

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 15 AUGUST 2003

**02/0620/FL: PROPOSED SINGLE PITCHED ROOF GARAGE AND GARDEN
SHED AT 17 PRIMPTON AVENUE, DALRYMPLE**

APPLICATION BY MR DAVID SHAW

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full permission is sought for the erection of a timber garage and timber garden shed on the site. The application is retrospective, both structures having been already constructed on site. The garage is located at the end of the driveway and is 31 metres from the rear of the public highway. Situated behind the garage and at right angles to the garage is a small garden hut. Both buildings are constructed of horizontal boarding and have a felt clad roof.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in section 5 of the report, the application is (not) considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be (refused) 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 matters have been adequately addressed and are not sufficient to merit refusal of the application.

3.2 The original planning permission granted for the dwelling did remove Permitted Development rights in response to concerns raised by the occupant of a neighbouring property. Subsequent to this the garage and garden shed were erected without receiving prior approval from the Planning Authority. The Council were advised of this by the neighbour who was concerned that the development was exacerbating a problem of flooding in the complainant's garden.

3.3 The neighbour submitted a letter of objection raising concern about the difference in the ground levels and also with regard to the water collecting in the garden which appeared to be runoff from the roof of the garage. The ground level is indeed slightly raised but it is only marginal. The garage wall is 1 metre from the boundary wall and there is not an overhang which would cause the rainwaters to run off onto the adjacent garden. The applicant has installed a French drain to ensure that surface waters are disposed of on site and this is in accordance with Best Practice as a method of Sustainable Urban Drainage systems.

3.4 The developments, albeit built without permission, are both acceptable in terms of scale and design and are both normal requirements ancillary to any dwellinghouse. It has not been demonstrated that they are causing or exacerbating any problem of flooding in the neighbouring property.

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 because it is not a significant departure from the development plan.

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 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 application is the subject of an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** No 17 Primpton Avenue is a single storey semi-detached dwelling located in the Benston Park development in the settlement of Dalrymple. The house is set in a generously sized feu with the rear garden extending to a heavily treed area at the back. The vehicular access is on the east side of the property and a mature Ileylandii hedge forms the boundary with the adjacent two storey dwelling.

2.2 **Proposed Development:** Full permission is sought for the erection of a timber garage and timber garden shed on the site. The application is retrospective, both structures having been already constructed on site. The garage is located at the end of the driveway and is 31 metres from the rear of the public highway. Situated behind the garage and at right angles to the garage is a small garden hut. Both buildings are constructed of horizontal boarding and have a felt clad roof.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Coal Authority has no objection to the proposed development and has no adverse comments to make.

Noted.

3.2 Scottish Power has no objection to the proposed development.

Noted.

3.3 The Council's Roads & Transportation Division has no objection to the proposed development.

Noted.

3.4 The Scottish Environment Protection Agency has no objection to the proposed development, as it is unlikely to compromise its interests.

Noted.

4. REPRESENTATIONS

4.1 Two letters of objection, from the same third party, have been received regarding the development. The points of objection are summarised as follows:

4.2 The developer and the subsequent owner were aware of the conditions restricting the erection of garages, extension or other structures without the prior approval of the Planning Authority.

The original consent for the dwelling at No.17 was subject to a condition restricting normal Permitted Development rights. This was in response to an objection submitted by the same third party objecting to the current planning application. It is not normally the case to put on such a restriction for a dwelling house in the settlement. Nonetheless, it is acknowledged that the application is retrospective, but this is not a valid reason for objecting to this application.

4.3 The garage is approximately 1 metre from the boundary fence that is the area where the flooding is worst. The level of ground within the plot has been raised substantially so that the garage sits much higher and dominates the neighbouring garden. There is no doubt the existence of the garage will add to the flooding situation.

During the course of constructing the existing dwellinghouse on the application site the ground levels were raised. There is a marginal difference of approximately 0.1 metres in the ground levels with the garage sitting on a slightly elevated position. The difference in ground levels between the objector's property and the application site is not considered to be significant. The garage roof however does

not overhang the garden ground pertaining to No.15 Primpton Avenue (the objector's property) and it is a single garage of modest proportions. The objector has made previous representations with respect to issues of flooding of her property. In the planning consent for the original dwellinghouse at No. 17 Primpton Avenue, a condition was attached obliging the developer to ensure that there was no deliberate shedding of surface water onto the neighbouring properties. In this regard, the applicant has installed appropriate drainage within the application site to ensure that surface water run-off from the timber structures is intercepted and does not shed directly onto the objector's property.

