

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 30 NOVEMBER 2001**

**01/0742/FL: PROPOSED ERECTION OF DOG RUN, STORE AND  
BOUNDARY WALLS AT 69 THE LEGGATE, NEW CUMNOCK**

**APPLICATION BY MR & MRS MILLS**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Planning permission is sought for the erection of dog run/store and boundary walls to the rear. The dog run/store would be located along the southern boundary of the site and would extend to approximately 20 square metres (5.9 metres wide and 3.5 metres long). This enclosure would be 2.3 metres high. It is also proposed to erect a 2 metre high wall, 4.7 metres in length, along part of the eastern and western boundaries of the site. It is proposed to paint the external walls to match the dwellinghouse. The dog run/store would have a felt roof, painted silver in colour. The applicant has stated that one dog would be accommodated within the structure.

1.2 Part of the dog run/store and boundary walls have already been erected on site. Following a complaint to the Planning Division with regard to these works, an application was submitted.

**2. RECOMMENDATION**

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

**3. CONTRARY DECISION**

3.1 Should the Committee agree that the application be refused 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 departure from the East Ayrshire Local Plan.

**4. SUMMARY OF ANALYSIS**

4.1 As is indicated at paragraph 5.1 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material

considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application, however, it is considered that these are supportive of the application.

4.2 In terms of the letter of objection, it is not considered that proposed development would have a detrimental impact on neighbouring properties. A note could be attached to any planning consent, advising the applicant to discuss drainage arrangements with SEPA.

4.3 The design, finish and siting of the dog run and store and boundary walls are considered acceptable.

**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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**01/0742/FL: PROPOSED ERECTION OF DOG RUN, STORE AND  
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**APPLICATION BY MR & MRS MILLS**

**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 as the proposed development is subject to an objection.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The site lies on the south side of the Leggate, New Cumnock and comprises a ground floor flat and its curtilage at this location. The flat forms part of a two-storey block of four. The rear garden area associated with the flat extends to 77 square metres. The site is bound by residential properties to the south, east and west and by the Leggate and a residential property to the north.

2.1 **Proposed Development:** Planning permission is sought for the erection of dog run/store and boundary walls to the rear. The dog run/store would be located along the southern boundary of the site and would extend to approximately 20 square metres (5.9 metres wide and 3.5 metres long). This enclosure would be 2.3 metres high. It is also proposed to erect a 2 metre high wall, 4.7 metres in length, along part of the eastern and western boundaries of the site. It is proposed to paint the external walls to match the dwellinghouse. The dog run/store would have a felt roof, painted silver in colour. The applicant has stated that one dog would be accommodated within the structure.

2.2 Part of the dog run/store and boundary walls have already been erected on site. Following a complaint to the Planning Division with regard to these works, an application was submitted.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 New Cumnock Community Council have not responded to the consultation letter at the time of writing.

***Noted.***

3.2 East Ayrshire Council's Environmental Health Division has no objection to the proposed development. Following a visit to the site, it is considered that in order to avoid future complaints, it is essential that the dog run be maintained to a high degree of cleanliness and that suitable drainage facilities be incorporated with any solid waste disposed of in a hygienic manner. It has been their experience in the past that this type of development can, on occasion, cause nuisance to neighbouring properties and this service has had problems in this regard with similar developments. Due to the potential for complaint, and the fact that an objection has already been lodged, it is suggested that conditions covering the above topics be attached to any planning consent.

***A condition could be attached to any planning consent, requiring the dog run to operate without detriment to adjoining residential properties by reason of noise, dirt, smell or general disturbance. Furthermore, a note advising the applicant to contact SEPA with regards to drainage arrangements can be attached to any planning consent.***

3.3 West of Scotland Water, The Coal Authority and East Ayrshire Council's Department of Homes and Technical Services have no adverse comments to make on the proposed development.

***Noted.***

3.4 East Ayrshire Council, Legal Services indicate that Feu Superiors Consent would be required for the proposed development.

***A note can be attached to any planning consent, advising of the above.***

3.5 British Gas Transco indicate that it may be necessary for the applicant to undertake measures to protect/divert their plant.

***The applicant has been advised of the above comments.***

3.6 The Scottish Environment Protection Agency notes from the plans that the applicant proposes to construct a rubble drain to act as a soakpit. Providing this is used solely as means of dispersing roof water, SEPA has no objections to the proposal. Surface water run-off from the dog run itself will be pollution in nature and therefore should not discharge to a watercourse.

***A note can be attached to any planning consent advising the applicant to discuss and agree drainage arrangements with SEPA.***

#### **4. REPRESENTATIONS**

4.1 One letter of objection has been received. This is summarised as follows:

4.2 The objectors' bedroom window overlooks the site. Furthermore, as the prevailing wind is mainly south-westerly, the smell could be very unpleasant. They have had experience of dog kennels and indicate that it is not pleasant, especially in the summer months.

