

Report to: **Planning Committee**
 Date of Meeting: **13 December 2011**
 Report by: **Executive Director (Enterprise Resources)**

Application No: HM/11/0378
 Planning Proposal: Installation of Decking and Erection of 1.8 Metre High Fence and Garden Shed (in retrospect)

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Karen Symons
- Location : 2 Falconer Terrace
Hamilton

2 Recommendation(s)

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

- (1) Grant detailed planning permission (subject to the following conditions)

2.2 Other Actions/Notes

- (1) The Planning Committee has delegated powers to determine this application

3 Other Information

- ◆ Applicant's Agent: None
- ◆ Council Area/Ward: 19 Hamilton South
- ◆ Policy Reference(s): **South Lanarkshire Local Plan (adopted 2009)**
DM 1 - Development Management Policy
DM 4 - House Extensions and Alterations Policy
RES 6 - Residential Land Use Policy

◆ Representation(s):

- ▶ 1 Objection Letter
- ▶ 0 Support Letters
- ▶ 0 Comments Letters

◆ Consultation(s):

Housing Services (Hamilton)

Planning Application Report

1 Application Site

- 1.1 The application relates to a four in a block upper cottage flat located in the midst of a high density post war local authority estate in the Fairhill area of Hamilton.
- 1.2 To the north, south and west are similar style properties whilst to the east across the road lies a large triangular area of open space. The downstairs neighbour has purchased the flat and the garden has been split accordingly. The applicant has the side garden and half the rear garden whilst the neighbour has the front garden and the other half of the rear garden.

2 Proposal(s)

- 2.1 The applicant has submitted a retrospective application for an area of timber decking located to the side of the dwelling, the erection of a 1.8 metre high fence across the front and down the side of the decking and the erection of a large garden shed positioned within the rear garden. The applicant had gained permission from Housing Services for these works as the property is a local authority dwelling but has not obtained planning consent.
- 2.2 The decking, which is irregular in shape, measures approximately 4.27metres by 6.4 metres at its widest and longest point and has a maximum height above ground level of approximately 350 mm. The height and design of the timber fence located across the front and down the side of the decking matches that of an existing boundary fence. The flat roofed garden shed is located in the rear garden area, is of timber construction and measures approximately 3.2 metres square with a height of approximately 2.4 metres.

3 Background

3.1 Local Plan Status

- 3.1.1 In terms of the South Lanarkshire Local Plan the site is identified as being within a Residential Area therefore Policy RES6 – Residential Land Use – is relevant. Policy RES6 states that the Council will oppose the loss of houses to other uses and will resist any development that will be detrimental to the amenity of those areas. Policy RES6 notes that developments must relate satisfactorily to neighbouring properties in terms of scale, materials and massing. Development should also be of a good quality design.
- 3.1.2 Policy DM1 – Development Management – is also relevant and requires all planning applications 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. Developments should enhance the quality and appearance of the local environment and when assessing planning applications, the Council will require proposals to comply with a number of criteria.
- 3.1.3 Policy DM4 – House Extensions and Alterations – provides detailed criteria with respect to house extensions and alterations. Proposals should have regard to the character of existing dwellings and the wider area in terms of their scale, design and materials. Proposals should not dominate or overwhelm the existing dwelling or neighbouring dwelling and should not adversely affect neighbouring properties in terms of privacy, sunlight or daylight. House extensions should retain adequate off street car parking and useable garden ground.

3.2 Planning Background

- 3.2.1 A proposal of this nature within the curtilage of a dwelling would in many instances be regarded as permitted development. However in this instance the property relates to a 4 in a block upper cottage flat. Under the terms of current planning legislation a flat has no permitted development, and as such planning consent is required.
- 3.2.2 In addition, an application of this scale would normally be delegated however under the terms of new legislation which came into force in 2009 applications where the Council has an ownership or financial interest require to be considered by Committee. The property subject to the application is a Council house and therefore requires to be determined by Committee.

4 **Consultation(s)**

- 4.1 **Housing Services** - were consulted in respect of this application as the proposal relates to a Council property and have confirmed that they have no objections to the proposals providing that the gate and steps located on the communal area are removed.
- Response:** Noted. The proposals have been amended so that nothing is located on the communal area and this matter can be conditioned as part of any consent granted.

5 **Representation(s)**

- 5.1 Statutory neighbour notification was undertaken following which one letter of objection was received from the downstairs neighbour. The grounds of objection can be summarised as follows:

- (a) **The neighbour is concerned that the timber decking looks directly into her property resulting in a loss of amenity.**

Response: The applicants who have the upstairs flat have been allocated the side garden and half the rear garden. To the side of the dwelling is the downstairs neighbour's bedroom window and a communal footpath. As such irrespective of the decking anyone in the side garden has the ability to look into the objector's property. However it should be noted that given the low level of the decking the existing situation is not exacerbated by the proposal and there is no resultant increase in the loss of amenity due to the decking.

