

Report

Report to:	Planning Committee
Date of Meeting:	3 November 2020
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	P/20/0311
Planning proposal:	Raising of rear garden levels (in retrospect) and erection of 1.8 m high fence on platform

1 Summary application information

Application type:	Householder
Applicant:	Mr David Fallis
Location:	3 Wentworth Gardens East Kilbride G74 5PY

2 Recommendation(s)

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

- (1) Grant detailed permission (subject to conditions) based on the conditions attached.

2.2 Other actions/notes

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

3 Other information

- ◆ Applicant's Agent:
- ◆ Council Area/Ward: 09 East Kilbride West
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan (2015)**
Policy 4: Development Management and Placemaking
Policy 6: General Urban Area/Settlements

Development Management, Placemaking and Design Supplementary Guidance (2015)
Policy DM13: Development within General Urban Area/Settlement

**Proposed South Lanarkshire Local
Development Plan 2**
Policy 3: General Urban Areas
Policy 5: Development Management and
Placemaking

◆ **Representation(s):**

▶	7	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

◆ **Consultation(s):**

Flood Risk Management Team

Building Standards

Planning Application Report

1 Application Site

- 1.1 The application site relates to the rear garden area of a modern detached house at 3 Wentworth Gardens, East Kilbride. The garden area lies to the rear of the building and has a downhill gradient which runs from the rear elevation of the dwellinghouse, downwards towards the rear boundary fence. The rear garden is separated from neighbouring gardens by a 1.8m high, double slatted, timber boundary fence. The application site lies within an established residential area. The property is bounded to the north, south and west by neighbouring residential properties.

2 Proposal(s)

- 2.1 The applicant seeks retrospective planning permission for the raising of ground levels by up to 680mm within the rear garden of the dwellinghouse. The raising of ground levels in the rear garden has resulted in the gradient in the garden being levelled.
- 2.2 Planning permission is also sought to increase the height of the boundary fence on three sides of the rear garden to 1.8m above the raised ground level. This would increase the height of the rear boundary fence to 2.5m at its highest point reducing to 2.2m at its lowest point. The existing boundary fence is double slatted. The proposal would increase the height of the slats on both sides of the side boundary fences. Furthermore, the proposal would also increase the height of the slats within 3 Wentworth Gardens on the rear boundary fence. The slats on the opposite side of the rear boundary fence at 18 and 20 Callaghan Crescent would remain at their current height.

3 Background

3.1 Local Plan Status

- 3.1.1 In determining this planning application, the Council must assess the proposed development against the policies contained within both the South Lanarkshire Local Development Plan (2015) and Supplementary Guidance (SG) produced in support of the SLLDP.
- 3.1.2 In land use terms, the application site is identified within the SLLDP as being within a general residential area. Policy 6 (General Urban Area/Settlements) is applicable and states that residential developments and those of an ancillary nature may be acceptable within urban areas and settlements, provided they do not have a significant adverse effect on the amenity and character of the area. Developments that will be detrimental to residential amenity will not be permitted.
- 3.1.3 Policy 4 (Development Management and Place Making) of the SLLDP is also considered to be relevant and requires all development proposals to take account of, and be integrated with, the local context and built form.
- 3.1.4 Policy DM13 (Development within General Urban Area/Settlement) is contained within the Development Management, Place Making and Design Supplementary Guidance, and is also relevant to this proposal. This policy states that proposals for the urban area will be considered favourably where they comply with set criteria. This includes the requirement for the siting, form, scale, massing and materials to respect the character of the adjacent surrounding development.

3.1.5 On 17 August 2020, the Directorate for Planning and Environmental Appeals issued its report of the Examination of the proposed South Lanarkshire Local Development Plan 2 (LDP2). For the purposes of determining planning applications, the Council will continue to assess proposals against the policies contained within the adopted South Lanarkshire Local Development Plan and those within the proposed South Lanarkshire Local Development Plan 2 alongside the Reporters recommendations. A separate report on the outcome of the Examination of the proposed SLLDP2 which recommends that the modifications suggested by the Reporter are accepted is included elsewhere on the agenda for this committee meeting. They are, therefore, a material consideration in determining planning applications.

3.2 **Relevant Government Advice/Policy**

3.2.1 Given the nature of the proposal, there is no specific government guidance relative to the determination of this application.

