

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 14 FEBRUARY 2003**

**02/0817/FL: PROPOSED ERECTION OF 6 FOOT GARDEN FENCE  
AT 22 STATION ROAD, MAUCHLINE  
FOR MR ALEXANDER JESS**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Retrospective planning permission is sought for the erection of a garden boundary fence located along the north western (rear) site boundary and the south western (Station Lane) site boundary of the rear garden area of No. 22 Station Road. The fence along the north western boundary is of a 'hit and miss' vertical post design whilst the fence along Station Lane is a close boarded diagonal slatted design. The fence is some 1.8 metres in height although the application site is set at a higher level to Station Lane of some 0.6 metre as the fence sits above an existing boundary retaining wall. This gives the average height of the combined wall and fence along the Station Lane boundary of 2.4 metres.

**2. RECOMMENDATION**

**2.1 The application should be refused for the reasons listed on the attached sheet.**

**3 CONCLUSIONS**

3.1 As is indicated in Section 5 of the report there are no relevant policies in the development plan and therefore greater weight should be attached to the other material considerations.

3.2 There are other material considerations relevant to this application as indicated in Section 6 of the report. Within the East Ayrshire Local Plan there are no specifically relevant policies addressing boundary fencing and no concerns have been raised through the consultation process.

3.3 However, with regard to the letter of objection, it is considered that this raises significant matters that are considered valid and justified in planning terms. It is considered that the fence erected along the boundary onto Station Lane is

an over-dominant form of development that has a negative effect on the neighbouring residential properties. The fence is located in very close proximity to the property at 1 Station Lane and the outlook from that property is considered to be negatively affected to such a degree that would warrant refusal of the application.

3.4 This Division has attempted to achieve a compromise to help negate the detrimental visual effects of the fence although the applicant does not wish to amend the scheme. It is considered that the fence is detrimental to the surrounding residential area by virtue of its size, scale, design and external finish.

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved 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 there will be no significant breach of Council 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.**

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**02/0817/FL: PROPOSED ERECTION OF 6 FOOT GARDEN FENCE  
AT 22 STATION ROAD, MAUCHLINE**

**APPLICATION BY MR ALEXANDER JESS**

**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 and is recommended for refusal.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The application site lies on the north west side of Station Road in Mauchline and relates to the existing detached modern dwellinghouse and its curtilage at this location. The application site is located at the junction of Station Road and Station Lane and is bounded by residential properties except to the rear (north western) boundary where the application site bounds onto the agricultural land associated with Grassmillees Holdings.

2.2 **Proposed Development:** Retrospective planning permission is sought for the erection of a garden boundary fence located along the north western (rear) site boundary and the south western (Station Lane) site boundary of the rear garden area of No. 22 Station Road. The fence along the north western boundary is of a 'hit and miss' vertical post design whilst the fence along Station Lane is a close boarded diagonal slatted design. The fence is some 1.8 metres in height although the application site is set at a higher level to Station Lane of some 0.6 metre as the fence sits above an existing boundary retaining wall. This gives the average height of the combined wall and fence along the Station Lane boundary of 2.4 metres

**3. CONSULTATIONS AND ISSUES RAISED**

3.1 Mauchline Community Council has not responded at the time of writing this report.

***Noted.***

## 4. REPRESENTATIONS

4.1 One letter of objection has been received and the points raised are as follows:-

4.2 There has been no prior discussion with neighbours and the fence was erected prior to permission being sought.

***Noted. The application is retrospective in nature.***

4.3 The height of the fence is stated as being 6 ft (1.8 metres) although when measured on site is actually 1.86 metres. Furthermore the ground at 22 Station Road has been built at a higher level to the properties on Station Lane and the brick retaining wall is some 0.64 metres in height. The overall height is therefore 2.5 metres.

***Noted. It is accepted that with the fence being erected on top of the existing retained garden area, the overall height is significantly greater when viewed from outwith the site.***

4.4 The fence is constructed from heavy timbers which gives an impression of solid wood from neighbouring properties. It is also painted dark brown which adds to its oppressive nature and the posts are on the 'outside' of the fence and of uneven height and spacing.

***It is considered that the fence is very prominent in its siting. It is essentially of 'closed' design and in colour and method of construction does not mitigate its impact on the objector's property on Station Lane. The fence, due to the combination of its height and design/finish, is obtrusive and particularly detrimental to the visual amenity of the dwellinghouse at 1 Station Lane. The occupiers of this property face onto the south western boundary of the application site, with principal windows looking directly onto the fence. Whilst the loss of a view is not a material planning consideration it is considered that the fence in its present format is unacceptable some 8.5 metres from the objector's living room window.***

***This Division contacted both the applicant and objector and attempted to achieve a negotiated solution which would entail re-positioning the fence along the southern boundary some 2 metres into the applicant's rear garden. The proposal was then to form an area of planting to soften the impact of the fence. The objector was in favour of such a scheme although the applicant was unwilling to amend his plans and wishes the application to be considered as submitted.***

4.5 The fence being so high, heavy and near to the living room window of 1 Station Lane at some 8.5 metres, has reduced the amount of light to the living room, and gives the impression of living in a prison compound.

***It is agreed that the fence as erected on site has an adverse impact on the enjoyment of the objector's dwellinghouse.***

4.6 The closed-in nature of the fence raised security concerns for surrounding properties.

***Noted.***

4.7 Station Lane and the lower section of Station Road were designed and permitted as open plan estates. The new fence is out-of-keeping with that concept. It is clear that the fence has had a significant detrimental impact on the visual amenity and appearance of the area.

