

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 12 DECEMBER 2003

**03/0863/FL: PROPOSED ERECTION OF FENCE
AT REAR OF 88 LOCH ROAD, MAUCLINE**

APPLICATION BY MR WILLIAM WHITE

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This application has been submitted on a retrospective basis and full permission is sought for a horizontally slatted wooden fence located to the rear of the dwellinghouse along the boundary between nos. 88 and 86 Loch Road. There is an existing red brick wall measuring one metre in height between the two properties and the proposed wooden fence measuring approximately 1.1 metre in height would heighten the boundary screening to approximately 2.1 metres. The proposed fence extends approximately 8.8 metres from the external wall of the dwellinghouse towards the access road of Loch Road. There is an existing wooden framed chain link fence, approximately 1 metre in height, stretching the remaining 4 metres to the access road.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in section 5 of the report, the application is 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 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 can be addressed and are not of sufficient weight to merit refusal of the application.

3.2 The fence in question has been erected prior to consent being granted. It is a wooden fence with horizontal slats measuring approximately 1.1 metre in

height attached to a one metre high brick wall. The structure including both the proposed fence and the brick wall measures approximately 2.1 metres in height.

3.3 There is a wide variety of fences in the surrounding area. The design and materials of the proposed fence are regarded to have no material impact on the area. It is considered that the concerns with regard to the height of the fence can be addressed through a condition attached to any planning consent and is therefore not a sufficient reason for refusal.

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 would not represent 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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APPLICATION BY MR WILLIAM WHITE

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 subject to an objection received prior to the review of the Scheme of Delegation.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site relates to the existing two storey mid-terrace dwellinghouse and its curtilage at 88 Loch Road, Mauchline. There are several access lanes at Loch Road accessing the different rows of terraced housing. The main vehicular access road to no. 88 Loch Road is to the rear of the property where parking is provided either on street or off street within the dedicated back garden area. The difference in level between the access road and the back garden of no. 88 Loch Road is approximately one metre.

2.2 **Proposed Development:** This application has been submitted on a retrospective basis and full permission is sought for a horizontally slatted wooden fence located to the rear of the dwellinghouse along the boundary between nos. 88 and 86 Loch Road. There is an existing red brick wall measuring one metre in height between the two properties and the proposed wooden fence measuring approximately 1.1 metre in height would heighten the boundary screening to approximately 2.1 metres. The proposed fence extends approximately 8.8 metres from the external wall of the dwellinghouse towards the access road of Loch Road. There is an existing wooden framed chain link fence, approximately 1 metre in height, stretching the remaining 4 metres to the access road.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Legal Services Section has advised that Feu Superior's consent will be required and that the property is burdened with a right of access in favour of the neighbouring property at no. 86 Loch Road.

The requirement for Feu Superior's consent can be highlighted in a note to the applicant in the decision notice. The proposed development does not affect the existing right of access since its proposed location is on the boundary towards no. 90 Loch Road and not no. 86 Loch Road.

3.2 East Ayrshire Homes and Technical Services, Power Systems, Transco Scotland and Scottish Water have advised they have no objection to the proposed development.

Noted.

3.3 Mauchline Community Council had not responded to the consultation letter at the time of writing the report.

Noted.

4. REPRESENTATIONS

4.1 Two letters of objection from the same objector have been received regarding the erection of the fence. The points of objection are summarised as follows:

4.2 The fence was erected without authorisation from the Council and without consultation with the adjacent property.

It is accepted that the application is retrospective but this in itself is not a valid ground of objection to the development.

4.3 The fence is not erected in the same style as the rest of the fence around adjacent property's garden as it runs horizontally whereas the rest runs vertically. The slats on the fence are not equally spaced or equal in width and the fence does not run the full length of the garden and is an eyesore.

There is a mixture of fences and boundary walls in the surrounding area varying in design, finish and height. The proposed fence is not considered to represent a significant change within the area since there are examples of horizontally slatted fences. Neither the fence

nor the brick wall runs the full length of the two properties and part of the remaining area is elevated up towards the access road.