3.3 **Planning Background**

3.3.1 Erection of single storey rear extension (EK/16/0241) – approved.

4 **Consultation(s)**

4.1 **Building Standards** No issues were raised with regards to the works to level the gradient within the rear garden

Response: Noted

Flood Risk Management Team Have considered the claim that the raising of the garden ground has increased the run-off from the application site into the adjoining properties in Callaghan Crescent. The original ground levels of the garden area drainage and the difference in levels between the application site and adjoining properties would have already resulted in water naturally flowing down from the higher garden into the properties of Callaghan Crescent. They have noted evidence of the presence of water flowing into the lower gardens since the groundworks were carried out. However, it is not unreasonable to assume that excavating in this area prior to the completion of these garden works would present a similar situation.

Taking account of the specifications and methodology of the work that has been carried out, they conclude that the garden reprofiling carried out within No.3 Wentworth Gardens has not increased the flood risk to Callaghan Crescent.

Response: Noted. It is likely that water within the infilled area will percolate through the ground and will follow its original natural fall. In addition, the volume of water will be unchanged.

5 **Representation(s)**

5.1 Statutory neighbour notification was undertaken. Seven letters of objection were received, the points of which are summarised below:-

a) **The boundary fence will increase in height from 1.8m to over 2m, which is above the maximum recommended fence height.**

Response: In this location, permitted development rights afford the property owner the right to erect a fence of up to 2m in height without seeking planning permission from the Council. As the proposed fence is over 2m in height, planning permission is required. The impact of the fence is assessed in the Assessment and Conclusions Section below.

- b) **The higher fence will affect the appearance of the fence at the back of the property – as only a partial part of the fence will be raised.**

Response: Noted. The appearance of the fence will be considered in the Assessment and Conclusions section below.

- c) **We do not know what materials have been used to increase the height of the garden and whether these materials are in fact suitable to be placed next to the fence.**

Response: Noted. In response to this representation, the applicant submitted technical information regarding the design of the earthworks, which were subsequently published on the Planning Portal. Building Standards have assessed the technical drawings and have raised no issues with the design.

- d) **At this time, we have a fence which at our own cost we placed small gap fillers to increase privacy. The proposal will only have single fence slats which will result in us losing privacy.**

Response: Noted. The issue of loss of privacy is assessed in the Assessment and Conclusions section below.

- e) **Raising the height of the fence will have an impact on the light in our garden.**

Response: Noted. An overshadowing assessment has been carried out. The results are considered in the Assessments and Conclusions section below.

- f) **The proposal has increased surface water runoff into my garden. This has resulted in the objector having to install drainage to support the existing drainage system.**

Response: The Flood Risk Management Team has been consulted on this application. As noted in the summary of their response above, they have concluded that, based on the specification of the work carried out and observations of the original and new ground levels, there is not an additional flood risk associated with the proposals.

- g) **The proposal may damage the fence.**

Response: Damage to the fence is a separate legal matter. Site visits provided no evidence that the fence has been damaged or will be damaged because of the proposal. The submitted technical drawings show that the low-level retaining wall is not attached to the boundary fence.

- h) **I built the boundary fence at 18 Callaghan Crescent and do not give consent for alterations to the fence.**

Response: Planning permission is one requirement of the development process. The issue of legal ownership of the fence and the rights to alter the fence are a separate legal matter. This application will determine whether the proposal is acceptable within the context of planning policy and guidance on

this type of development. Legal disputes regarding the alteration of the fence are a not a planning matter.

5.2 These letters are available for inspection on the planning portal.

6 Assessment and Conclusions

6.1 The applicant seeks retrospective planning consent for the raising of ground levels to the rear of the dwellinghouse at 3 Wentworth Gardens, East Kilbride and an associated increase in the height of the boundary fence at the property. The main planning considerations in determining the application are whether the proposal complies with the development and the impact on the residential amenity and character of the area.

6.2 In determining this planning application, the Council must assess the proposed development against the policies contained within both the South Lanarkshire Local Development Plan (2015) and Supplementary Guidance (SG) produced in support of the SLLDP. Policies 4 and 6 of the Local Development Plan and Policy DM13 of the Development Management, Placemaking and Design Supplementary Guidance require all development proposals to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the amenity of the area. The proposal involves increasing ground levels by a maximum of 680mm and increasing the height of the boundary fence adjacent to the groundworks by a maximum of 680mm. The proposal will result in the height of the boundary fence measuring 2.5m at its highest point. The alterations to the boundary fence will retain the same style of vertical timber slats that currently exist on the fence.

6.3 The increase in the height of the rear boundary fence at 3 Wentworth Gardens will reduce the uniformity of the fence, however, it is not considered that this will have a significant adverse impact upon the character or the amenity of the area. The fence will be of a similar timber design and due to its location at the rear of the properties, the fence will have no impact upon the local streetscape. The increase in the height of the slats on only one side of the rear boundary fence will alter the appearance of the fence, however, given that the proposal is to retain the same design of slats, the overall appearance of the fence along the rear boundary will be of a similar design. The fact that the slats on one side of the fence will be up to 680mm higher than the other is not considered to have a significant adverse impact upon the character or the amenity of the area. Furthermore, in considering the above, the proposal is not considered to have a significant adverse effect on adjacent buildings or streetscape in terms of layout, scale, massing, design or external materials.