Also relevant is the fact that there is already a high degree of overlooking of garden areas from flats on the upper level.

- (b) **The front fence should be reduced in height to the same height as the existing gate and the steps removed from the communal pathway.**

Response: The fence is the same height as the dividing fence with the adjoining proprietors. The fence is also far enough removed from the objector's window to ensure that it has no impact in respect of loss of natural light to the bedroom. Following discussions with the Planning Service the applicant has removed the steps accessing the decking from the communal path and repositioned them to the rear of the deck.

- (c) **The applicants have wood and a bin blocking the communal pathway.**

Response: This is a private matter to be resolved between the parties. The applicant has advised however that the pathway is now free from any obstruction.

This letter has been copied and is available for inspection in the usual manner and on the Planning Portal.

6 Assessment and Conclusions

- 6.1 The applicant has submitted a retrospective application for an area of timber decking located to the side of the dwelling, the erection of a 1.8 metre high fence across the front and down the side of the decking and the erection of a large garden shed positioned within the rear garden. The determining issues in the consideration of this application are its compliance with the adopted local plan policies and its impact on the amenity of the adjacent properties.
- 6.2 The site is located within a predominantly residential area where Policies RES6, DM1 and DM4 of the adopted local plan apply. These policies resist development which would be detrimental to amenity. They also state that all applications should aim to enhance the quality and appearance of the local environment and take account of the local context and built form. In particular proposals should not be over dominant, result in a significant loss of privacy or daylight, should retain adequate car parking and useable garden ground and should not have an adverse impact on traffic or public safety.
- 6.3 When granting consent Planning Authorities sometimes have to ensure that a proper balance is struck between competing interests and that any restriction on one person is proportionate to the benefit of the other. In this instance, it is considered that the impact on privacy will not be materially worse than when compared with the existing situation. In addition it is considered that any potential screening along the boundary to the window would result in an unacceptable position for the objector.
- 6.4 As highlighted above (paragraph 3.1) the applicant has removed the steps from the communal path and repositioned them to the rear of the decking. Given the above it is considered that the decking does not materially affect the existing levels of amenity or privacy in respect of the downstairs property. The fence and garden shed are considered to be appropriate in terms of design and location and raise no issues in regard to amenity. Indeed these structures are relatively common in residential areas. As such it is considered that the proposal satisfactorily complies with the above policies.
- 6.5 Housing Services have confirmed that they have no objections to the works however following neighbour notification one letter of representation was received in respect of the proposal. The points raised have been summarised and discussed in detail in Section 3. These concerns however are not considered sufficient to merit that the application be refused.
- 6.6 The fact that this submission is retrospective is due to the applicants originally being unaware of the need to gain planning permission and in line with planning legislation the submission of retrospective applications is permissible (in terms of Section 33 of the 1997 Planning (Scotland) Act) and such applications require to be dealt with in the same way as any other application.
- 6.7 Overall the proposal raises no issues with adopted Local Plan policy or amenity and it is therefore recommended that retrospective planning permission be granted.

7 Reason for Decision

- 7.1 The proposal has no adverse impact on either residential or visual amenity and complies with the provisions of Policies RES6, DM1 and DM4 of the adopted South Lanarkshire Local Plan.

Colin McDowall
Executive Director (Enterprise Resources)

28 November 2011

Previous References

- ◆ None

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Plan

- ▶ Representations

Representation from : Lorraine Ferguson, (by e-mail) DATED 09/09/2011

Contact for Further Information

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

Christina Laird, Planning Officer, Montrose House, Hamilton
Ext 3611 (Tel :01698 453611)
E-mail: planning@southlanarkshire.gov.uk

Detailed Planning Application

PAPER APART – APPLICATION NUMBER : HM/11/0378

CONDITIONS

- 1 This decision relates to drawing numbers: Plan1, Plan 2 and Plan3
- 2 That the development shall be carried out strictly in accordance with the plans hereby approved and no change to the design or external finishes shall take place without the prior written approval of the Council as Planning Authority.
- 3 That the steps coloured GREEN on the plan hereby approved shall be removed from the communal path and repositioned to the rear of the decking and thereafter maintained there to the satisfaction of the Council as Planning authority.

REASONS

- 1 For the avoidance of doubt and to specify the drawings upon which the decision was made.
- 2 In the interests of amenity and in order to retain effective planning control.
- 3 In the interests of amenity and in order to retain effective planning control.

For information only

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