***It should be noted that planning permission is required for the structure itself, and not the use as a dog run. Notwithstanding this, a condition could be attached to any planning consent, requiring the use of the structure of the dog/run to operate without detriment to adjoining residential properties by reason of noise, dirt, smell or general disturbance.***

4.3 There seems to be no adequate drainage other than a rubble drain which the objectors think would be wholly unacceptable. They would also point out that their clothes line would be barely 10 metres away from the proposed site of the rubble drain.

***The plans submitted show a proposed rubble drain to be located within the rear garden area. A note can be attached to any planning consent, advising the applicant that they should make early contact with SEPA to discuss and agree drainage arrangements.***

#### **5. DEVELOPMENT PLAN STATUS**

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 (1999) and the Adopted New Cumnock Local Plan (1993). The Adopted 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 Housing Policy RES10. This policy states that the Council will pursue a policy aimed at retaining the character of existing residential areas.

***It is not considered that the proposed development would adversely affect the general residential amenity of the area. The development therefore complies with the above policy.***

## 6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan, (Finalised Version with Modifications) (2001), the consultation replies, the Council's Design Guidance and the letter of representation.

### East Ayrshire Local Plan

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate 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) 2001, (EALP), should be considered as a prime material consideration. However, there are no policies contained within the EALP which are relevant in the determination of this application.

#### ***Noted.***

### East Ayrshire Council's Design Guidance

6.3 The Council's Design Guidance on Householder Development states that whilst alterations and extensions to a dwelling can improve and prolong the life of a building, careful consideration should be given to the effect any changes will have on the property, on neighbouring properties and the surrounding area. Development that is out of scale and character with its surroundings can be detrimental to the appearance of the wider area.

***It is considered that the proposed dog run/store that would be located within the rear garden area, would not have a detrimental impact on neighbouring properties or the surrounding area. The structure could be sensitively accommodated within the site and would be finished to match the flatted dwelling to which it relates. The proposed two metre high boundary walls are also considered acceptable. The proposed development would therefore be consistent with the above guidance.***

### Representations

6.4 The terms of a letter of objection are detailed Section 3 above. This highlights concerns with regard to smell and drainage. No objections with regard to the structure itself have been received.

***It is not considered that the erection a small dog run which would be used for purposes incidental to the enjoyment of the flatted dwelling, would result in any significant nuisance to neighbouring residential properties. Furthermore the amount of waste generated is likely to be very limited. Conditions regarding the use of the run and a note regarding drainage can however be attached to any planning consent.***

## Consultation Replies

6.5 The consultation replies do not indicate that the application should be refused.

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

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

## **8. CONCLUSIONS**

8.1 As is indicated at paragraph 5.1 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application, however, it is considered that these are supportive of the application.

8.2 In terms of the letter of objection, it is not considered that proposed development would have a detrimental impact on neighbouring properties. A note could be attached to any planning consent, advising the applicant to discuss drainage arrangements with SEPA.

8.3 The design, finish and siting of the dog run and store and boundary walls are considered acceptable.

## **9. RECOMMENDATION**

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

Alan Neish  
Head of Planning and Building Control  
16 November 2001  
VE/VE  
FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Letter of Representation.
5. New Cumnock Local Plan (1993).
6. Approved Ayrshire Joint Structure Plan (1999).
7. East Ayrshire Local Plan, Finalised Version with Modifications (2001).
8. Approved Strathclyde Structure Plan.

Any person wishing to inspect the background papers listed above, should contact Miss Vivien Emery on 01563 555485.

**Implementation Officer: Dave Morris**

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 01/0724/FL

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Location	69 The Leggate New Cumnock KA18 4NG
Nature of Proposal:	Proposed erection of dog run, store and boundary walls
Name and Address of Applicant:	Mr & Mrs Mills 69 The Leggate, New Cumnock, KA18 4NG
Name and Address of Agent:	N/A

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DPO's Ref:	[	VE	]
PPO's Ref:	[		]

The above **FULL** application should be approved subject to the following conditions.

1. Notwithstanding the approved plans, the external surface of the walls shall be rendered or roughcast in a colour to be agreed in writing with the Planning Authority.

REASON: In the interests of visual residential amenity.

2. The use of the structure hereby approved as a dog run shall operate without detriment to adjoining properties by reason of noise, dirt, smell or general disturbance.

REASON: To safeguard the amenity of the area.

#### NOTES

1. The applicant shall make early contact with the Scottish Environment Protection Agency, River House, Iron Grey Street, Dumfries to discuss drainage arrangements.

2. The applicant shall make early contact with the East Ayrshire Council, Legal Division to discuss the requirement for Feu Superior Consent for the proposed dog run and store.

#### **AGENDA**

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT  
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S  
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON**

**VIEWING PLEASE CONTACT (01563) 555320.**