6.4 In assessing the impact of the proposal upon residential amenity, consideration must be given to the potential for overlooking and loss of privacy. The groundworks have resulted in the raising of ground levels at the rear boundary by between 400mm to 680mm, which will in effect reduce the screening capability of the existing boundary fence. The proposed increase in the height of the boundary fence will, however, restore its screening capability, effectively restoring the height of the fence to 1.8m when measured from the raised ground level within 3 Wentworth Gardens. One of the objectors states that the top 400mm of fence will be single slatted and, as such, this would result in a loss of privacy compared to the current design which is double slatted. Single slatted fences are a standard form of fence design for rear gardens within residential estates. It is therefore considered that the upper section

of the fence being constructed with a single slat design will not result in an unacceptable reduction in privacy. In these circumstances, it is considered that the proposal does not have a significant adverse impact on overlooking or privacy. It is noted that a representation was made regarding legal ownership of the boundary fence and raising the possibility that adjacent properties would not agree to raise the height of the fence, however, this is a separate legal matter.

- 6.5 A detailed assessment of the impacts that the proposal will have on overshadowing has been carried out. The assessment established that the existing fence already overshadows the rear gardens of two properties on Callaghan Crescent (No.18 and No.20) and the rear garden of 5 Wentworth Crescent. As the gardens of No.18 and No.20 Callaghan Crescent are east facing, overshadowing associated with the existing boundary fence occurs every morning until midday. At those times where overshadowing occurs as the result of the fence, the overshadowing effect of the proposed increase in fence height will be negligible. In these circumstances, the proposal will not result in unacceptable levels of overshadowing.
- 6.6 Representations were received which raise concerns that the change in ground levels at 3 Wentworth Gardens has increased the volume of surface water entering the rear gardens of 18 and 20 Callaghan Crescent. The Flood Risk Management Team has been consulted on the application. Having reviewed the representations made on the application and the information provided by the applicant, the Flood Risk Management Team has determined that it is not conclusive that the garden reprofiling carried out within No.3 Wentworth Gardens has increased the flood risk to Callaghan Crescent, especially given that the rear garden of the application site previously sloped down towards the properties in Callaghan Crescent.
- 6.7 In conclusion, it is not considered that any of the neighbouring properties would be adversely affected in terms of overshadowing/loss of daylight or that the proposals have significantly increased surface water run-off into adjoining gardens. In addition, the general amenity of these properties and that of the surrounding area would not be significantly adversely affected by the proposed development. The proposed development is, therefore, considered to be in accordance with Policies 4 and 6 of the adopted South Lanarkshire Local Development Plan, Policy DM13 of the Development Management, Placemaking and Design Supplementary Guidance and Policies 3 and 5 of the proposed South Lanarkshire Local Development Plan 2. It is recommended that planning permission be granted.

7 Reasons for Decision

- 7.1 The proposal does not have an adverse impact on residential or visual amenity. It complies with Policies 4 and 6 of the adopted South Lanarkshire Local Development Plan and Policy 13 of the associated Supplementary Guidance.3: Development Management, Placemaking and Design and Policies 3 and 5 of the proposed South Lanarkshire Council Development Plan 2. There are no other additional material considerations which would justify refusing to grant planning permission.

Michael McGlynn
Executive Director (Community and Enterprise Resources)

22 October 2020

Previous References

- ◆ None

List of Background Papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated

- ▶ Consultations
 - Flood Risk Management Team 25/09/20
 - Building Standards 22/06/20

- ▶ Representations Dated:
 - Mr And Mrs A Melrose, 20 Callaghan Crescent, East Kilbride, G74 5PS 30.03.2020
 - Mr Arthur Melrose, 20 Callaghan Crescent, East Kilbride, Glasgow, South Lanarkshire, G74 5PS 24.03.2020
 - Mark Campbell, Received Via E-mail 06.04.2020
 - Mr Arthur Melrose, 20 Callaghan Crescent, East Kilbride, Glasgow, South Lanarkshire, G74 5PS 15.07.2020
 - Mr Mark Campbell, No Address Provided 17.07.2020
 - Mr Arthur Melrose, 20 Callaghan Crescent, Jackton, East Kilbride, G74 5PS 04.09.2020
 - Arthur Melrose, 20 Callaghan Crescent, East Kilbride, Glasgow, South Lanarkshire, G74 5PS 05.10.2020

