

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 20 APRIL 2000

00/0023/FL: ERECTION OF GARAGE AT 31 RIVER VIEW, CUMNOCK

APPLICATION BY MR J McGHEE

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought for the erection of a single sectional garage, with a floor space of approximately 23 square metres, in the rear garden. The rear garden has an area of approximately 54 square metres. The garage would be approximately 3 metres high at the front, 2.7 metres high to the rear and 3.5 metres wide. Access to the garage will be via the parking area to the rear. The garage would be flat roofed with a dry dash finish.

2. RECOMMENDATION

2.1 It is recommended that the application be refused on the grounds listed on the attached sheet.

3. SUMMARY OF ANALYSIS

3.1 In terms of policy, the proposed development does not conflict with the policy provisions of the East Ayrshire Local Plan Finalised Version.

3.2 With respect to the objections, concerns regarding parking and road safety have not been echoed by the Roads Division. Concerns regarding the use of the garage for commercial purposes can be addressed by appropriate conditions. It is however accepted that the garage would have a detrimental impact to the amenity of neighbouring properties.

3.3 The proposed garage is to be sited in the rear garden of a middle terraced property. The garden is only approximately 54 square metres, and is directly overlooked by the front of other properties at River View. It is considered that the siting and principle of a garage within this area would be detrimental to the character and residential amenity of the locality and would be contrary to good planning principles.

3.4 Furthermore, it is considered that the approval of the proposal could create an undesirable precedent for similar developments in Barshare, where the residential layout does not lend itself to inappropriate developments of this nature.

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

SOUTHERN LOCAL PLANNING COMMITTEE: 20 APRIL 2000

00/0023/FL: ERECTION OF GARAGE AT 31 RIVER VIEW, CUMNOCK

APPLICATION BY MR J MCGHEE

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 the subject of letters of objection and is recommended for refusal.

2. APPLICATIONS DETAILS

2.1 **Site Description:** The application site is located on the east side of River View in Barshare, Cumnock. The application site consists of the existing two-storey middle terraced dwellinghouse and its curtilage at this location.

2.2 The site is surrounded by other residential properties. The front of the dwellinghouse is accessed by a footpath, and the rear of the site backs on to River View and a parking area. The rear of the site is overlooked by the front of other residential properties at River View. The rear garden consists of a concrete hardstanding and the applicant currently uses this area for parking. Access to the rear garden is currently taken through the existing parking area at River View, and as a result, the car parking space to the rear of the site cannot be used by other residents at Barshare. There are lock-up garages to the front of the house, one of which is used by the applicant.

2.3 **Proposed Development:** Full planning consent is sought for the erection of a single sectional garage, with a floor space of approximately 23 square metres, in the rear garden. The rear garden has an area of approximately 54 square metres. The garage would be approximately 3 metres high at the front, 2.7 metres high to the rear and 3.5 metres wide. Access to the garage will be via the parking area to the rear. The garage would be flat roofed with a dry dash finish.

3. CONSULTATIONS AND ISSUES RAISED

3.1 British Gas Transco. Scottish Power and The Coal Authority have no objection to make on the proposed development.

Noted.

3.2 East Ayrshire Council Legal Services have advised that the application site is a former Council house and therefore it is likely that Feu Superior's Consent shall be required if planning permission is granted and the applicant intends to implement this.

Noted.

3.3 West of Scotland Water advise that the application may involve building over an existing public sewer and the developer should contact them prior to starting work on site in order to discuss whether diversion or protection is required. The owner should ensure that any new internal or external pipework is connected to the correct drain or sewer.

A note can be attached to any planning consent if granted to advise the applicant of the requirements of West of Scotland Water.

3.4 East Ayrshire Council Roads and Transportation Division have no objections subject to conditions as follows:

3.4.1 An access crossing must be formed. To minimise any adverse effect on available parking the width of the kerb to be dropped shall be restricted to a maximum of 2.5 metres.

