

Report

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Report to:	Planning Committee
Date of Meeting:	14 February 2007
Report by:	Executive Director (Enterprise Resources)

Application No	HM/06/0762
Planning Proposal:	Erection Of Fence To Front And Side Of house

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Mr J Nicoll
- Location : 15A Whistleberry Drive
Hamilton

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Refuse Detailed Planning Permission based on reasons listed overleaf

2.2 Other Actions/Notes

- (1) The Area Committee has delegated powers to determine this application.
- (2) If Committee agrees to refuse the planning application, in the event the fencing is not reduced in height within one month of this decision it is recommended that enforcement action be taken to reduce the height of the fencing in stages to meet the required visibility splay for the driveway within one month of any enforcement served.

3 Other Information

- ◆ Applicant's Agent:
- ◆ Council Area/Ward: 38 Whitehill
- ◆ Policy Reference(s): **Hamilton District Local Plan**
Policy RES 1 – Residential Areas – General
Policy DC1 - Development Control – General
South Lanarkshire Planning Policies
SLP6 – Development Control – General
South Lanarkshire Local Plan (Finalised)
Policy RES2 – Proposed Housing Sites
Policy RES6 – Residential Land Use
Policy DM1 – Development Management
Policy DM4 – House Extensions and Alterations
Residential Development Guidance

- ◆ Representation(s):
 - ▶ 1 Objection Letters

- ◆ Consultation(s):

Roads and Transportation Services (Hamilton Area)

Planning Application Report

1 Application Site

- 1.1 This application site is part of a new development within the Whitehill area of Hamilton. The site is at the end of a terrace and has a footpath running along the side and rear of the property allowing access to the rear of the terrace.

2 Proposal(s)

- 2.1 This proposal is retrospective and is for the erection of a boundary fence to the front and side of the application site. The fence is constructed from wood and matches existing fencing found to the rear of the site. The fence is approximately 1.9m high to match the existing rear fence and is erected along the side boundary of the property forward of the building line.

3 Background

3.1 Local Plan Status

- 3.1.1 The site is identified as being within a general residential area (as defined by Policy RES1) in the adopted Hamilton District Local Plan. Though Policy RES1 the council will resist any development which will be detrimental to the amenity of these areas. In addition Policy DC1 – Development Control – General of the adopted local plan applies. It states 'All applications for planning permission shall take fully into account the local context and built form i.e. development should not take place in isolation and must take cognisance of scale, position and materials of adjacent buildings and surrounding streetscape. Proposals should aim for the best possible quality of external materials.
- 3.1.2 In terms of the Finalised South Lanarkshire Local Plan the site is identified as under Policy RES2 (Proposed Housing Sites) whereby the council will support development of housing. Policy RES6 of the finalised local plan which supports Policy RES1 of the adopted local plan states the council will oppose the loss of housing to other uses and will resist any development that will be detrimental to the amenity of the area.
- 3.1.3 In addition Policies DM1 (Development Management) and DM4 (House Extensions and Alterations) of the finalised Local Plan provide further detailed guidance. Policy DM1 states that all applications will require to take account of the local context and built form and should be compatible with adjacent buildings and surrounding streetscape in terms of scale, massing, design, external materials and impact on amenity. The council will also require proposals to respect the local context, to have no adverse visual or environmental impact on amenity and to take account of any supplementary design guidance prepared by the Council. Policy DM4 states that house extensions and alterations will be permitted when they can demonstrate that they do not dominate or overwhelm the existing dwelling, neighbouring properties or streetscape in terms of size, scale or height and that it does not significantly adversely affect adjacent properties in terms of overlooking or loss of privacy, daylight and sunlight.
- 3.1.4 SLP6 (Development Control General) of the South Lanarkshire Planning Policies states that all planning applications should take fully into account the local context and built form i.e. development should be compatible in terms of scale, massing and external materials of adjacent buildings and surrounding streetscape. All new

development should seek to take account of the local context, scale, massing and external materials of adjacent buildings and surrounding streetscape.