4.4 During the construction of the garage the neighbouring garden was under water for about three months as it already had been before further earth had been put over to raise the level even higher. There is a drain running from the far side of the neighbouring property, diagonally, now under the garage, debris, fencing and into the burn and it has yet to be determined if it is functioning come winter. The raised level and existence of the garage will divert any flood water from Primpton Burn which has already completely flooded the area

Subsequent to the planning application being submitted the applicant has installed a French drain in an attempt to alleviate any issue of surface water drainage or run-off from the structures, However, it must be noted that the ground conditions in this area are such that they are more prone to flooding due to the reduced porosity of the clay bound soil.

4.5 The letter also raised a question about the use of the garage for commercial purposes.

The garage is a single unit and at no time during site inspections by officers in the Planning Division did it seem that there were any commercial activities being undertaken at the site.

5. ASSESSMENT AGAINST 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 Adopted East Ayrshire Local Plan (2003).

East Ayrshire Local Plan

5.2 Policy ENV7 requires that developers comply fully with the Council's Design Guidance relating to the particular type of development.

Design Guidance 1 refers to Householder Developments. The garage and garden shed are of a scale appropriate to a domestic use normally associated with a dwellinghouse and are not considered to have any overbearing impact. They are in situ and are of a design and materials which are acceptable in this location. It is therefore considered that the proposal does comply with Policy ENV7.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the consultation responses and the third party letter of representation.

Consultations Responses

6.2 None of the consultees have raised any objection or adverse comments regarding the development.

Representations

6.3 The letter of complaint received and its subsequent acknowledgement as a letter of objection to the planning application does raise some issues with regard to how the development, particularly the garage, affects the complainant's property. However it is not considered that the issues raised are of sufficient weight to indicate that planning permission should be refused

Planning History

6.4 Planning permission (Ref : 01/0327/FL) was granted for the erection of five dwellinghouses at Benston Park, No. 17 was built under this consent. The house has subsequently been granted planning permission for an extension to the rear (Ref : 02/0439/FL).

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 indicated in section 5 of the report, the application is (not) considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be (refused) 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 matters have been adequately addressed and are not sufficient to merit refusal of the application.

8.2 The original planning permission granted for the dwelling did remove Permitted Development rights in response to concerns raised by the occupant of a neighbouring property. Subsequent to this the garage and garden shed were erected without receiving prior approval from the Planning Authority. The Council were advised of this by the neighbour who was concerned that the development was exacerbating a problem of flooding in the complainant's garden.

8.3 The neighbour submitted a letter of objection raising concern about the difference in the ground levels and also with regard to the water collecting in the garden which appeared to be runoff from the roof of the garage. The ground level is indeed slightly raised but it is only marginal. The garage wall is 1 metre from the boundary wall and there is not an overhang which would cause the rainwaters to run off onto the adjacent garden. The applicant has installed a French drain to ensure that surface waters are disposed of on site and this is in accordance with Best Practice as a method of Sustainable Urban Drainage systems.

8.4 The developments, albeit built without permission, are both acceptable in terms of scale and design and are both normal requirements ancillary to any dwellinghouse. It has not been demonstrated that they are causing or exacerbating any problem of flooding in the neighbouring property.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed 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 because it is not a significant departure from the development plan.

Alan Neish
Head of Planning and Building Control

30 July 2003
NM/NM
FV/AN

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).

Anyone wishing to inspect the above background papers should contact Nicola Monroe on 01563 555485.

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/0620/FL

Location	17 Primpton Avenue DALRYMPLE KA6 6EL
Nature of Proposal:	Proposed erection of single pitched roof garage and garden shed
Name and Address of Applicant:	Mr David Shaw 17 Primpton Avenue DALRYMPLE KA6 6EL
Name and Address of Agent	William C Tait 20 Corserine Road AYR KA4 4HW

DPO's Ref: Nicola Monroe
PPO's Ref: Hugh Melvin

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

1. The garage hereby approved is for domestic use only ancillary to the enjoyment of the dwellinghouse to which it relates and shall not be used for any commercial purpose.

REASON – To safeguard the residential amenity of the area.

2. The garage and garden shed hereby approved shall be kept in a neat and tidy condition at all times to the satisfaction of the Planning Authority.

REASON – In the interests of visual amenity.

3. The French drain shall be maintained in perpetuity to the satisfaction of the Planning Authority.

REASON – To ensure adequate surface water drainage within the confines of the site.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S**

**PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**