

# Public Document Pack



To: Councillor Stewart, Chairperson, the Depute Provost; and Councillors Avril MacKenzie and Wheeler.

Town House,  
ABERDEEN 11 February 2020

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet at the Town House reception at **1pm on THURSDAY, 20 FEBRUARY 2020 at 1.00 pm in order to visit the application site.** Members will then return to the Town House for determination.

FRASER BELL  
CHIEF OFFICER - GOVERNANCE

### **BUSINESS**

1.1 Procedure Notice (Pages 3 - 4)

**COPIES OF THE RELEVANT PLANS / DRAWINGS ARE AVAILABLE FOR INSPECTION IN ADVANCE OF THE MEETING AND WILL BE DISPLAYED AT THE MEETING**

**MEMBERS PLEASE NOTE THAT THE FOLLOWING LINK WILL TAKE YOU TO THE LOCAL DEVELOPMENT PLAN.**

[Local Development Plan](#)

**TO REVIEW THE DECISION OF THE APPOINTED OFFICER TO REFUSE THE FOLLOWING APPLICATIONS**

**PLANNING ADVISER - AOIFE MURPHY**

- 2.1 Erection of single storey extension to rear with terrace above and external access stair - 20 Kirk Crescent South, Aberdeen, 190691
- 2.2 Delegated Report, Original Application Form, Decision Notice and Letters of Representation (Pages 5 - 44)  
Members, please note that all plans and supporting documents relevant to the review can be viewed online at the following link by entering the application reference number:-  
  
190691  
<https://publicaccess.aberdeencity.gov.uk/online-applications/search.do?action=simple&searchType=Application>
- 2.3 Planning Policies Referred to in Documents Submitted (Pages 45 - 46)
- 2.4 Notice of Review with Supporting Information Submitted by Applicant (Pages 47 - 66)  
Members, please note that all plans and supporting documents relevant to the review can be viewed online at the following link by entering the application reference number:-  
  
Ref Number 190691  
<https://publicaccess.aberdeencity.gov.uk/online-applications/search.do?action=simple&searchType=Application>
- 2.5 Determination - Reasons for Decision  
Members, please note that reasons should be based against Development Plan policies and any other material considerations.
- 2.6 Consideration of Conditions to be Attached to the Application - if Members are Minded to Over-Turn the Decision of the Case Officer

Website Address: [www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk)

Should you require any further information about this agenda, please contact Lynsey McBain on [lymcbain@aberdeencity.gov.uk](mailto:lymcbain@aberdeencity.gov.uk) / tel 01224 522123

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

### PROCEDURE NOTE

#### GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations shall be carried out in stages.
3. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
4. Once a notice of review has been submitted interested parties (defined as statutory consultees or other parties who have made, and have not withdrawn, representations in connection with the application) will be consulted on the Notice and will have the right to make further representations within 14 days.  
Any representations:
  - made by any party other than the interested parties as defined above (including those objectors or Community Councils that did not make timeous representation on the application before its delegated determination by the appointed officer) or
  - made outwith the 14 day period representation period referred to abovecannot and will not be considered by the Local Review Body in determining the Review.
5. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
6. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
  - (a) written submissions;
  - (b) the holding of one or more hearing sessions;
  - (c) an inspection of the site.

7. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
8. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

#### DETERMINATION OF REVIEW

9. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.
10. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-
 

“where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
11. In coming to a decision on the review before them, the LRB will require:-
  - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
  - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
  - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
12. In determining the review, the LRB will:-
  - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
  - (b) overturn the appointed officer’s decision and approve the application **with or without appropriate conditions**.
13. The LRB will give clear reasons for its decision. The Committee clerk will confirm these reasons with the LRB, at the end of each case, in recognition that these will require to be intimated and publicised in full accordance with the regulations.



## Strategic Place Planning

Report of Handling

<b>Site Address:</b>	20 Kirk Crescent South, Aberdeen, AB15 9RR
<b>Application Description:</b>	Erection of single storey extension to rear with terrace above and external access stair
<b>Application Ref:</b>	190691/DPP
<b>Application Type:</b>	Detailed Planning Permission
<b>Application Date:</b>	24 April 2019
<b>Applicant:</b>	Mr Gordon Dewar
<b>Ward:</b>	Lower Deeside
<b>Community Council:</b>	Cults, Bielside and Milltimber
<b>Case Officer:</b>	Ross McMahon

### RECOMMENDATION

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Refuse

### APPLICATION BACKGROUND

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#### Site Description

20 Kirk Crescent South is a one-and-a-half storey detached dwelling with a western facing principal elevation. The property has an integrated single garage covered within the 1989 grant of planning permission (see planning history below) and there is a large rear garden to the east of the property.

The site is bounded to the north by 5 Kirk Drive, a two-storey dwelling with its principal elevation to the north and its garden area to the west (i.e. side) rather than the rear of the dwelling. Whereas to the south, 18 Kirk Crescent South provides accommodation over one-and-a-half floors and occupies a corner plot with the garden area to the rear.

In terms of characterisation, no one style of form of dwelling is prevalent in the area. There have been extensions to dwellings in the area, principally to the rear, typically single-storey.

The site is located within a Residential Area as shown on the Proposals Map to the Aberdeen City Local Development Plan 2017.

#### Relevant Planning History

Application Number	Proposal	Decision and Date
890449	Extension to dwelling	Approved 27.04.1989
170422/DPP	Single storey extension to rear	Approved 09.06.2017

181858/DPP	Erection of single storey extension to rear with terrace above and external access stair	Withdrawn 20.12.2018
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## APPLICATION DESCRIPTION

### Basis of Application

The Applicant was advised by correspondence of the 20<sup>th</sup> of June 2019 that the length of the extension should be reduced (i.e. in line with the drawing appended to the covering letter), together with the omission of the roof top terrace and external staircase. The Applicant notified the Local Planning Authority on the 28<sup>th</sup> of June 2019 the intention that the Application should progress as submitted.

### Description of the Proposed Development

In brief, planning permission is sought for the erection of a single-storey flat roofed extension to the rear (north-east) elevation of the dwelling. The roof of the extension would act as a roof top terrace that is surmounted by a glass balustrade and is accessed via an external staircase.

### Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PQGJRYBZN4200>

- *Supporting Statement*

## CONSULTATIONS

### Cults, Bielside, and Milltimber Community Council

#### Response 2<sup>nd</sup> June 2019:

While we would normally avoid involvement in neighbour disputes it does appear that infringement of privacy is an issue in this case and trust that it will be given due weight in the eventual determination of this matter. We understand that the neighbour has no objection to the single storey extension per se.

#### Response 26<sup>th</sup> June 2019:

Further to my letter of 2 June 2019 I have now had the opportunity to meet with the applicant Mr Gordon Dewar at his property. While the issue of privacy is clearly a concern to his neighbour, I am satisfied that Mr Dewar is very keen to do anything reasonably practicable to allay his concerns which I think may be perceived rather than real.

## REPRESENTATIONS

One representation has been received (objection). The matters raised can be summarised as follows:

Objects only to the roof terrace for the reasons of invasion of privacy and loss of amenity and cites:

- It has the size capacity to allow many people to assemble outside at height
- It is located immediately adjacent to our property
- It is located at the same upstairs height as our adjacent bedroom and other private rooms, and associated windows;
- It has the capacity to overlook our private garden patio areas and public rooms; and

- The external staircase is closer again to our property, with further disturbance potential when moving people and materials up and down the stairs.

## **PLANNING POLICY FRAMEWORK AND MATERIAL CONSIDERATIONS**

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### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, unless material considerations indicate otherwise.

### **Aberdeen City and Shire Strategic Development Plan (2014) (SDP)**

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

The Strategic Development Plan 2014 is now beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

### **Aberdeen City Local Development Plan (2017) (ALDP)**

- Policy D1 – Quality Placemaking by Design
- Policy H1 – Residential Areas

### **Supplementary Guidance (SG)**

- Householder Development Guide

## **EVALUATION**

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### **ABERDEEN CITY AND SHIRE STRATEGIC DEVELOPMENT PLAN (2014) (SDP)**

In terms of assessment against the SDP, due to the small scale of this proposal the proposed development is not considered to be strategic or regionally significant, or require consideration of cross-boundary issues and, therefore, does not require consideration against the SDP.