A condition could be attached to any planning consent restricting the width of the dropped kerb, and thus resulting in the loss of only one parking space for other residents.

3.4.2 The garage should be set back a minimum distance of 1.0 metre from the rear of the kerb providing roller shutters doors are fitted.

The applicant has amended his plans to comply with the Roads Division advice.

3.5 Cumnock Community Council have objected to the proposed development and passed on a number of letters of objection that they have received from residents of River View. A petition signed by six people has also been submitted to the Community Council. They have objected on the following grounds:

3.5.1 The present situation, with inadequate parking spaces for the 23 houses, would be exacerbated if the application were to be approved. Traffic parking congestion in the recent past has resulted in vehicles being parked unsatisfactorily, on both sides of the road.

The applicant has been previously advised by East Ayrshire Council Roads and Transportation Division that they would have no objection to a vehicular access at 31 River View, subject to an application for a Road Opening Permit to drop the kerb. The applicant currently parks his vehicles in the rear garden (although

the kerb has not been dropped), by restricting the width of the dropped kerb, as recommended by the Roads and Transportation Division and outlined in Paragraph 3.4, this would mean that there would be no change in the existing car parking situation at River View.

3.5.2 The applicant's taxi operation is run from his home address. He has four taxis, and when the drivers' shifts begin, they regularly leave their own vehicle for the duration of their shift.

The above issue has previously been investigated by the Planning Enforcement Officer, who concluded that although the applicant's taxis were being parked at River View, he was not using his house as a taxi office/base for his drivers. As a consequence of this application, another complaint has recent/y been received, and the situation is current/y being monitored by the Enforcement Officer. If the business was being operated from the house, a formal application for planning permission would be required for this use. Notwithstanding the above, the Committee should consider the planning merits of this proposal separate from any enforcement related issues.

3.5.3 We understand that Mr McGhee's ultimate intention for this proposal is to be a working garage. If this is the case, the Community Council submits that such a facility, in the middle of a row of terraced houses, is wholly inappropriate. The applicant's intention to use his proposed building as a working garage would result in problems of grease, fumes and noise. One would also have the problem of oils being trodden into residents' homes and pollution of exhaust fumes and noise. We have also given consideration to the safety of children who live in River View and also visiting children, who would be put at risk. The volume of traffic coming and going would endanger them. Quite apart from whatever equipment will be installed, is the unacceptable risk of young children wandering in.

The applicant has stated that he intends to use the garage for domestic use. A condition could be attached to any planning consent requiring that the garage be used for domestic purposes only. The erection of a garage in a residential area is a common feature. The Roads Division have not expressed any concerns regarding the garage on road safety grounds.

3.6 East Ayrshire Council Department of Homes and Technical Services have objected to the application. Access to the proposed garage would entail crossing the off street parking which exists at the rear of the properties at No. 27 to No. 39 River View. Due to the current problems being experienced as a result of the acute shortage of parking spaces available within the Barshare area, it is felt that by reducing the parking facilities the problem would be aggravated further. Should the necessary permission be granted there would be an influx of similar applications creating even greater parking difficulties.

As the applicant currently uses his garden for parking, the parking situation at River View would not change as a result of the proposal. The Department of Homes and Technical Services have control over the formation of new accesses at Council owned properties within River View. A Road Opening Permit would also be required from the Roads Division. Planning permission would be required for the erection of a garage in further similar residential properties. Other residents at No. 27 to No. 39 may not require planning permission for vehicular accesses to their rear gardens provided it meets certain requirements.

4. REPRESENTATIONS

There are 8 objections to the proposed development (including one from Cumnock Community Council as outlined in Paragraph 3.5, and one by East Ayrshire Council Department of Homes and Technical Services, as outlined in Paragraph 3.6). A letter in support of the application has been submitted by the applicant's agent.

