

**EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 MAY 2003**

**02/0582/LB: REPLACEMENT OF 2 WINDOWS IN EXISTING FRONT  
ELEVATION  
AT 12 TOWNEND, KILMAURS  
BY MRS PATRICIA PARKINSON**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 The proposal seeks retrospective consent for the installation of windows in the front elevation of the property. The windows are finished in brown timber effect UPVC with a 50/50 split top hopper opening arrangement. The application was submitted subsequent to enforcement action by the Planning Division.

**2. RECOMMENDATION**

**2.1 It is recommended that Listed Building Consent be refused for the reasons indicated on the attached sheet.**

**3. CONCLUSIONS**

3.1 As indicated in Section 5 of the report, the proposal is contrary to the Development Plan and given the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise. As indicated in Section 6 there are material considerations relevant to the determination of this application. In this instance the considerations in respect of the relevant National Guidance add weight to the presumption in favour of the plan and would resist the proposal.

3.2 As indicated in the report, a number of other Category C(S) listed properties currently feature unauthorised windows in the Townend/Townhead/Main Street area. An application for one remains outstanding at 24 Main Street. The Council's Design Guidance highlights the requirement to use both materials exactly replicating timber (or timber itself) and preferably to have traditional methods of opening; ie sliding, sash and case. The other identified listed buildings feature various combinations of timber or upvc together with non traditional top hoppers. Whilst, depending on the individual circumstances and quality of windows installed, it may be possible to

accept a solution utilising one of the key design elements, in this case the materials and the window style are inappropriate. Accordingly it is considered that retrospective Listed Building Consent should be refused.

### **CONTRARY DECISION NOTE**

Should the Committee agree to approve the application 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 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.**

**EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 MAY 2003**

**02/0582/LB: REPLACEMENT OF 2 WINDOWS IN EXISTING FRONT  
ELEVATION  
AT 12 TOWNEND, KILMAURS  
BY MRS PATRICIA PARKINSON**

**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 application for Listed Building Consent which requires 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.

1.2 This application was considered at the Northern Area Local Planning Committee of 25 October 2002 where, prior to determining the application, it was agreed to defer consideration of the application to allow Members an opportunity for a site visit. This period has also enabled a review of the circumstances of other Listed Buildings in the vicinity that have had windows replaced.

1.3 That review has been undertaken and it has been confirmed that there are properties in Townend, Townhead and Main Street that have had their windows replaced without the formal authorisation of Listed Building Consent. The individual circumstances of these properties will be the subject of further assessment which may result in dialogue with the respective residents and, potentially, Enforcement Action being instigated by the Council. It is considered in the interim that the circumstances of these other properties should not have a bearing on the determination and merits of this application.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The application site is a mid-terraced single storey cottage. The house is on the west side of Townend and is a Category C Listed Building within Kilmaurs Conservation Area.

2.2 **Proposed Development:** The proposal seeks retrospective consent for the installation of windows in the front elevation of the property. The windows are finished in brown timber effect UPVC with a 50/50 split top hopper opening

arrangement. The application was submitted subsequent to enforcement action being initiated by the Planning and Building Control Division.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 Historic Scotland have advised informally that to accord with National Guidance the most appropriate arrangement for this property is windows of painted, timber vertically sliding sash and case construction.

***Noted. The applicant is aware of this position but has submitted the application for determination.***

3.2 The Architectural Heritage Society of Scotland have objected to the proposal on the basis that the modern form of window installed impairs the visual quality of this traditional cottage. The different method of opening results in a double thickness at the transom which is not only clumsy but lacks the shadow which adds interest to a traditional double hung sash and case window.

***Noted. It is considered that the design, method of opening and materials used, together result in a non-traditional appearance which is detrimental to the visual quality both of this listed building and the Conservation Area.***

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

***Noted.***

### **4. REPRESENTATIONS**

As stated in para 3.2 above the Architectural Heritage Society of Scotland have objected to the proposal.

### **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that 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 Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan (2003).

5.2 The relevant policies in the EALP against which the proposal requires to be assessed are ENV 4 and 7.

***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.***

These policies were formulated to preserve and enhance designated Conservation Areas and Listed Buildings seeking sympathetic proposals, to maintain high standards of design.