### **MAIN ISSUES**

The main issues in this matter are; firstly, the principle of the proposed development; secondly, whether the proposed development in its detailed form would harm the host dwelling / character and appearance of the area; and thirdly, the effect of the proposed roof terrace on the living conditions of neighbouring residents with regard to noise, disturbance and privacy.

### **Principle of the Proposed Development**

ALDP policy H1 addresses those parts of the City designated as residential areas and in principle will support new residential development where, in part, it does not constitute overdevelopment and/or have an unacceptable impact on the character and amenity of the surrounding area.

Therefore, the principle of the proposed development is deemed acceptable subject to the provisions of ALDP policy H1 and other relevant policies, Supplementary Guidance: Householder Development Guide (hereafter referred to as SG).

### **Impact upon the Host Building and the Character and Appearance of the Area**

The character of an area is more than the visual flow of the type of buildings and their associated materials; it also embraces the juxtapositions between buildings, their setting and the spaces they create.

Both ALDP policies D1 and H1, together with the SG seek to ensure that due regard is had to the impact of development upon the character and appearance of its environs (i.e. context), which includes impact upon the host building in its entirety.

The SG as a principle states that...*any extension or alteration proposed should not serve to overwhelm or dominate the original form of the or appearance of the dwelling and should be visually subservient in terms of height, scale and mass.*

The proposed extension taken in isolation (excluding the roof top terrace, external staircase) is not unattractive and the external finishes including doors and windows are largely unobjectionable in themselves. However, good design when considering the degree of extensions or alterations to be undertaken should have regard to the host dwelling, setting, and in turn local character. It is considered that this was not properly taken into account when considering the degree of extension and alteration to be undertaken. The extant planning permission issued in 2017, despite the comments of the Applicant for the reason set out under the heading of 'Fall-Back', is a factor in the assessment of this issue and cannot be "discarded".

The external staircase has a clear industrial feel and this utilitarian form carries no design aesthetic with regard either to the proposed extension or the host dwelling. This is exemplified on Drawing no/ 335(GA)004 Rev A, where in elevation it appears as a 'fire escape staircase', and the north-east elevation shows the staircase and part of the balustrade immediately outside and halfway up a bedroom window. This aspect of the scheme is an incongruous feature to the extension and host dwelling, and is therefore contrary to policies D1, H1 and the SG of the ALDP.

The extension itself adds some 8 metres to the length of the host dwelling (resulting in a 14 metre projection overall from the dwellings original rear elevation) thereby increasing its current length by some 60%, which in plan view changes what is in essence a simple stepped hipped roofed dwelling to a residence with a clear longitudinal emphasis and with the exercised and extant permission subsumes the original dwelling. One of the aims of the SG is to prevent the incremental expansion of traditional buildings. Therefore, this aspect of the extension is contrary to advise within the SG, policies D1 and H1 of the ALDP.

In terms of design, the extension draws no architectural reference from the host dwelling, and whilst modern extensions can set new standards and add another layer of interest to the host dwelling, this is dependent upon high design quality and understanding of its relationship to the host dwelling and context. The extension fails in both regards. The design quality of the staircase and the balustrade sit stridently against the dwelling and the development as a whole appears as a bolt on addition that conflicts with the eaves line of the rear of the dwelling producing an extension that dominates rather than being subservient to the host dwelling.

Whilst certain elements of the development might, on balance be acceptable, taken as a whole, they visually compound the host dwelling and the resulting development harms both the host dwelling and character of the area and is therefore at variance with policies D1, H1 and the SG of the ALDP.



## **Amenity**

It is accepted that privacy and the protection of general amenity constitutes a material consideration in determining development proposals and is an important design objective in ensuring that residents of properties bounding any development site and those occupying new accommodation feel at ease within and outwith their dwellings.

There is a recognition that within suburban environments there will be a degree of overlooking between dwellings and surrounding garden/amenity areas, particularly from above ground floor level albeit almost exclusively from windows. Such views tend to be oblique and where these views are direct, their impact is mitigated by adequate separation distances created by gardens/amenity areas backing onto each other, topography of the land, existing built forms (e.g. boundary walls), or by appropriate design solutions. Policies D1 and H1 of the ALDP which together amongst other things aim to protect the living conditions of all residents are relevant.

The roof terrace 'sits' above the proposed ground floor kitchen extension and is accessed via an external staircase. The roof terrace extends from the rear elevation by approximately 8 metres and is around 3 metres in height, and in the order of 5 metres in depth and includes a roof light servicing the kitchen below. Glazed balustrades over the roof of the kitchen are proposed to be installed on the edges of the 'open elevations'. They would be obscure glazed and 1.8 metres tall on the elevation adjoining the boundary to 5 Kirk Drive, reduced to 1 metre in height to 'south' and 'east' boundaries of the roof.

Due to the elevated position of the roof terrace it is adjacent to the shared boundary with number 5 Kirk Drive. The addition of a roof top terrace could introduce noise and disturbance to resting and sleeping areas and could usher in a new form of disquieting development into the area. However, it is noted that the garden ground to be given over to the extension could be used in such a way (i.e. terrace/sitting out area), and the increase/difference in the quantity of noise and its characteristics arising from a sitting out area at first floor level in this position is difficult to quantify. The raised terrace sits within close proximity to the eaves level of 5 Kirk Drive to its southern elevation, however, the provision of a 1.8m screen to the proposed terrace with extensive site screening beyond would likely 'contain' the lateral projection of noise in this direction to some degree, however accepting that this itself is also difficult to quantify. Taking note of the aforementioned in combination with the absence of upper floor habitable room windows directly facing the terrace (the upper floor bedroom window faces south-west), it is considered that any perceived additional noise disturbance above and beyond that which could reasonably experienced at present is unlikely to be significant to warrant being a reason for refusal of the application on residential amenity grounds.

Aside from the noise and disturbance associated with the use of the roof terrace, there is the consideration of overlooking affecting the private amenity spaces of surrounding dwellings. The negative impact of this aspect of the proposed development on the amenity currently enjoyed by neighbouring residents of their private amenity spaces (i.e. gardens) is acknowledged by the incorporation of an obscured glazed balustrade to the roof terrace.

However, the glazed balustrade does not preclude views directly into neighbouring gardens and a planning condition cannot control that users of the area should at all times be at a level below the balustrade. In addition, the knowledge that a roof terrace exists, and users could look into their gardens, does constitute a material factor in terms of the impact of development upon residential amenity.

Turning to the external staircase. The use of the staircase could cause some privacy issues. However, such incidents are likely to be transient in nature, in contrast with the overlooking occurring as the result of sitting or standing on the roof terrace for a period of time. It is

considered that planning conditions could not overcome the harm caused by the development in terms of noise or disturbance (limiting its use or activities) or overlooking.

Regarding the comments of the Community Council; residential amenity is a material consideration in the decision-taking process. This includes overlooking, noise and disturbance associated with the use of the roof terrace and perception of being overlooked. On the matter of the applicant being *keen to do anything reasonably practicable to allay his concerns which I think may be perceived rather than real*; as noted above, the most practicable action is to remove the roof terrace, which the Applicant declined to action.

Regarding the planning balance, it is considered that this aspect of the proposed development by reason of overlooking materially harms the amenity of neighbouring residential properties and is therefore contrary to policies D1, H1 and SG of the ALDP.

## **OTHER ISSUES**

### **The Fall-Back Position**

The fall-back position (i.e. what could the Applicant undertake without recourse to a new planning application) is a material consideration in the decision-taking process. Whilst the Applicant in the supporting statement has noted that the 2017 planning permission has been “discarded”, this does not remove the fall-back position in the evaluation process. Indeed, where the possibility of the fall-back position happening is slight, an outside chance, or a possibility, this will suffice to make the position a material consideration.

In this instance, the 2017 grant of planning permission is live (i.e. expires in June 2020) and where there remains a possibility, however faint that the permission could be exercised, then the 2017 permission is a formative consideration in the decision-taking process. Therefore, this permission cannot be ‘discarded’.

### **Overdevelopment**

The Applicant in the supporting documentation has equated overdevelopment to footprint coverage. Whilst the footprint is a consideration in respect of overdevelopment it is not the only one and not the determinative consideration. Overdevelopment in simple terms can be considered as an amount of development (for example the quantity of buildings or intensity of use) that is excessive in terms of impact on local amenity, character, and the resulting development as a whole.