***Whilst the area is open plan to the front of properties, the section of garden being fenced relates to a rear garden and it is not inappropriate to permit fencing to afford the occupier some level of privacy. The issue with the proposed fence is its overall height, overbearing design and external finish.***

4.8 It would be more appropriate for the applicant to erect a fence in the style of a 'hit and miss' ranch type fence that would still provide screening which the applicant has erected at the front of this property along Station Lane.

***Noted.***

4.9 As a result of a patio having been constructed within the application site, there has been a drainage problem. The patio has been laid right up to and level with the top of Station Lane without adequate drainage. As a result rainwater runs from the slabbed patio over the top of the wall, down the face of the wall and onto the road.

***This patio does not require planning permission and any resultant drainage problem would not be a material planning consideration. It would be a matter for civil resolution between the landowners. The present application relates solely to the erection of the fence and not to the formation of the patio.***

## **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 Mauchline-Drongan-Ochiltree Local Plan (1993). The Adopted Local Plan was prepared within the context of the approved Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan the proposal would fall to be considered against this document and its associated policies. However there are no local plan policies relevant to the determination of this application and therefore greater weight should be placed on the 'other material considerations' as identified in Section 6 of this report.

## **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) 2002, (EALP) the consultation responses and representation received, both of which are addressed in Section 3 and 4 of this report, and also the Council's Design Guidance.

### East Ayrshire Local Plan (Finalised Version with Modifications)

6.2 The Council has agreed that the EALP should be considered as a prime material consideration. There are no specific policies within the East Ayrshire Local Plan relevant to the determination of fences at existing properties.

### Consultations Responses

6.3 The statutory consultation process has not raised any negative issues which would affect the granting of planning permission.

### Representations

6.4 One letter of representation has been submitted which contains many pertinent points that would warrant refusal of the application in terms of the design and external finish of the fence. Despite a potential compromise solution being put to the applicant that would have also been acceptable to the objector, the applicant has indicated that he is not prepared to relocate the fence and introduce planting that would soften the unacceptable visual impact of the fence.

### Design Guidance

6.5 The Council's Design Guidance was approved in April 2001. The "Householder Development" guidance does not, however, contain any policies specifically relevant to garden fences. There is reference to the highest

design standards being sought to protect and enhance the quality of the built environment. The guidance further states that development that is out of scale and character with its surroundings can be detrimental to the appearance of the wider area. Within the guidance relating to “New Residential Development”, it is indicated that boundary treatments shall generally be no greater than 1.8 metres in height and materials shall be compatible with the area in which they are located.

***It is not considered that the fence has been designed to reflect the character of the surrounding residential area or neighbouring properties. It is considered that the fence is an over-dominant and visually intrusive form of development owing to its design, size, scale and quality of finish.***

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

7.1 There are no financial implications for the Council in the determination of this application. Legal implications may arise through potential enforcement action to secure removal of the fence should permission be refused.

## **8. CONCLUSIONS**

8.1 As is indicated in Section 5 of the report there are no relevant policies in the development plan and therefore greater weight should be attached to the other material considerations.

8.2 There are other material considerations relevant to this application as indicated in Section 6 of the report. Within the East Ayrshire Local Plan there are no specifically relevant policies addressing boundary fencing and no concerns have been raised through the consultation process.

8.3 However, with regard to the letter of objection, it is considered that this raises significant matters that are considered valid and justified in planning terms. It is considered that the fence erected along the boundary onto Station Lane is an over-dominant form of development that has a negative effect on the neighbouring residential properties. The fence is located in very close proximity to the property at 1 Station Lane and the outlook from that property is considered to be negatively affected to such a degree that would warrant refusal of the application.

8.4 This Division has attempted to achieve a compromise to help negate the detrimental visual effects of the fence although the applicant does not wish to amend the scheme. It is considered that the fence is detrimental to the surrounding residential area by virtue of its size, scale, design and external finish.

## **9. RECOMMENDATION**

**9.1 The application should be refused for the reasons listed on the attached sheet.**

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved 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 there will be no significant breach of Council policy.

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

02 February 2003  
(FMF/HM/MMM)  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letter of Representation.
4. Consultation responses.
5. Adopted Mauchline-Drongan-Ochiltree Local Plan.
6. East Ayrshire Local Plan Finalised Version with Modifications.
7. Approved Strathclyde Structure Plan.
8. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers should contact Fiona Finlay on 01563 576768.

**Implementation Officer: Dave Morris**

020817FL 22StationRoadMauchline

## EAST AYRSHIRE COUNCIL

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

02/0817/FL

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Site of Proposal: 22 Station Road  
MAUCHLINE

Nature of Proposal: Proposed Erection of 6 Foot Garden Fence

Name & Address of Applicant: Mr Alexander Jess  
22 Station Road  
MAUCHLINE KA5 5ES

Name & Address of Agent:

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DPOs Reference: FMF/MMM

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

1. The fence as erected on site represents an obtrusive and over-dominant form of development by virtue of its size, scale, design and external finish in relation to the surrounding streetscape.
2. The fence as erected on site, by virtue of its size, scale, design and external finish, has a detrimental impact on the amenity and enjoyment of the residential property lying immediately south west of the application site.

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