4.1 There are 11 car parking spaces at the rear of houses No. 27 - No. 29 to give parking facilities for 23 houses. If permission were granted, this would take away 2 parking areas leaving 9 spaces for these 23 homes. The applicant has informed everyone that he has permission to bring his cars into his garden which is causing enough problems with one space being take away, let alone two. As a tenant of East Ayrshire Council, we hope that some consideration be given to us and not ignored, as unlike the applicant, we have not bought our property.

See Paragraphs 3.4.1. and 3.5.1

4.2 When we enquired about getting permission for vehicular access, East Ayrshire Council Housing informed us that no-one else would be allowed permission.

Planning permission is not required for the formation of vehicular access at this location. As the applicant owns his house, permission was not required from the Department of Homes and Technical Services for the formation of the access.

4.3 The Department of Homes and Technical Services informed us that the applicant could only erect a garage to the size of what the existing hut was on the plans, as his hut was named as a garage when he bought the property. This was a legal loophole.

The applicant has bought his house from the Council, and does not therefore require permission from the Department of Homes and Technical Services. The previous existence of a hut on the site is not relevant in the determination of this planning application.

4.4 The erection of a garage to this size will affect the value of our property. With a garage almost the full size of his garden, my property will lose a lot of natural light both inside the house and our lawn will never dry out. When sitting in our living room or looking out the bedroom window this garage would be our view. Due to this, we would have difficulties in selling our property and we would have to lower the price, therefore losing money on a very good property.

It is accepted that the garage would take up a large area of the rear garden. The garage would be 0.5 metres and 1 metre from the boundaries of No. 29 and No. 33 River View respectively, and would be approximately 4 metres back from the line of terraced houses. The right of a view and the loss of value to a property are not material planning considerations. However, it is considered that the siting of the proposed garage, within a relatively small back garden, would be detrimental to the amenity of the residential area. In terms of daylighting, although there will be some impact on the amount of light enjoyed by the objector, this would not be sufficient to warrant a recommendation of refusal. However, it is considered that the proposal would affect the character and amenity of the area generally by the loss of amenity to existing dwellings.

4.5 The applicant has informed another neighbour and myself on numerous occasions that "he has a man in planning". I hope that if he does have a man in planning that this will not influence the planning permission.

This is an unfortunate and disturbing observation, however no evidence has been submitted to either clarify or substantiate the claim and consequently it should be dismissed. It is in any case irrelevant in terms of the assessment by this Committee of the considerations material to the determination of this application.

4.6 In support of the application, the applicant's agent has stated that the refusal by the Housing Department to allow other residents to bring cars into their garden should have no bearing on this application.

It is acknowledged that as 31 River View is not a Council-owned property, previous refusals by the Department of Homes and Technical Services of the formation of parking areas in rear gardens are not relevant in the determination of this application.

4.7 There are concerns that the applicant would be permanently taking away two parking spaces out of what they maintain to be 11 available car parking spaces for 17 houses. By constructing a garage, the applicant who would normally use one car parking space, will thereby free a car parking space. Visitors to his property will be able to park over the accessway.

The car parking space to the rear of the site cannot presently be used by other residents of Barshare, without causing an

obstruction . The parking situation would not change as a result of the proposal and there will therefore not be an additional free parking space. Furthermore, as the garage is to be sited only one metre back from the heel of the kerb, visitors would have to use part of the space to the rear.

4.8 If the application is granted, the applicant will be giving up his tenancy of a lock-up, thereby creating a further car parking space. The application, if granted, would therefore result in the creation of a car parking space.

As outlined in Paragraph 3.4, East Ayrshire Roads and Transportation Division have no adverse comments to make with regard to the current parking situation at River View. The possible creation of an additional space nearby does not in itself justify the approval of the garage.

4.9 With regard to an objection from neighbours that the value of their own property will be presumably adversely affected if the application is granted and the garage duly erected, no information, facts or assertions have been put forward in support this view. Any loss of light and the casting of any shadows will be temporary during the course of the day, as the sun obviously does not remain static. The height of the proposed garage is less than the height of the hut which was in situ and the proposed garage will therefore cast less of a shadow from a height perspective.