- 3.1.5 The Council's Residential Development Guide gives guidance in relation to new housing development in terms of road standards, open space and layouts.

3.2 **Relevant Government Advice**

- 3.2.1 There is no relevant government guidance relating to this application

3.3 **Planning History**

- 3.3.1 Planning Application, HM/04/0204 is for the original construction of the dwellinghouse which was part of a development of 160 houses and cottage flats, road improvements and landscaping. An open plan condition was not imposed within the planning conditions for this site to control fencing.

4 **Consultation(s)**

- 4.1 **Roads and Transportation Services** - have no objection in principal to the erection of the fence. However a clear visibility splay of 2.5m x 35m must be achievable in both directions from the driveway. This will require the fence to be a maximum height of 900mm from the level of the road.

Response: Noted. The current height of the fence does not meet the required height for the visibility splay. The proposed development is therefore considered to be detrimental to road safety.

5 **Representation(s)**

- 5.1 Statutory neighbour notification was undertaken and one letter of objection has been received in respect of the proposal. The grounds of objection can be summarised as follows:

- (a) **The fence to the rear is 6 feet high, when the other original boundary fence was 4 feet high and borders a service footpath which causes a "tunnel effect".**

Response: Whilst the objectors' concerns are noted planning permission is not required to erect a fence 2 metres in height behind the building line of the property. As the fence to the rear is less than 2 metres in height this section of fencing does not require planning permission.

- (b) **The fencing erected is contrary to the original plan for the site.**

Response: Noted. This matter will be examined in the Assessment and Conclusions section of the report.

- (c) **The fencing erected causes overshadowing into our garden and property.**

Response: Whilst the objectors' concerns are noted it is not considered that the fencing has a significant impact in terms of loss of sunlight/daylight.

- (d) **The applicant has reversed the erection of the fence to the rear so the fence posts are facing the objectors' garden.**

Response: Whilst the objectors' concerns are noted planning permission is not required to erect a fence 2 metres in height behind the building line of the property. As the fence to the rear is less than 2 metres in height this section of fencing does not require planning permission.

- (e) **The fence to the front of the property has a “Fort Knox” appearance on the street and is detrimental to the residential amenity of the area.**

Response: Noted. This matter will be examined in the Assessment and Conclusions section of the report.

- (f) **The fence to the front restricts the objectors’ view.**

Response: The right to a view is not a material planning consideration.

6 Assessment and Conclusions

- 6.1 The applicant seeks retrospective consent for the erection of fencing to the front and side of the house. The main planning considerations in determining the application are whether it accords with local plan policy and if it is detrimental to the residential amenity of the area.
- 6.2 The proposal is for retrospective consent for the erection of a fence to the side and front of the property. The fence is approximately 1.9m high to match the existing rear fence and is erected along the side boundary of the property forward of the building line. Additional fencing to the rear, less than 2 metres in height and to the front less than 1 metre in height has also been erected by the applicant. However planning permission is not required for these sections of fencing as they are within the height restrictions for permitted development at these locations.
- 6.3 In terms of local plan policy, the application site is affected by Policy RES1 – Residential Areas General and Policy DC1 – Development Control General of the adopted local plan, which apply to all residential areas within the local plan. Through these policies the Council aims to resist any development which is detrimental to the amenity of these areas and where developments are approved that these fully take into account the local context and built form and take cognisance of the scale, position and materials of adjacent buildings and surrounding streetscape. In this case, the fence conflicts with the above policies and creates a detrimental effect on the streetscape and the surrounding area.
- 6.4 In terms of SLP6 of the South Lanarkshire Planning Policies the fence does not take account of local context and is not compatible with the surrounding streetscape in terms of scale and massing.
- 6.5 In terms of Policy RES6 – Residential Land Use of the South Lanarkshire Local Plan (Finalised) the fence is in conflict with the policy as it will be detrimental to the residential amenity of the area given its size and scale.
- 6.6 In terms of Policy DM1 – Development Management and Policy DM4 – House Extensions and Alterations the fence takes no account of the local context, the visual impact on the surrounding area, character of existing dwellings and of the wider area with respect to form, scale and design. Policy DM4 also indicates that ‘by virtue of its sheer physical/visual presence, it would dominate adjacent properties such that their amenity would be adversely affected.’
- 6.7 In terms of the Residential Development Guide the fence is contrary to guidance for the erection of walls and fences within housing layouts as it would be detrimental to the residential amenity of the area.