It is considered that the scale and the proportions of the proposed extension in relation to the existing (i.e. host) dwelling and the building in its entirety, coupled to the roof top terrace and external staircase, would appear as an overdevelopment of the site, would be an incongruous addition to the host dwelling, and appear as a cramped form of development which would detract from the character of this part of the area.

It is therefore considered that this aspect of the proposed development is contrary to policies D1, H1, and the SG to the ALDP.

## **REASONS FOR RECOMMENDATION**

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1. The proposed development by reason of its composition, form, mass, scale and height will harm the character of the original dwelling and when read with the extant and exercised planning permissions will dominate the form of the host dwelling and will constitute overdevelopment. In addition, the proposed development will harm the character and appearance of the area. The proposed development therefore conflicts with policies D1

(Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan 2017 and the Council's Supplementary Guidance: Householder Development Guide.

2. The proposed roof top terrace will adversely affect the living conditions of neighbouring residents with regard to privacy and overlooking of adjacent private amenity space; contrary to policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan 2017, Supplementary Guidance: Householder Development Guide.

On the basis of the above, it is considered that there are no material planning considerations of sufficient weight that would warrant approval of the application.

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100141562-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Description of Proposal

Please describe accurately the work proposed: \* (Max 500 characters)

Proposed single storey extension with external terrace to detached dwelling

Has the work already been started and/ or completed? \*

No  Yes - Started  Yes – Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	MAC Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Jonathan	Building Name:	
Last Name: *	Cheyne	Building Number:	24
Telephone Number: *	01651 862688	Address 1 (Street): *	Oldmeldrum Road
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Newmachar
Fax Number:		Country: *	UK
		Postcode: *	AB21 0PJ
Email Address: *	info@mac-architects.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Gordon	Building Number:	20
Last Name: *	Dewer	Address 1 (Street): *	Kirk Crescent South
Company/Organisation		Address 2:	Cults
Telephone Number: *		Town/City: *	Aberdeen
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	AB15 9RR
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

Aberdeen City Council

Full postal address of the site (including postcode where available):

Address 1:

20 KIRK CRESCENT SOUTH

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ABERDEEN

Post Code:

AB15 9RR

Please identify/describe the location of the site or sites

Northing

803145

Easting

389237

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

Meeting  Telephone  Letter  Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

Planning Resubmission

Title:

Ms

Other title:

First Name:

Sheila

Last Name:

Roberston

Correspondence Reference Number:

181858

Date (dd/mm/yyyy):

14/02/2019

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Trees

Are there any trees on or adjacent to the application site? \*

Yes  No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? \*

Yes  No

If yes, please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you proposed to make. You should also show existing footpaths and note if there will be any impact on these.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

Yes  No

Is any of the land part of an agricultural holding? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Jonathan Cheyne

On behalf of: Mr Gordon Dewer

Date: 24/04/2019

Please tick here to certify this Certificate. \*



## Checklist – Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- a) Have you provided a written description of the development to which it relates? \*  Yes  No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? \*  Yes  No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? \*  Yes  No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? \*. This should have a north point and be drawn to an identified scale.  Yes  No
- e) Have you provided a certificate of ownership? \*  Yes  No
- f) Have you provided the fee payable under the Fees Regulations? \*  Yes  No
- g) Have you provided any other plans as necessary? \*  Yes  No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). \*

You can attach these electronic documents later in the process.

- Existing and Proposed elevations.
- Existing and proposed floor plans.
- Cross sections.
- Site layout plan/Block plans (including access).
- Roof plan.
- Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding.  Yes  No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. \*  Yes  No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

## Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Mr Jonathan Cheyne

Declaration Date: 26/10/2018

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## **DECISION NOTICE**

### **The Town and Country Planning (Scotland) Act 1997**

### **Detailed Planning Permission**

Jonathan Cheyne  
MAC Architects  
24 Oldmeldrum Road  
Newmachar  
AB21 0PJ

on behalf of **Mr Gordon Dewer**

With reference to your application validly received on 24 April 2019 for the following development:-

**Erection of single storey extension to rear with terrace above and external access stair  
at 20 Kirk Crescent South, Aberdeen**

Aberdeen City Council in exercise of their powers under the above mentioned Act hereby **REFUSE PLANNING PERMISSION** for the said development in accordance with the particulars given in the application form and the following plans and documents:

<b>Drawing Number</b>	<b>Drawing Type</b>
335(GA)001	Location Plan
335(GA)002 Rev A	Multiple Floor Plans (Proposed)
335(GA)003 Rev A	Site Layout (Proposed)
335(GA)004 Rev A	Multiple Elevations (Proposed)
335(GA)005 Rev A	Multiple Elevations (Proposed)

#### **REASON FOR DECISION**

The reasons on which the Council has based this decision are as follows:-

The proposed development by reason of its composition, form, mass, scale and height will harm the character of the original dwelling and when read with the extant

and exercised planning permissions will dominate the form of the host dwelling and will constitute overdevelopment. In addition, the proposed development will harm the character and appearance of the area. The proposed development therefore conflicts with policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan 2017 and the Council's Supplementary Guidance: Householder Development Guide.

The proposed roof top terrace will adversely affect the living conditions of neighbouring residents with regard to privacy and overlooking of adjacent private amenity space; contrary to policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan 2017 in addition to Supplementary Guidance: Householder Development Guide. On the basis of the above, it is considered that there are no material planning considerations of sufficient weight that would warrant approval of the application.

**Date of Signing** 11 October 2019



**Daniel Lewis**  
Development Management Manager

### **IMPORTANT INFORMATION RELATED TO THIS DECISION**

#### **DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL, AS AGREED WITH APPLICANT (S32A of 1997 Act)**

None.

#### **RIGHT OF APPEAL THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at [www.eplanning.scot](http://www.eplanning.scot).

Notices of review submitted by post should be sent to Strategic Place Planning (address at the top of this decision notice).

### **SERVICE OF PURCHASE NOTICE WHERE INTERESTS ARE AFFECTED BY A PLANNING DECISION**

If permission to develop land is refused and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development that would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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**CULTS BIELDSIDE AND MILLTIMBER COMMUNITY COUNCIL**

2 June 2019

Mr Nicholas Lawrence  
Strategic Place Planning  
Aberdeen City Council  
Business Hub 4  
Ground Floor North  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

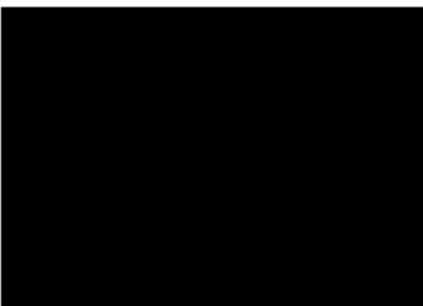
Dear Mr Lawrence

**190691 Erection of single storey extension to rear with terrace above and external access stair at 20 Kirk Crescent South**

We have been approached by the owner of the neighbouring property to the above at 5 Kirk Drive who is concerned about the potential loss of privacy arising from the inclusion of a terrace at first floor level in the above application.

While we would normally avoid involvement in neighbour disputes it does appear that infringement of privacy is an issue in this case and trust that it will be given due weight in the eventual determination of this matter. We understand that the neighbour has no objection to the single storey extension *per se*.

Yours sincerely



Colin Morsley: Planning Liaison Officer, CBMCC  
188 North Deeside Road, Milltimber, Aberdeen AB13 0HL  
☎ 01224 733108 ✉ [planning@cbmcommunity.org.uk](mailto:planning@cbmcommunity.org.uk)  
Website: [www.cbmcommunity.org.uk](http://www.cbmcommunity.org.uk)  
The CBMCC website contains our Data Protection Policy







## CULTS BIELDSIDE AND MILLTIMBER COMMUNITY COUNCIL

26 June 2019

Mr Nicholas Lawrence  
Strategic Place Planning  
Aberdeen City Council  
Business Hub 4  
Ground Floor North  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

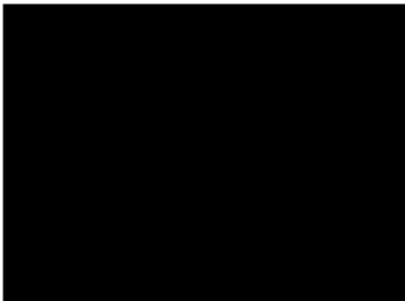
Dear Mr Lawrence

### **190691 Erection of single storey extension to rear with terrace above and external access stair at 20 Kirk Crescent South**

Further to my letter of 2 June 2019 I have now had the opportunity to meet with the applicant Mr Gordon Dewar at his property. While the issue of privacy is clearly a concern to his neighbour, I am satisfied that Mr Dewar is very keen to do anything reasonably practicable to allay his concerns which I think may be perceived rather than real.

