerations relevant to the determination of the application, however these too indicate that the application should be refused.

CONTRARY DECISION NOTICE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application would not require to be referred to the Development Services Committee as there would be no significant breach of 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 the report is to present for determination a retrospective planning application which is to be considered by the Local Planning Committee under the scheme of delegation because it is subject to an objection and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site relates to a residential property at 15 Carnalea Court, Galston which includes part of the Burnawn and the land opposite which runs east/west along the southern boundary of the property.

2.2 **Proposed Development:** Full planning permission is sought for the erection of a feature bridge from the rear garden of 15 Carnalea Court to the south bank of the Burnawn and Cemetery Road. The bridge is a wooden structure approximately 4.8 metres long by 1.2 metres in width. The floor level of the bridge is approximately 1.9 metres above the Burnawn and there is a handrail on either side of the walkway which is approximately 1.2 metres in height. Three steps provide access to the bridge from the northern side of the garden and the bridge is level with the ground on the southern side of the burn at Cemetery Road.

2.3 The applicant has submitted a letter in support of the application. The letter states that the south bank of the river becomes untidy as a result of the activities of loitering youths and the applicant has felt it necessary to clean up the unsightly mess. In order to facilitate the cleaning of the banking it was felt that a small footbridge would be of great benefit. The letter states that the applicant approached Kilmarnock and Loudoun District Council in 1993 and was referred to the Parks Department. It states that the Parks Department had no objection to the proposals provided that it was kept tidy and that none of the bushes were removed as the roots formed an integral part of the banking preventing subsidence of Cemetery Road towards the burn. A bridge was subsequently erected in 1994 with supplementary tree planting. Due to severe flooding in 1998, the bridge was weakened and the applicant decided to raise and modify the bridge. The current bridge which replaces the original bridge has been raised 500mm which takes it level with Cemetery Road.

2.4 The applicant has also submitted photographs of four similar bridges which have been built further upstream and span the burn between Cemetery Road and Cessnock Place.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has objected to the proposal on road safety grounds as there is no footway adjacent to the carriageway at this section of Cemetery Road and therefore the use of the access would require pedestrians to step directly onto the carriageway.

The application should be refused on the recommendation of the Roads and Transportation Division and in the interests of pedestrian and road safety.

3.2 East Ayrshire Council's Roads and Transportation Division with respect to the issue of flooding, has not objected to the proposal. They have however, highlighted that having considered the outline flood risk assessment information supplied by the Babbie Group in November 2002, flood defences in the form of walls may be required along the right bank of the Burn Anne (looking downstream) adjacent to 15 Carnalea Court. If a bridge was erected across the burn at the proposed location, this structure could prevent the construction of the said flood defence wall. As the Council is currently preparing an Outline Flood Prevention Scheme for Galston, it would be preferable if the proposed bridge were not constructed.

Noted. The Roads Division have however confirmed that their comments do not amount to an objection in that the likelihood of flood prevention measures being implemented is uncertain at this time.

3.3 East Ayrshire Council's Outdoor Services Division have no objection to the proposal although comment has been made that the ownership of the land south of the burn should be investigated as there have been problems in the past as to who is responsible for hedge cutting and young trees on this side of the burn.

Noted. The land to the south of the burn falls within the application site and the applicant has clearly stated that he is the owner of the land. This issue is not considered to be relevant in determining this application.

3.4 The Scottish Environment Protection Agency have no objection to the proposal provided all works are carried out in a manner which does not cause pollution and does not involve any measures to decrease the width of the burn channel.

Noted. This application is retrospective. However, should the application be approved an appropriate condition could be attached to any grant of planning permission.

3.5 Galston Community Council has not responded at the time of writing this report.

Noted.

4. REPRESENTATIONS

4.1 One objection has been received from East Ayrshire Council's Roads and Transportation Division (see Section 3 above). No other representations have been submitted in relation to this application.

5. ASSESSMENT AGAINST THE 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 Approved Ayr County Development Plan 1953.

5.2 The strategic policies within the Ayrshire Joint Structure Plan are not of relevance to a proposal of this nature and the Ayr County Development Plan and the Galston Town Map are considerably out of date.

It is considered more relevant to assess the proposal within the context of the 'other material considerations'.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

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

6.2 The Adopted Ayr County Plan, as stated in para 5.2 above, is considerably out of date and therefore it is considered 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) should be considered as a prime material considerations.

East Ayrshire Local Plan (Finalised Version with Modifications)

Policy ENV 8(ii) of the East Ayrshire Local Plan (Finalised Version with Modifications) is of relevance as the Council will encourage developers, in formulating their development proposals, to ensure that appropriate traffic safety measures are introduced to minimise vehicular and pedestrian conflict.

The Roads and Transportation Division have objected to the proposal on road safety grounds. The Planning and Building Control Division has not been afforded an opportunity to comment on the merits of the structure in advance of its erection.

Consultation Replies

6.3 The consultation reply received from the Council's Roads and Transportation Division indicates that approval of the application would not be appropriate on grounds of road safety.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Legal implications may arise as enforcement action would be consequent upon refusal of the application.

8. CONCLUSION

8.1 As is indicated at paragraph 5.2 of the report, the strategic policies within the Ayrshire Joint Structure Plan are not of relevance to a proposal of this nature and the Ayr County Development Plan and the Galston Town Map are considerably out of date. Therefore, given the terms of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 of the report, there are material considerations relevant to the determination of the application, however these too indicate that the application should be refused.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.

CONTRARY DECISION

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application would not require to be referred to the Development Services Committee as there would be no significant breach of Council Policy.

Alan Neish
Head of Planning & Building Control

29 January 2003

(SMcA/MS)

FV/DVM

List of Background Papers

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letter from the applicant in support of the application.
5. East Ayrshire Local Plan (Finalised Version with Modifications).
6. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Stuart McAdam on (01563) 576770.

Implementation Officer: Dave Morris

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/0810/FL

Location: 15 Carnalea Court
GALSTON

Nature of Proposal: Proposed Erection of Feature Bridge from Rear Garden of 15 Carnalea Court to Southbank of Burnawn

Name & Address of Applicant: Mr James Scouller
15 Carnalea Court
GALSTON KA4 8HY

Name & Address of Agent:

DPO's Ref: SMcA/MS

The above FULL application should be refused for the following reasons:

1. The proposal is contrary to the provisions of Policy ENV8(ii) of the East Ayrshire Local Plan (Finalised Version with Modifications) because the proposal would promote an arrangement increasing the potential for conflict between pedestrians and vehicle users.
2. The proposed bridge would be detrimental to road safety as a result of affording pedestrian access to a section of road carriageway where no footway is provided.

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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.**