- 6.8 After consultation Roads and Transportation Services had concerns with regards to visibility. A visibility splay of 2.5m x 35 must be achievable in both directions from the driveway and the fence requires to be reduced in height. The proposed fencing would therefore be detrimental to road safety.
- 6.9 One letter of objection has been received raising concerns regarding the fencing's impact on their residential amenity and on the area's. The fencing to the rear is less than 2 metres in height, is permitted development and matches the style of existing fencing approved within the original consent for the development (HM/04/0204). This fencing therefore does not require consent. The fencing erected to the front of the house, less than 1 metre in height is also permitted development. No condition was imposed on the original consent for the development to restrict it to open plan and given the height of the fence is permitted development and its materials match existing fencing in the area this fencing also does not require planning consent. However the 1.9 metre high fencing erected to the front of the building line of the property does. Given its adverse impact to residential amenity and to road safety this fencing is not considered to be acceptable.
- 6.10 Prior to the submission of this application the applicant was advised that this fencing required to be reduced in height in order to meet Council policy and that a stepped change in height along this boundary would be acceptable in terms of residential amenity. It is therefore recommended that in conjunction with the refusal of the planning application that enforcement action be taken to remedy this breach of planning control and that the fencing is reduced in height in stages to meet the required visibility splay for the driveway.

7 Reasons for Decision

- 7.1 The proposal is contrary to Policies RES1 – Residential Area General and DC1 – Development Control General of the adopted Hamilton District Local Plan, SLP6 of the South Lanarkshire Planning Policies, Policies RES6 – Residential Land Use, DM1 – Development Management and DM4 – House Extensions and Alterations of the South Lanarkshire Local Plan (Finalised) and the Residential Development Guide. If approved the proposal would adversely impact on the amenity of the area and set a precedent for further such application which would be detrimental to the appearance of the area in general.

Iain Urquhart
Executive Director (Enterprise Resources)

24 January 2007

Previous References

- ◆ HM/04/0204

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Consultations
 - Consultation from : Roads and Transportation Services (Hamilton), DATED

04/01/07

► Representations

Representation from : Mr M & Mrs E Djebbali, 15 Whistleberry Drive, Hamilton,
ML3 0PR, DATED 07/09/06

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Alisdair Simpson, Planning Officer, Brandon Gate, Hamilton

Ext 3598 (Tel :01698 453598)