I apologise for any confusion I may have caused.

Yours sincerely



Colin Morsley: Planning Liaison Officer, CBMCC  
188 North Deeside Road, Milltimber, Aberdeen AB13 0HL  
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Website: [www.cbmcommunity.org.uk](http://www.cbmcommunity.org.uk)  
The CBMCC website contains our Data Protection Policy

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Objections and Comments on Planning Application Ref.: 190691/DPP

20 Kirk Crescent South, AB15 9RR  
Single Storey Extension with Roof Terrace and External Stair

Overview

We are in receipt of the above planning application as we are a direct neighbour to the applicants site. We note that this application is more or less identical to the proposal previously submitted ref.181858/DPP. This earlier proposal was commented on and objected to by us, and previously refused planning permission in late 2018.

Whilst we have no objection to the construction of a single storey extension to our neighbours property we continue to have very serious concerns about the extensive nature of the external roof terrace proposed. When in use, this proposed terrace would have the potential to cause a gross invasion of our privacy and loss of amenity.

The only change to the applicants proposal compared to the earlier one is as far as we can see a 20cm increase in screen height, which partly mitigates some direct line of sight privacy issues. This however does not address the significant disturbance potential of this proposal towards our property, which is just as important an aspect of our privacy.

The size and scale of the proposed elevated terrace/patio is of particular concern. Specifically:

- It has the size capacity to allow many people to assemble outside at height
- It is located immediately adjacent to our property
- It is located at the same upstairs height as our adjacent bedroom and other private rooms, and associated windows
- It has the capacity to overlook our private garden patio areas and public rooms
- The external staircase is closer again to our property, with further disturbance potential when moving people and materials up and down the stairs

We do not believe this proposal reflects a sensitive design for this location. The proposal has significant adverse potential for disturbing our general enjoyment of our home, and for grossly impacting on our privacy and the general amenity of our home.

As shown in the applicants planning submission, our neighbours property enjoys a spacious rear garden, with plenty of scope to locate a large patio area at ground level. Such a design enhancement would largely mitigate the major concerns being introduced to our property by the applicants proposal. A much more sympathetic design for this location that addresses our concerns, and still provides the social functionality looked for is entirely feasible in our view.

Please accept this representation of objection to the roof terrace only, due to the significant adverse impact the proposal will have on the amenity, privacy and enjoyment of our property.

We would therefore respectfully request that planning permission continues to be refused for this proposal as currently configured.

The reasons for our objection are as follows;

1. Privacy, both visual and disturbance. The proposed elevated patio area has significant potential for disturbing and overlooking our private amenity space and rear facing windows of our house.

The areas primarily affected, include the immediate rear of our property and further away across the main garden area. These include a range of important public and private rooms where loss of privacy is unacceptable. Our private patio areas within the garden have been carefully located to maximise privacy due to the corner site aspect. Even with the small increase in screen height separating our properties as proposed in this revised submission, it is quite foreseeable for taller individuals to have unobstructed line of sight overlooking our property from both the proposed terrace itself and access stair landing (see Note at end of this section). The screens also do nothing to mitigate the very significant disturbance potential given the size (many people can congregate), scale and vertical elevation of the proposed terrace/patio, immediately adjacent to our property and upstairs bedrooms. This proposal, if approved, has the potential to be highly intrusive, and result in a gross loss of amenity and privacy affecting our enjoyment of our home.

The proposal also seems to rely on an immature fast growing high hedge on the north side, to provide a measure of privacy for our property from some parts of the elevated patio. This hedge is a non-permanent barrier that we have no control over. A plant (especially immature) can easily fail due to severe weather (cold temperatures, high winds etc), disease, or simply be reduced in size at any time by current or future owners. The hedge therefore does not provide an effective short or long term barrier for this major privacy concern. (See also section 6. below)

The elevation of the extension can result in people standing above our rear roof gutter height, and therefore in much closer proximity to our upper bedroom, bathroom and other upper private areas than is currently the case. Velux windows (south facing) at the rear of our property and west facing upper bedroom windows would be at a similar elevation to people standing on the proposed patio. Currently the rear roof windows and west facing bedroom windows are routinely open each day to assist with house ventilation, and particularly so on hot days when the patio is most likely to be in use. The size and elevated position of the terrace, and close proximity to our property has the potential to be highly intrusive and negatively affect our enjoyment of our home. The terrace has the potential to cause significant disturbance and associated loss of privacy and amenity.

Note: for information, the ground level privacy fencing between the rear gardens of the adjacent properties where the proposal is shown is 2m, as approved by Planning when our house was built circa 10 years ago.

2. Noise. In addition to the privacy and amenity issues, the size and scale of the extensive elevated patio area has the potential for significant numbers of people to assemble, with associated disturbance and noise nuisance potential in our house and garden/patio areas referred to above. People and materials being moved up and down the staircase (metal?) would be likely to exacerbate this noise concern, given the stairway is in even closer proximity to our property.

3. Lighting. It is unclear what if any lighting is provided for this extensive patio area. Depending on the lighting arrangements for this elevated area, there is the potential

for light disturbance/nuisance affecting many windows and external areas of our property.

4. Fire and Gas. On terrace/patio areas, it is common to have LPG bottles located eg for bbq cooking or area heating. We believe it is reasonably foreseeable that the current or future owners would use the elevated patio for bbqs. This introduces additional concerns on safety, disturbance and loss of amenity:

4.1 Fire Spread. Fire spread from the new kitchen below could involve any gas bottles above and escalate to cause a serious explosion. Gas bottles should not be stored anywhere where a fire could spread to them. It should be noted that the Home Office analysis of fires in England states that cooking appliances were by far the largest ignition category for accidental dwelling fires, 48% of the total. Similarly, the Scottish Fire and Rescue Service advice on kitchen safety states: "More fires start in the kitchen than in any other room in the house". Given a kitchen area immediately below the patio, we believe such an arrangement is inherently unsafe should LPG bottles be present.

4.2 LPG Leak. The proposed elevated patio may increase the potential for gas ingress to our house via open velux or other windows if there is a serious LPG leak.

4.3 Smoke. The vicinity of the proposed extension is currently used regularly for bbq cooking. While currently this is not a major nuisance, smoke and cooking smells from the bbq routinely come in and linger in our house, via open rear facing upper windows in particular. Given the patio elevation and proximity to routinely open windows in our house, we have a concern that this may exacerbate the current potential for direct smoke and cooking smell ingress.

5. Security. The proposal has an external direct access stairway to the patio level. This provides direct access to my neighbours rear roof. It would not be difficult for a trespasser to travel across the short distance of the roof to the garden trellis on my side of the boundary that leads directly down to our garden. This stairway essentially bypasses my external boundary walls and fences, and provides a concealed route into our garden, avoiding security lighting on the normal access route.

6. High Hedge. Further to 1. above, we would like it noted that we are currently not in agreement with our neighbour on a reasonable height for the fast growing hedge that they have established in recent years. This high hedge has blocked out the previously available direct south facing light to the rear of our home. Currently the hedge sits at over 4.2 m (measured from my side) following a 1.7m reduction by our neighbour towards the end of 2018. It still leaves a very high hedge 2m from our house. I discussed this with Kevin Wright in the second part of 2018, Env't Planner in Aberdeen City Council (ACC), who has directed us towards the council high hedges resolution process, and the High Hedges (Scotland) Act 2013. Having initiated the first stage of the ACC high hedge resolution process in 2018, progress in 2019 has had to be suspended due to pressing personal matters. Our continuing preference is to find a mutually acceptable resolution with our neighbours, but if necessary we remain open to completing this process to find a fair and reasonable height for this hedge in due course.

Can we ask that you take this into account and not approve a building concept that seems to assume the presence of a very tall hedge very close to our house, and which may prejudice the outcome of the ACC high hedge resolution process we referred to above. The suitability of any building proposal should not in our view be

dependent on such an ineffective and uncertain barrier as an immature high hedge, for the reasons set out in 1.above.

