

EAST RENFREWSHIRE COUNCILPLANNING APPLICATIONS COMMITTEE7th June 2023Report by Director of EnvironmentSection 33A notice requiring the submission of a retrospective planning application for outbuildings and a fence erected at 29 East Kilbride Road, Busby, G76 8JY**1. INTRODUCTION**

- 1.1. This report is to request that Members authorise the service of a notice under Section 33A of the Town and Country Planning (Scotland) Act 1997 in relation to development that has already taken place without the appropriate planning permission at 29 East Kilbride Road, Busby, G76 8JY.

2. BACKGROUND

- 2.1 The Council's Planning Service first received a complaint in relation to an outbuilding being erected within the garden ground associated with 29 East Kilbride Road in March 2023. The matter was investigated and a site visit was carried out on 16th March.
- 2.2 At the time of the site visit a large timber outbuilding was currently under construction. The outbuilding was of a scale and height that met the permitted development requirements of Class 3A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended due to its position from the boundary, however the outbuilding sits forward of the principal elevation of the house where that elevation faces a road and therefore requires planning permission.
- 2.3 The landowner was advised in writing that planning permission was required for the outbuilding and a retrospective planning application was submitted by the landowner on the 17th March 2023. The application was withdrawn on the 18th March 2023 as the landowner was of the view that the outbuilding fell within permitted development.
- 2.4 The outbuilding has since been divided in to two buildings to avoid the requirement for a building warrant application however planning permission is still required due to the position of the outbuildings in relation to the property and the road.
- 2.5 An email sent from the planning service on the 31st March advised the landowner that formal action would be considered if an application was not submitted before Friday the 14th April. The landowner declined submitting an application and confirmed that he was taking legal advice on the matter.
- 2.6 Further complaints have been received from nearby residents and a site visit on the 9th May 2023 confirmed that a timber fence approximately 2m in height has been erected at the front of the property which would also require retrospective planning permission.
- 2.7 A Section 33A notice can be issued on the owner of land requiring the submission of a retrospective planning application where development has been carried out without planning permission. Whilst there are no penalty provisions for failing to comply with this notice it constitutes enforcement action under the relevant legislation and leaves

it open to the planning service to pursue further action in terms of an enforcement notice at any time

- 2.8 It should be noted that there is no right of appeal to the Scottish Ministers in relation to the service of this type of notice.

3. CONCLUSIONS

- 3.1. The landowner at the property at 29 East Kilbride Road, Busby has erected two outbuildings and a timber fence approximately 2m in height within the garden of the property.
- 3.2. In order to address the unauthorised works and regularise the development, a Section 33A notice is considered appropriate and necessary in this case.

4. RECOMMENDATION

- 4.1 Members are requested to authorise the service of a Section 33A notice requiring the submission of retrospective planning application in terms of the Town and Country Planning (Scotland) Act 1997 for the erection of outbuildings and a fence within the garden ground associated with the property at 29 East Kilbride Road, Busby, G76 8JY.

5. BACKGROUND PAPERS:

- 5.1 Further information on background papers can be obtained from Mr Alan Pepler on 0141 577 3001.

DATE: 24th May 2023

DIRECTOR OF ENVIRONMENT