Contact for further information

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

Byron Sharp, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: 01698 455273

Email: byron.sharp@southlanarkshire.gov.uk

Detailed planning application

Paper apart – Application number: P/20/0311

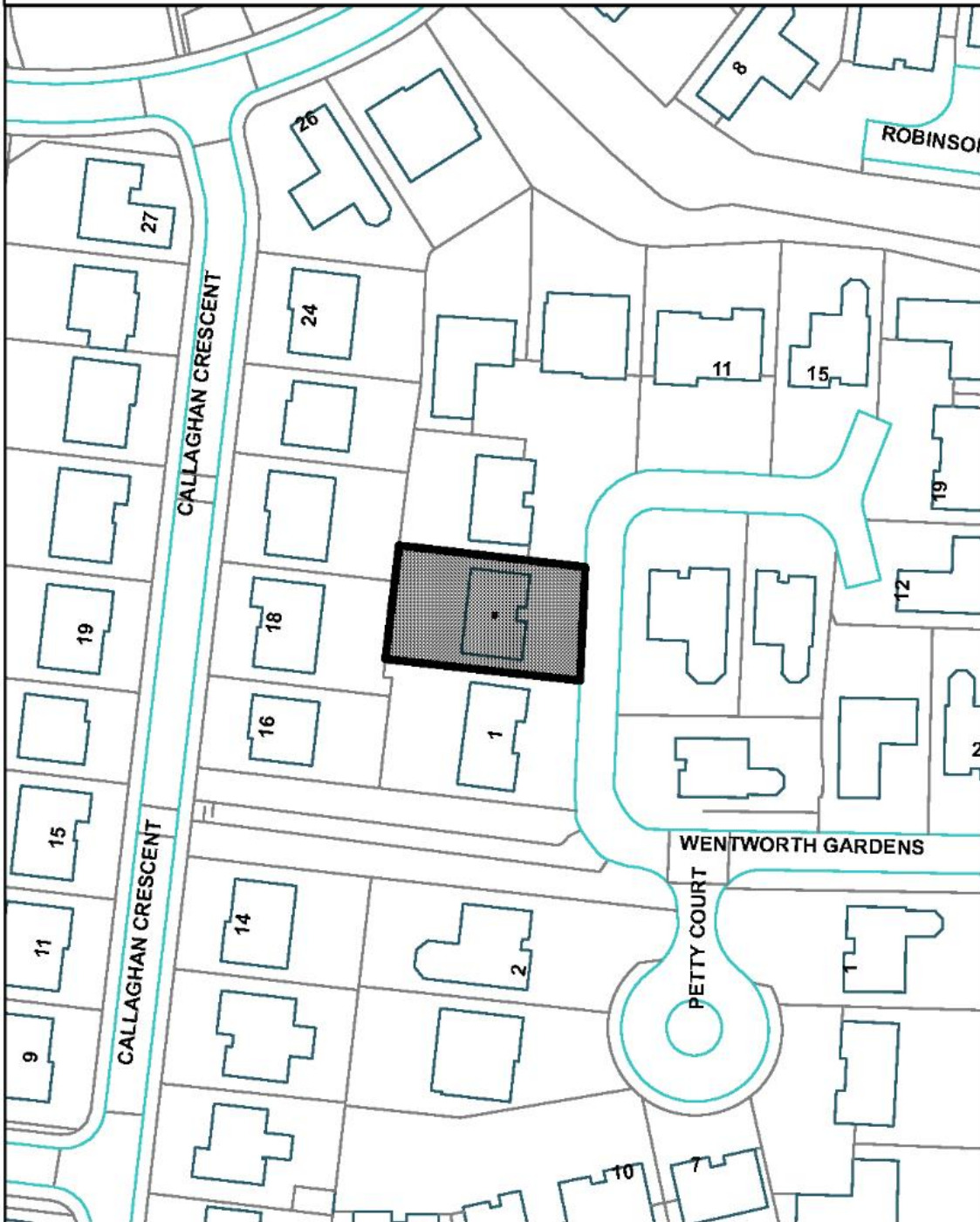
Conditions and reasons

1. That the height of the boundary fence shall be increased to the specification shown in the approved plans within two months of the decision notice being issued

Reason: To protect privacy standards

P/20/0311

3 Wentworth Gardens East Kilbride



© Crown copyright and database rights 2019 OS
100029730. You are permitted to use this data solely
to enable you to respond to, or interact with, the
organisation that provided you with the data. You are
not permitted to copy, sub-licence, distribute or sell
any of this data to third parties in any form.



Scale:
1:750
Date:
06/10/2020



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development