In conclusion, while we have no objection to the construction of a single storey extension to our neighbours property we continue to have very serious concerns about the extensive nature of the elevated external roof terrace proposed. We believe it introduces too many privacy and amenity concerns to be acceptable, now and potentially in the future with any change of ownership. When in use, this proposed terrace would have the potential to be highly intrusive, and cause a gross invasion of our privacy and loss of amenity.

In addition, we believe there are sympathetic and feasible design alternatives available, that provide the social functionality of the proposed terrace but without imposing such a gross invasion of our privacy and loss of amenity in our home.

We would therefore respectfully request that planning permission continues to be refused for this proposal as currently configured.

Can we ask as part of the assessment process, that a site visit to our property be undertaken.

We would welcome the opportunity to discuss any of the points raised above with the Planning official assessing the proposal.

Gordon Macleod  
Merlewood  
5 Kirk Drive  
Cults, Aberdeen  
AB15 9RQ

Date: 08/05/2019

Tel



Supplementary Objections and Comments on Planning Application Ref.: 190691/DPP

20 Kirk Crescent South, AB15 9RR  
Single Storey Extension with Roof Terrace and External Stair

Overview

We are in receipt of the above planning application as we are a direct neighbour to the applicants site. Objections to the above planning application have been submitted on 08/05/2019.

The Planning application for 190691/DPP has a supporting Statement submitted by MAC Architects, as part of the April 2019 application. The document title is:

*“Statement setting out applicant’s reasons for requesting Aberdeen City Council Planning Department’s to review its stated intension to reject Application 181858/DPP or for requiring a subsequent review by a Local Review Body”*

We are lay people in respect of both architectural design and Aberdeen City Council planning processes. As such we are not competent to comment on some aspects of the supporting Statement referred to above. However, there are claims made in the Statement that relate to this application and our property that we do have issues with. These are set out below, and should be considered in addition to our objection submission to this planning application dated 08/05/2019.

In summary, for the reasons set out below in this submission dated 13/05/2019, together those already made in our objection submission to this planning application dated 08/05/2019, the Statement fails to address our objections to planning application ref. 190691/DPP.

Our primary issue with the planning application relate to the presence of the large elevated terrace. In addition to our concerns with the Statement on objectivity and fairness concluded below, it does not attempt to properly represent or address the real impacts of the terrace in relation to our adjacent property (ref. see outline in 6. below). In particular, the Statement does not set out a logical and coherent case that justifies the provision of this elevated social space in the immediate proximity of our home and private bedroom areas, and private patio areas. Given these limitations, it is of considerable concern to us, that this Statement should be used to potentially influence a planning decision that could significantly affect our property as set out here and in our objections submission of 08/05/2019.

When in use, this proposed large terrace would have the potential to be highly intrusive, and cause a gross invasion of our privacy and loss of amenity, and disturb our enjoyment of our home. The terrace feature is not a sympathetic design proposal for the location, and would detract from our home.

While we have no objection to the construction of a single storey extension to our neighbours property we continue to have very serious concerns about the extensive nature of the elevated roof terrace proposed.

We would therefore respectfully request that planning permission continues to be refused for this proposal as currently configured, ie for as long as the roof terrace aspect remains part of the proposal.



Issues with Statement Document:

1. Section 1 of the Statement states:

*“... not one of the occupants of the 23 properties contained on the list of Notified Neighbours raised an objection to the size or scale of the extension.”*

We dispute this claim. On more than one occasion in our letter of objection sent 05/11/2018, we explicitly commented on the extensive nature of the proposal, for example “ ..... the extensive elevated patio area has the potential for significant numbers of people to assemble”. This in our laymans terms is the same as ‘size and scale’ terminology referred to in the Statement. Our objections of 08/05/2019 set out our concerns more fully.

2. Section 1 of the Statement states:

*“One concern regarding privacy was raised..... I believe we have identified and agreed an acceptable course of action to address this concern.”*

We dispute this claim. Our objections of 08/05/2019 set out our concerns more fully. We strongly disagree that the proposed addition of 20cm in screen height, addresses the points raised in our objections of 08/05/2019. As stated in our objections, this proposal, if approved, has the potential to be highly intrusive, and result in a gross loss of amenity and privacy affecting our enjoyment of our home.

3. Section 2 of the Statement states:

*“ Our objective is to..... have negligible visual impact for neighbouring properties.”*

The proposal does not meet this stated objective. A large elevated terrace immediately adjacent to our house at our roof level, will not have negligible visual impact from our property. It will be clearly visible from inside our house, from our garden, and from Kirk Crescent North looking towards our property.

Removing the roof terrace from the proposal, and developing an equivalent social space at ground level would enable this stated objective to be met, and also address many of our objections as stated in our submission of 08/05/2019. This would not be difficult to achieve, given the large rear garden available as stated in Section2 of the Statement.

4. Section 2 of the Statement states:

*“At that meeting: ..... I did point out that the foundation for potential privacy issues was tenuous. Furthermore, an extension to a property which directly overlooks the amenity space located to the western side of that neighbours property had been approved without comment or condition in 2014 (ref 140455/DPP) and completed in 2018.”*

We strongly disagree that the foundation for potential privacy issues is tenuous. We refer you to our objections as stated in our submission of 08/05/2019.

Furthermore we received no notification from ACC of the planning application for our neighbours extension (ref 140455/DPP), so were not in a position to raise objections should we have wished to. If a notification was issued, we certainly did not receive it.



Notwithstanding, prior to our neighbours extension (*ref 140455/DPP*) being built, there was an existing upper level window located on the respective face of the property. This window had been in existence at the time of our house build on 5 Kirk Drive, and had been fully taken into account in the design of our amenity space. In particular the three main private patio areas in our amenity space, where we spend greater than 95% of time when outdoors are entirely shielded from being overlooked from the original window and also the new window in the extension. This is a feature of the design of our property, specifically incorporated by our architect to ensure a private amenity area given the corner plot. The limited part of our amenity space overlooked by our neighbours original and new extension window, consists of grass, trees and shrubs that simply provide a pleasant backdrop from our house windows and private patios, and is an area of very low occupancy (eg occasional weeding and lawn cutting).

The implication being made in the quote from the Statement above seems to be that because we did not object to loss of privacy in relation to our neighbours extension (*ref 140455/DPP*), that this in some way is relevant to or supports the case being made for this planning application (*ref 190691/DPP*). This is simply not the case for the points made above. Also there is no comparison whatsoever between: (a) a private bedroom inside a house on the other side of the road with negligible privacy impact as set out above (*ref 140455/DPP*); and (b), a large external social space placed at height, where many people can assemble, located in the immediate vicinity of our home, located outside our upstairs bedroom areas and private patios (*ref 190691/DPP*). This latter proposal clearly has the potential to be highly intrusive, and result in a gross loss of amenity and privacy affecting our enjoyment of our home.

5. Section 3.1 of the Statement states

*"A combination of the natural topography of the land and the civil engineering works carried out to establish the foundations required to reposition the house results in 5 Kirk Drive having an elevated position relative to the rear garden of 20 Kirk Drive."*

We dispute this claim, and are also unclear on what relevance it has to the application. The overall elevation of our house at 5 Kirk Drive and our neighbours house at 20 Kirk Crescent South are similar. This was taken into account during the design of our house, was approved via the planning process, and is shown on architectural drawings prepared at the time. The similar elevation of the two properties can also be readily observed when viewing the houses side by side from Kirk Crescent South. 5 Kirk Drive is therefore of similar overall elevation to the rear garden of our neighbours, than our neighbours own property itself.

6. Section 4 of the Statement states

*" I have had discussions with neighbours and occupants in the area who have raised no objections..... etc"*

We can confirm that no discussions have been held with us in relation to either application *ref 181858/DPP* or *ref 190691/DPP*. Given that we are the neighbour most immediately affected by the proposal, we regret that the same opportunity to discuss the proposal given to others, including a local Councillor, has not been provided to us at any time.

It is hardly surprising to have no objections raised when discussing with neighbours who have much less or minimal impact from the proposed development.



However, we have little doubt that a different response to such a discussion would be given by those consulted, were they presented with the reality of this proposal if it was being proposed to be built beside them i.e.:

- the size and scale of the proposed elevated terrace/social space
- the size capacity to allow many people to assemble outside at height, with significant disturbance potential
- the positioning immediately adjacent to their property
- the location adjacent to and at the same upstairs height as bedrooms and other private rooms, and associated windows in their property
- the capacity to overlook private garden patio areas and public rooms in their property
- the external access staircase positioned closer again to their property, with further disturbance potential when moving people and materials up and down the stairs
- the potential of the proposal to be highly intrusive, and result in a gross loss of amenity and privacy affecting their enjoyment of their home.
- the ready availability of alternative design solutions that could address these concerns, by removing the terrace aspect of the proposal, and providing an equivalent social space at ground level.