See Section 4.4

4.10 The applicant's taxi operation will not be continuing from his home address. The applicant is retiring and he would not take issue with any condition which the local authority may wish to impose to the effect that the application was granted providing that the business was not operating from his address.

See Section 3.5.2

4.11 The Community Council is concerned for the safety of children in the event that the garage is a working garage. The applicant's garage is to be used for domestic purposes only and will not be a working garage and therefore objections on these grounds are without foundation. Again, the applicant would accept any condition which the local authority may impose restricting the use of his garage for domestic purposes only.

See Section 3.5.3

4.12 The Community Council submits that pedestrians using River View will be put at risk in an already busy street. We fail to see where the added danger would be for pedestrians in respect of a vehicle entering or exiting a private driveway onto a public highway.

The Roads Division have not expressed any concerns regarding the garage on road safety grounds.

4.13 Our client already has permission from the Housing Department to create an accessway and a permit from the Roads Authority to lower the kerb. The development would not take away parking spaces. There are 11 car parking spaces and also 6 lock-ups. On proceeding to the top of River View and turning left, there is an area of tarmac which could also be utilised to provide parking for two vehicles. Our understanding is that of the 23 households, 10 do not have cars and those of the remaining 13 households, 2 do not use the parking area at all. One proprietor has a runway providing offstreet parking. Our client's contention is that there are, including the parking area and the additional area mentioned above to the left of River View and the lock-ups, 19 available spaces for the parking/garaging of vehicles. Given that 10 of the 23 households are not car-owning households, there should be adequate car parking available to the residents and we would respectfully submit that the application as lodged should be granted.

As outlined in paragraph 3.4, East Ayrshire Roads and Transportation Division have no objections to the proposal.

5. DEVELOPMENT PLAN STATUS

5.1 The relevant policy document is the East Ayrshire Local Plan Finalised Version and the proposal is affected by residential policies.

The proposed development does not conflict with the provisions of residential policies appropriate to the application site.

6. OTHER PLANNING CONSIDERATIONS

6.1 Should the Committee be of a mind to approve this application, there would be no requirement for it to be referred to the Development Services Committee.

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 In terms of policy, the proposed development does not conflict with the policy provisions of the East Ayrshire Local Plan Finalised Version.

8.2 With respect to the objections, concerns regarding parking and road safety have not been echoed by the Roads Division. Concerns regarding the use of the garage for commercial purposes can be addressed by appropriate conditions. It is however accepted that the garage would have a detrimental impact to the amenity of neighbouring properties.

8.3 The proposed garage is to be sited in the rear garden of a middle terraced property. The garden is only approximately 54 square metres, and is directly overlooked by the front of other properties at River View. It is considered that the siting and principle of a garage within this area would be detrimental to the character and residential amenity of the locality and would be contrary to good planning principles.

8.4 Furthermore, it is considered that the approval of the proposal could create an undesirable precedent for similar developments in Barshare, where the residential layout does not lend itself to inappropriate developments of this nature.

9. RECOMMENDATION

9.1 It is recommended that the application be refused on the grounds listed on the attached sheet.

Alan Neish
Head of Planning and Building Control

VE/SMB/IH
11 April 2000
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Letters of objection.
5. East Ayrshire Local Plan Finalised Version.

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

Implementation Officer : Pamela Clifford

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1972

Application no: 00/0023/FL

Location 31 River View, CUMNOCK

Nature of Proposal: Proposed erection of garage.

Name and Address of Applicant: Mr J McGhee
31 River View, CUMNOCK

Name and Address of Agent:

DPO's Ref: [VE/IH]

PPO's Ref; []

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

1. The proposed development would have a detrimental effect on the character and residential amenity of the area in which the application site is located.
2. The approval of the proposed development would set an undesirable precedent for similar unsympathetic garage development to the detriment of the character and residential amenity of the locality.

**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.**

AGENDA