4.4 There is no other fence of this height in the row of houses and it blocks the view from the objector's living room and kitchen windows. It also blocks sunlight into objector's back garden where the drying area, sitting area and play area are now always shaded from the sun. When turning into Loch Road from Jean Armour Drive the first thing you see is the fence which distracts drivers.

As mentioned earlier, there is a mixture of height in the fences in the surrounding area, the highest measuring approximately 1.8 metre. The height of the proposed fence can be restricted through conditions attached to any decision notice. It is considered that with a reduced height the proposed fence would have no significant impact on the daylight of the objector's property.

4.5 The applicant entered the objector's property without her knowledge or consent to erect the slats on the objector's side of the fence.

This is considered to be a legal matter and not a material consideration in the determination of the planning application.

4.6 The fence has prevented the sale of objector's property as potential buyers viewed the house before the fence was erected and then afterwards saw the fence, enquired about the problem with the neighbours and decided against purchase.

While noting the sentiments of the objector, alleged impact on the property's market value is not a material consideration in the determination of this application.

4.7 The brick wall which the applicant built previously appears to be built on the objector's property.

The objection relating to the existing brick wall extending onto the objector's property is outside the scope of this planning application which is for the erection of a wooden fence. This is again a legal matter between the applicant and the objector.

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 (1999) and the Adopted East Ayrshire Local Plan (2003).

Ayrshire Joint Structure Plan

5.2 The Structure Plan does not contain any specific policies which are relevant to the proposed development.

East Ayrshire Local Plan

5.3 Policy ENV7 states that 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. The policy also states that 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.

The proposed fence is considered to be sympathetic to other fences in the area with regard to design and material. Its height is considered to be slightly higher than surrounding fences and it is considered that the fence should be reduced in height. However, this can be achieved through conditions attached to any planning consent granted for the fence.

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 third party representations.

Consultations Responses

6.2 There are no consultation responses that would suggest refusal of the application is appropriate.

Representations

6.3 The application has attracted objections from one party. A large number of the points of objection relate to the issue of ownership, trespassing on property and the illegal erection of the fence, but there are also several objections relating to the design and height of the fence. It is considered that the fence does not have an unsympathetic or obtrusive impact on the surrounding neighbourhood. However, the height of the fence should be reduced to minimise impact on the

adjacent property. Subject to appropriate conditions, it is considered that the issues raised are insufficient to 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.

Noted.

8. CONCLUSIONS

8.1 As indicated in section 5 of the report, the application is 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 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 can be addressed and are not of sufficient weight to merit refusal of the application.

8.2 The fence in question has been erected prior to consent being granted. It is a wooden fence with horizontal slats measuring approximately 1.1 metre in height attached to a one metre high brick wall. The structure including both the proposed fence and the brick wall measures approximately 2.1 metres in height.

8.3 There is a wide variety of fences in the surrounding area. The design and materials of the proposed fence are regarded to have no material impact on the area. It is considered that the concerns with regard to the height of the fence can be addressed through a condition attached to any planning consent and is therefore not a sufficient reason for refusal.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the condition indicated 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 would not represent a significant departure from the development plan.

Alan Neish
Head of Planning and Building Control

NM/NM/SMB
26 November 2003
FV/DVM

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).
6. Approved Ayrshire Joint Structure Plan (1999).
7. East Ayrshire Council Design Guidance.

Anyone wishing to inspect the above background papers should contact Miss Heidi Thorsdalen on 01563 555485.

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 03/0863/FL

Location	88 Loch Road MAUCHLINE KA5 6EE
Nature of Proposal:	Erection of fence (retrospective)
Name and Address of Applicant:	Mr W White 88 Loch Road MAUCHLINE KA5 6EE
Name and Address of Agent	N/A

DPO's Ref: Heidi Thorsdalen
PPO's Ref: Hugh Melvin

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

1. Within 3 months of the date of this consent, the proposed fence shall be reduced to the height of 1.8 metres to match the height of fences in the locality.

REASON – In the interest of the visual amenity.

NOTES TO APPLICANT

1. This planning consent does not grant Feu Superior's consent. Application for Feu Superior's consent should be sent to the Solicitor for the Council, Council Headquarters, London Road, Kilmarnock, KA3 7BU.

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