The issues addressed above provide some examples to illustrate our concerns in relation to the Statement referred to above. Many of the points commented on above are repeated throughout the Statement. Our review of the Statement has undermined our confidence in the objectivity and fairness of what is being presented to support the planning application ref.190691/DPP.

Our primary issue with the planning application relate to the presence of the large elevated terrace. In addition to our concerns on objectivity and fairness concluded above, the Statement does not attempt to properly represent or address the real impacts of the terrace in relation to our adjacent property (ref. see outline in 6. above). In particular, the Statement does not set out a logical and coherent case that justifies the provision of this elevated social space in the immediate proximity of our home and private bedroom areas, and private patio areas. Given these limitations, it is of considerable concern to us, that this Statement should be used to potentially influence a planning decision that could significantly affect our property as set out here and in our objections submission of 08/05/2019.

We have only commented on those parts of the Statement where we feel competent to do so ie we have not commented on eg percentages, areas, calculations etc, and interpretation of policy and precedent that form part of the document.

In conclusion, given our concerns set out above, and our objections to planning application ref. 190691/DPP submitted on 08/05/2019, the Statement and associated information provided as part of the planning application, does not in our view make a compelling and robust case to justify allowing an extensive elevated terrace to be built immediately adjacent to our property.

While we have no objection to the construction of a single storey extension to our neighbours property we continue to have very serious concerns about the extensive nature of the elevated external roof terrace proposed. We believe it introduces too many privacy and amenity concerns to be acceptable, now and potentially in the future with any change of ownership. When in use, this proposed terrace would have the

potential to be highly intrusive, and cause a gross invasion of our privacy and loss of amenity. The terrace feature is not a sympathetic design proposal for the location, and would detract from our home.

In addition, there are sympathetic and feasible design alternatives available, that provide the social functionality of the proposed terrace but without imposing such a gross invasion of our privacy and loss of amenity in our home.

We would therefore respectfully request that planning permission continues to be refused for this proposal as currently configured, ie for as long as the roof terrace aspect remains part of the proposal.

Can we ask as part of the assessment process, that the Planning official assessing the proposal undertake a site visit to our property, and likewise the Local Review Body if they are to consider this planning application. We would welcome the opportunity to discuss any of the points raised above.

Gordon Macleod  
Merlewood  
5 Kirk Drive  
Cults, Aberdeen  
AB15 9RQ

Date: 13/05/2019

Tel [REDACTED]

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20 Kirk Crescent South  
Cults  
Aberdeen  
AB15 9RR

Ms Lynsey McBain  
Local Review Body,  
Aberdeen City Council  
Town House,  
Broad Street,  
Aberdeen,  
AB10 1AQ

17/01/2020

Dear Ms McBain,

Reference - Local Review Body LRB/P190691 and original associated application 181858

Further to the decision taken by Aberdeen City Council to reject my planning application, I would request that the Local Review Body, in addition to the statements and commitments that I have previously given during the planning application process for DPP181858 & 190691, give consideration to the following points;

The Decision Notice states that “the proposed development by reason of its composition, form, mass, scale and height will harm the character of the original dwelling and when read with the extant and exercised planning permissions will dominate the form of the host dwelling and will constitute overdevelopment. In addition, the proposed development will harm the character and appearance of the area”.

I find this difficult to understand as, during a telephone conversation I had with the second Case Officer assigned to my application, he stated that he would consider the application for the extension favourably if it was not for the existing Planning Application 170422. He offered to pass the application if it was reduced in size and suggested that I could then apply for an extension to the extension at a later date once P170422 had lapsed. Unfortunately, the size restriction he proposed made the extension unviable and I did not want to carry out a phased project which would require a further planning application process with its associated time, cost and risk starting after June 2020. Hence my decision to retain the application request as submitted. Nevertheless, this discussion gave me the clear impression that the design was not considered detrimental to the character of the original dwelling or the area. No concerns or adverse comments were raised regarding the design aesthetic of the extension, roof terrace or access stairway. The second Case Officer resigned from Aberdeen City Council before issuing his report.

On the statement that the development will harm the character and appearance of the area, I find this difficult to understand as the house is located on a corner plot which means the rear of the property, where the extension would be located, is not visible from any point accessible to the public. Furthermore, during both of the full consultation periods carried out since since October 2018 (DPP181858 & 190691), none of the 25 neighbours notified submitted a concern or complaint regarding the single storey extension. One neighbour who has raised a concern has made it clear that it relates to the roof terrace and not the erection of the extension. Other neighbours I have contacted have told me they have no concerns what so ever about the application and complimented me on the design of the extension. In recent years a variety of extensions, conversions, house relocations and new builds have been permitted which have diversified and fundamentally changed the character of the housing stock in the immediate area.



The second reason for refusal given in the Decision Notice is that “the proposed roof top terrace will adversely affect the living conditions of neighbouring residents with regard to privacy and overlooking of adjacent private amenity space”.

At a meeting held at our house on 14 February 2019, the first Case Officer assigned to my original application (P181858) stated that she consider the concern regarding privacy, which was raised by one neighbour, could be resolved with appropriate mitigating measures. As a result, our application was updated and amended to included additional mitigating measures which we had been led to understand would successfully address the concern. When resubmitted, the application was given a new case reference (P190691) and a further public consultation period. A new Case Officer was assigned as the original Case Officer was granted early retirement from Aberdeen City Council and departed without issuing her report.

In June 2019, I held a meeting on site to discuss the issue of privacy with a Community Councillor for Cults, Bielside and Milltimber. I demonstrated the exact location of the proposed extension and roof terrace in relation to the position of the roof mounted windows and the amenity space on my neighbour property. I believe the visit to site convinced him the requested extension and roof terrace had no overlap with the windows and amenity space. I also assured him that I was willing to do anything reasonably practical to allay my neighbour's concerns regarding privacy. Following his site inspection, the Community Councillor sent a letter to the Case Officer on 26 June, 2019 stating that he considered my neighbours concerns to be “perceived rather than real”. None of the 3 Case Officers assigned to application 190691 have carried out a site inspection despite my repeated requests for one to be carried out.

During both of the full consultation periods carried out since since October 2018 (DPP181858 & 190691), only one of the 25 neighbours notified has submitted a concern or complaint regarding the roof terrace. Other neighbours that I have contacted have told me they have no concerns what so ever about the application and complimented me on the design of the extension and the roof terrace.

I have held discussions with my neighbour in an attempt to address his concern regarding privacy. I have also tried to allay the concerns he has raised regarding Noise, Lighting, Fire and Gas, Fire Spread, LPG Leaks, Smoke and Security. He has, however, indicated to me that he has accepted the written assurances that I have provided him with regarding the maintenance and height limit to the ornamental trees between our properties, following his instigation of formal proceedings against me in October, 2018.

I do fully concur with my neighbour's concern over the time taken to process my application which has taken in excess of 15 months, has been the subject of 2 separate planning applications, provided 2 public consultation periods and involved 4 different Case Officers, only one of whom has carried out a site inspection in relation to the original application 181858.

In conclusion, the decision to refuse the application on the grounds of overdevelopment is a concern identified and raised solely by the Planning Department. They have stated to me that an application of an identical size and design would be viewed favourably in June 2020 after existing application P170442 lapses. Hence, the finding that the design is out of character with the original dwelling and area is not consistent with the comments made to me by a Case Officer. I have confirmed in writing to Aberdeen City Council that I have no intention of proceeding with application 170442. I would have no objection if application 170442 was withdrawn or rescinded by Aberdeen City Council, or if application 190691 was granted on the proviso that application 170442 was no longer valid and not implemented, or if application 190691 was granted with an effective date of June 2020. I have calculated that the requested extension would equate to a 101.1% increase compared to the size of the original dwelling and garage on site and a 16.7% utilisation of the area of the site.