***The proposed windows have been assessed and found to be contrary to the terms of these policies, by reason of design and means of opening.***

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

6.1 The principal material considerations relevant to the determination of this application are Government Guidance, consultations and representations received.

### Government Guidance

6.2 Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas 1998, offers detailed guidance on alterations to Listed Buildings and confirms the National position in terms of window treatment. The first principle is that if replacement windows are to be accepted then they should match the originals in every respect. It is considered in this instance that the original window utilised in this property would have been timber and vertical sliding sash and case construction and in an effort to enhance and maintain the character of the listed building and the conservation area, that type of window would be the appropriate replacement.

***The windows installed are clearly contrary to this advice in all respects.***

### Consultations

6.3 The consultation responses received are not supportive of the application due to the design, means of opening and finishing material of the windows.

### Representations

6.4 The objection from the Architectural Heritage Society of Scotland raises the same issues and qualifies those issues confirming that in their view the proposal would have a detrimental impact on the Conservation Area in general and the Listed Building in particular.

***It should also be noted that the Planning and Building Control Division, in carrying out its statutory responsibilities, has endorsed fully the guidance referred to above and seeks to ensure that such proposals for window replacements have, in the case of Listed Buildings, been on a like for like replacement basis. This proposal represents an undesirable precedent for further unauthorised, unsympathetic developments on listed buildings within Conservation Areas.***

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial implications for the Council in determining this application. If the application is refused and as this is an application in retrospect, the Division would follow up such refusal with correspondence with the applicant to secure the early removal of the windows and their reinstatement with windows of an appropriate design and operation. Any breakdown or unreasonable delay in such discussions would lead to formal enforcement action being taken. The installation of an appropriate window type would require a further application for Listed Building Consent.

## **8. CONCLUSIONS**

8.1 As indicated in Section 5 of the report, the proposal is contrary to the Development Plan and given the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise. As indicated in Section 6 there are material considerations relevant to the determination of this application. In this instance the considerations in respect of the relevant National Guidance add weight to the presumption in favour of the plan and would resist the proposal.

8.2 As indicated in the report, a number of other Category C(S) listed properties currently feature unauthorised windows in the Townend/Townhead/Main Street area. An application for one remains outstanding at 24 Main Street. The Council's Design Guidance highlights the requirement to use both materials exactly replicating timber (or timber itself) and preferably to have traditional methods of opening; ie sliding, sash and case. The other identified listed buildings feature various combinations of timber or upvc together with non traditional top hoppers. Whilst, depending on the individual circumstances and quality of windows installed, it may be possible to accept a solution utilising one of the key design elements, in this case the materials and the window style are inappropriate. Accordingly it is considered that retrospective Listed Building Consent should be refused.

## **9. RECOMMENDATION**

**9.1 It is recommended that Listed Building Consent be refused for the reasons indicated on the attached sheet.**

### **CONTRARY DECISION NOTE**

Should the Committee agree to approve the application 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 it would not be a significant departure from policy.

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

07 May 2003  
(IW/MMM)

FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory notices/Certificates.
3. Consultations and representations.
4. Memorandum of Guidance on Listed Buildings and Conservation Areas.
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.
7. Council Design Guidance

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

***Implementation Officer: Dave Morris***

**NEW020582LB**

## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

02/0582/LB

---

Site of Proposal: 12 Townend  
KILMAURS

Nature of Proposal: Proposed Replacement of 2 Windows in  
Existing Front Elevation

Name & Address of Applicant: Ms Patricia Parkinson  
1 Towerhill Avenue  
KILMAURS KA3 2TN

Name & Address of Agent:

---

DPOs Reference: IW/MMM

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

1. The proposed replacement windows are by reason of their design and means of opening contrary to the terms of Policies ENV 4 and 7 of the Adopted East Ayrshire Local Plan 2003.
2. The proposed windows are contrary to the terms of the Memorandum of Guidance on Listed Buildings and Conservation Areas 1998, Appendix 1 paragraphs 1.2.1, and 1.2.11, due to their design and means of operation and they have a consequent detrimental impact on the character of the Listed Building and Conservation Area.

**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.**