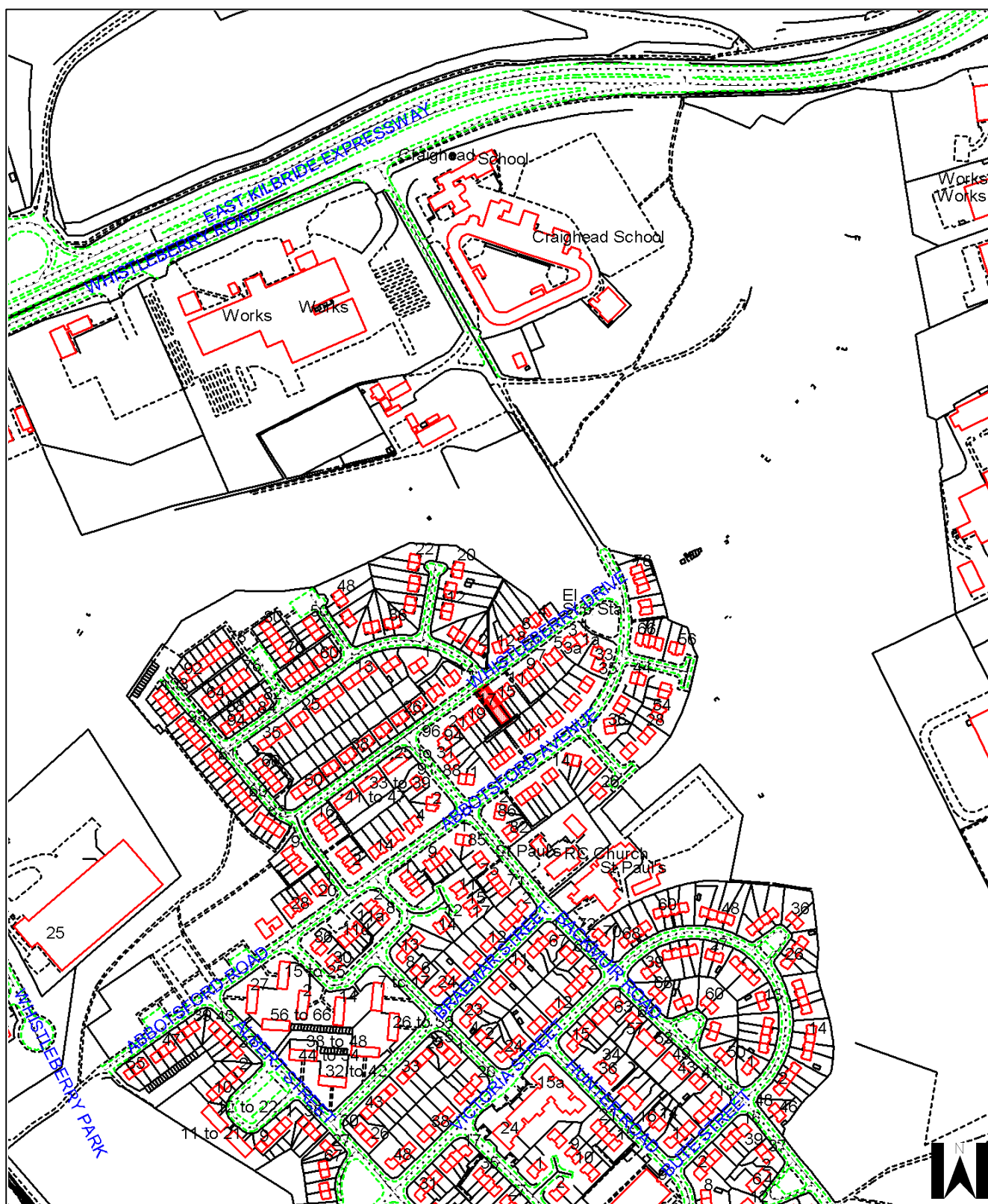
E-mail: Enterprise.hamilton@southlanarkshire.gov.uk

REASONS FOR REFUSAL

- 1 The proposed development would be contrary to Policy RES1 of the adopted Hamilton District Local Plan and Policy RES6 of the finalised South Lanarkshire Local Plan as the proposal would be detrimental to the residential amenity of the area.
- 2 The proposed development would be contrary to Policy DC1 of the adopted Hamilton District Local Plan and DM1 & DM4 of the finalised South Lanarkshire Local Plan as the proposal does not take account of the local context and surrounding area and would adversely affect the amenity of the area due to the virtue of its sheer physical/ visual presence.
- 3 The proposed development would be contrary to SLP6 of the South Lanarkshire Planning Policies as the proposal does not take account of local context and is not compatible with the surrounding streetscape.
- 4 The proposed development would be contrary to the Council's Residential Development Guide in terms of guidance for housing layouts as the fencing would be detrimental to the residential amenity of the area.
- 5 In terms of road safety, the fence is detrimental to visibility from the driveway as it does not meet the required 2.5m x 35m visibility splay necessary.

For information only

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