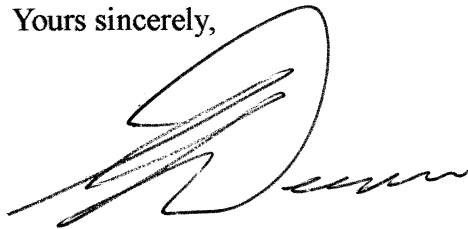
The decision to refuse the application on the grounds of privacy and overlooking of adjacent private amenity space is a concern raised solely by one neighbour. I have added mitigating measures that a Case Officer advised me would successfully address the concerns of my neighbour and satisfied a Community Councillor on that matter. Nevertheless, Aberdeen City Council has decided that the concern of one individual is insurmountable, overrides all other considerations and cannot be mitigated.

The current house has not been modernised or modified in the last 30 years. My objective is to upgrade and improve the house to:

- provide a modern integrated living/kitchen/dining area located at the rear of the property,
- thereby, allowing conversion of the current kitchen to create a master bedroom with ensuite on the ground floor,
- incorporate mitigating design features for future age, health and accessibility related issues that the occupants may experience,
- avoid/minimise loss of habitat for birds and wildlife in the garden,
- retain the original understated character of the house when viewed from the street and have negligible visual or environmental impact for neighbouring properties.

I would request that a visit to site be carried out by the Local Review Body so that the actual position and extent of the planning application can be assessed before a final decision is taken. I remain willing to do anything reasonably practical to allay any valid concerns regarding privacy and to address any design aesthetics issues that Aberdeen City Council have now identified regarding the extension, access stairway or host dwelling.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gordon Dewar', written in a cursive style.

Gordon Dewar.

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**For Attention of the Local Review Board – Planning Reference 190691/DPP**

**Proposed Roof Terrace, 26 Kirk Crescent South**

Dear Sir/Madam

- a) Can we refer you to our first set of objections raised against Planning Application Ref 181858/DPP (forerunner to 190691/DPP) which we submitted to Aberdeen City Council, dated 6/11/2018 on the council website.
- b) Can we also refer you to our second set of objections raised against this application 190691/DPP, which we submitted, dated 9/5/2019 on the Council website.
- c) Can we also refer you to our supplementary objections and comments on this application 190691/DPP, dated 14/5/2019 on the Council website.

These three sets of documents set out our formal objections to the proposal, and would ask that the Local Review Board take these into consideration.

The proposal has failed to gain planning permission following submission on two occasions. The Aberdeen Council Planning Department Decision Notice for this application, dated 11/10/2019, has concluded the following as one of the two reasons to refuse planning:

***“The proposed roof top terrace will adversely affect the living conditions of neighbouring residents with regard to privacy and overlooking of adjacent private amenity space; contrary to policies D1 (Quality Placement by Design) and H1( Residential Areas) of the Aberdeen Local Development Plan 2017 in addition to Supplementary Guidance: Householder Development Guide.”***

This conclusion drawn by the Council planning professionals following independent assessment of the application, is consistent with our view of the proposal as set out in our objections.

It should be noted that our strong objection to the planning application is due to the proposed construction of a very large terrace and stair landing area (in the region of 43-50m<sup>2</sup>), elevated to our upstairs level, and in very close proximity to our house, including: private upstairs bedroom area; bathroom; windows; private patios; and gardens.

At no point have we ever objected to the single storey main house extension itself. However the roof terrace aspect remains unacceptable to us. A very large social space like this has the potential for many people to assemble. When in use it has the potential, given its immediate proximity to us, to be highly intrusive, and cause a gross invasion of our privacy and loss of amenity, and disturb our enjoyment of our home. The Decision Notice conclusion quoted above is consistent with this.

Such a large social space could very easily be located at ground level in the garden of our neighbours property, which would materially mitigate our concerns and remove one of the two reasons given in the Decision Notice for the refusal of planning permission. The Council Report of Handling (11/10/19) for the application comments on the removal of the roof terrace (p2 and p6 of 7), and states that the Applicant declined to action this solution to our concerns.

In light of the above, we therefore regret to note that our neighbours are now planning a third attempt via the Local Review Board to try and force this unwelcome application through.

We note that our neighbours continue to retain the roof terrace aspect in the proposal coming before the Local Review Board. In doing so, they are choosing to disregard the definitive conclusion drawn by the Council Planning officials as quoted above, as well as failing to respect our objections to the roof terrace aspect of the proposal.

We would wish the Local Review Board to note that even though this roof terrace proposal would be located immediately adjacent to our property, no attempt has ever been made by my neighbours or their professional representatives, MAC Architects, to consult with us at any time in advance of these three attempts to gain planning permission.

MAC Architects have prepared a new statement for the Local Review Board (dated 17/12/2019 on the planning website). We do not propose to separately comment on this new statement since it repeats many of the same claims as an earlier MAC Architects statement dated 24/4/2019 on the

**For Attention of the Local Review Board – Planning Reference 190691/DPP**

**Proposed Roof Terrace, 26 Kirk Crescent South**

planning website, which we have previously submitted formal comments on, as set out in c) above. Suffice it to say here, that we have multiple objections to claims made in these two statements. For example:

- claims about no one raising objections about the size and scale of the extension. This is incorrect, as per our formal objections which refers to the size of the terrace and capacity for many people to assemble at height immediately adjacent to our home
- claims about discussions being held with neighbours and no objections. No discussions were ever held with us even though we are most directly impacted, and we certainly do strongly object.
- claims around our privacy issue being ‘perceived’ or ‘tenuous’. This is incorrect as clearly set out in our objections, and as confirmed by the Council Decision Notice following independent professional assessment. MAC Architects have never once sought our input on the privacy issues over the last 15 months, inevitably resulting in an incomplete appreciation of the privacy issues. This is reflected in the wholly inadequate proposed mitigation of a glass panel partition.
- claims about a privacy comparison with another neighbour's recent house extension (140455/DPP). This is a routine house extension on the other side of the road with negligible impact on our privacy, that bears no sensible comparison to a large elevated roof terrace proposal being located immediately outside our home that would have an unacceptable impact on our privacy

These examples and others are more fully set out in c) above, and we would ask the Local Review Board to take this into consideration. Given the number of claims made in these statements that we reject, we are not satisfied that these statements provide objective and fair information to the Local Review Board, and in our view do not provide a sound basis for decision making that could significantly affect our property.

By contrast, we have no reason to doubt that an independent and professional assessment has been made by the Council planning team of the application, our objections, and the above referenced MAC Architect statements, in coming to the conclusion in the Decision Notice to refuse planning, ie:

***“The proposed roof top terrace will adversely affect the living conditions of neighbouring residents with regard to privacy and overlooking of adjacent private amenity space; contrary to policies....”***

In the Council Report of Handling (11/10/19), the Planning team also comment (p5 of 7) in respect of the roof terrace aspect that it “ ... could usher in a new form of disquieting development into the area”.

Our neighbour's actions in now bringing the same scheme back for a third time demonstrate that they are determined to try and impose this totally unsympathetic roof terrace proposal on us come what may. In summary they are content to proceed to the Local Review Board by:

- disregarding us with no engagement at any time prior to the three submissions for planning
- disregarding our views as formally expressed in our letters of objection (a,b,c above)
- disregarding the formal assessment (quoted above) by the Council planning professionals
- providing statements that we believe lack objectivity and fairness

The threat of this roof terrace proposal being imposed on us has been hanging over us since October 2018. When the Local Review Board meets in February 2020, this will represent some 15+ months of uncertainty for us.

Given all of the above, can I respectfully urge the Local Review Board to support the conclusion quoted above from the Planning Department assessment, and to refuse planning permission for this proposal, for as long as the roof terrace aspect is retained.

Gordon Macleod  
5 Kirk Drive  
Cults  
Aberdeen  
31/12/2019

**Proposed Roof Terrace, 26 Kirk Crescent South**

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## **National Planning Policy**

Scottish Planning Policy (SPP)

<https://www.gov.scot/Resource/0045/00453827.pdf>

## **Aberdeen City and Shire Strategic Development Plan (2014) (SDP)**

The Strategic Development Plan 2014 is now beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

## **Aberdeen Local Development Plan (ALDP)**

H1: Residential Areas;

D1: Quality Placemaking by Design;

## **Supplementary Guidance**

Householder Development Guide

<https://www.aberdeencity.gov.uk/sites/default/files/2.1.PolicySG.HouseHoldDesignGuide.pdf>

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE            100141562-004

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:  You must enter a Building Name or Number, or both: \*

First Name: \*  Building Name:

Last Name: \*  Building Number:

Telephone Number: \*  Address 1 (Street): \*

Extension Number:  Address 2:

Mobile Number:  Town/City: \*

Fax Number:  Country: \*

Postcode: \*

Email Address: \*

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Gordon"/>	Building Number:	<input type="text" value="20"/>
Last Name: *	<input type="text" value="Dewar"/>	Address 1 (Street): *	<input type="text" value="kirk crescent south"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="ab15 9rr"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="[REDACTED]"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="20 KIRK CRESCENT SOUTH"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB15 9RR"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="803145"/>	Easting	<input type="text" value="389237"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Erection of single storey extension to rear with terrace above and external access stair

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Statement attached

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

LRB Statement Submitted 190527

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

190691

What date was the application submitted to the planning authority? \*

24/04/2019

What date was the decision issued by the planning authority? \*

11/10/2019

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To highlight our proposed mitigation measures for the roof terrace will not impact on the amenity space of the neighbouring Dwellinghouses. To show that the proposed extension is hidden within the rear garden and will not dominate the form of the host dwelling and create overdevelopment on the large rear garden space.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

The side gate to the rear garden may be locked.

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Jonathan Cheyne

Declaration Date: 17/12/2019

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**Statement setting out applicant's reasons for requesting Aberdeen City Council  
Planning Department's to review its stated intension to reject Application  
190691/DPP or for requiring a subsequent review by a Local Review Body.**

**Name and address of Applicant;**

Mr Gordon Dewar  
20 Kirk Crescent South,  
Cults,  
Aberdeen  
AB15 9RR

**Date and reference number of the application which is the subject of the review;**

Application Validated	30 Oct 2018
Application withdrawn	20 Dec 2018
Application re-submitted	24 Apr 2019
Application reference	190691/DPP

**Name and address of the representative of the applicant;**

MAC Architects,  
24 Oldmeldrum Road,  
Newmachar  
Aberdeen  
AB21 0PJ

**Statement setting out applicant's reasons for requiring the review**  
**Table of Contents**

1. Abstract
2. Discussion
3. Context
4. Conclusion
5. References

## **1 Abstract**

This document has been prepared in an effort to persuade Aberdeen City Council Planning Department to review and reverse its stated intention to reject planning application 190691/DPP on the grounds of a perceived non-compliance with a single sub-principle of the Supplementary Guidance relating to scale of development. Specifically, General Principle 4 of section 3.1.4 - Householder Development: General Considerations. The design, as submitted, is fully compliant with the stated aim of the Guidance.

Based on information provided by the assigned Case Officer, I believe that the premise for the footprint area calculation, prepared by Aberdeen City Council Planning Department and which forms the basis for their case for rejection, is an hypothetical worst case scenario. This premise is exaggerated and impracticable and it does not accurately reflect the footprint of the extension that we want to build.

The interpretation and use of the term “should not” is extremely harsh and open to personal interpretation. Furthermore, a planning application that apparently exceeds this “should not” criteria has previously been granted for the property by the Planning Department.

When compared to the footprint of the original house and garage on site, the built footprint of the requested extension increases by 101.1%; thereby effectively complying with General Principle 4.

If the application was granted, the building would occupy 16.7% of the site. According to Aberdeen City Councils Planning Department, “Kirk Crescent South has an established development pattern of individually designed, one to two storey dwellings that see footprints of between 20% and 35% of each plot”.

In the last 10 years, Aberdeen City Council Planning Department has granted three applications on Kirk Crescent South to replace the original house and garage with developments of larger scale and revised layout. Two have replaced separate single garages with integrated double garages. One retained a separate garage relocated and extended to include a second story facility. All three developments have resulted in a significant increase in building footprint and area usage. In one of the cases, Aberdeen City Council Planning Department reported that “The building would occupy 31% of the site area. This figure would see an increase of 10% in plot coverage towards the higher end of the streets development density pattern, but nonetheless remains acceptable and in keeping”.

According to the public access website, not one of the occupants of the 23 properties contained on the list of Notified Neighbours raised an objection about the size or scale of the extension.

One concern regarding privacy was raised. Following discussions with the Case Officer, I believe we have identified and agreed an acceptable course of action to address this concern.

The current house has not been modernised or modified in the last 30 years. Our wish is to upgrade and improve the house to provide modern integrated living and incorporate mitigating design features for future age, health and accessibility issues that the occupants may experience.

I have been informed by the Case Officer that, following the undoubted rejection of my amended application, I could, subsequently, request an appeal by a Local Review Body.

I have, therefore, prepared this statement in preparation for a Notice of Review. I do, however, respectfully request and hope that my application be reconsidered and approved by Aberdeen City Council Planning Department.

## **2 Discussion;**

Kirk Crescent South has an established development pattern of individually designed, one to two storey dwellings that see footprints of between 20% and 35% of each plot, with gardens and off road parking areas to the front and good sized gardens to the rear <sup>(Ref 4)</sup>.

The applicant's property, 20 Kirk Crescent South, Cults, is a corner plot, basically triangular in shape, approximately 1114m<sup>2</sup> in area. It has a 1½ storey detached property with a west facing principal elevation. The property has an integrated garage and there is a large rear garden to the east <sup>(Ref 1)</sup>. The footprint of the current property, including integrated garage, is 142.445m<sup>2</sup>. This equates to 12.7% of the plot area.

The current house has not been modernised or modified in the last 30 years. Our objective is to upgrade and improve the house to:

- provide a modern integrated living/kitchen/dining area located at the rear of the property,
- thereby, allowing conversion of the current kitchen to create a master bedroom with ensuite on the ground floor,
- incorporate mitigating design features for future age, health and accessibility related issues that the occupants may experience,
- maintain and enhance views and easy access to the mature and picturesque rear garden,
- avoid/minimise loss of habitat for birds and wildlife in the garden,
- avoid/minimise damage to the existing garden during construction,
- retain the original understated character of the house when viewed from the street and have negligible visual impact for neighbouring properties.

A planning application was submitted, which was validated on 24 April 2019 - 190691/DPP.

We were informed by the Planning Department in late December 2018 that our planning application 181859/DPP was going to be rejected on the basis of the scale of development. They also cited a privacy concern raised by one neighbour. On advice, we withdrew the application on 20 December 2018 to allow discussions on possible mitigating measures.

A meeting took place with the Case Officer at the applicant's property on 14 February 2019. At that meeting;

- It was agreed that we would amend our plans to further increase the height of the perimeter screening to the north wall of the roof of the extension to address a perceived privacy concern that had been raised relative to the limited windows (kitchen sink/utility room) on the southern elevation of our neighbour's property. I did point out that the foundation for potential privacy issues was tenuous. Furthermore, an extension to a property which directly overlooks the amenity space located to the western side of that neighbour's property had been approved without comment or condition in 2014 (ref 140455/DPP) and completed in 2018. Nevertheless, we are willing to address the concern raised.
- I was advised that the mitigating measures would, most likely, successfully address the privacy issue.
- The Case Officer's suggestion to move the extension towards the south was discussed. I advised that this option had already been considered but not pursued as it would have a detrimental effect on the modifications to the ground floor bedroom, jeopardise a mature rowan tree and require building on part of an existing established lawn. The design as submitted is located on a part of the garden which has no planting or landscaping.
- The Case Officer explained in detail the components that had been considered by the Planning Department to calculate the footprint, in what they consider to be a complex application.
- I raised my concerns that the footprint calculation developed by the Planning Department was exaggerated, impracticable, erroneous and it does not accurately reflect the footprint of the extension that we want to build.
  - Inclusion of the full plan view footprint of the open external appurtenance stair, whose actual footprint on the ground would be minimal,
  - Inclusion of the footprint for the extension approved in April 2017 under 170422/DPP in addition to the footprint of the current application 190691/DPP).
- I advised the Case Officer that we do not intend to pursue any work covered by a previous application 170422/DPP and would fully accept if this application was revoked, rescinded or the approval of application 190691/DPP was granted on the condition that application 170422/DPP was cancelled or not progressed.
- I raised my concerns that the interpretation of the Supplementary Guidance term "should not" was extremely harsh. The website currently states that "A Glossary and Further Reading List are being developed". However, from my own professional experience, such wording would normally allow for some reasonable and



necessary discretion in interpretation, particularly on Supplementary Guidance documents.

Having completed the discussion it was agreed that we would amend our plans to further increase the height of the perimeter screening to the north wall of the roof of the extension to address potential privacy concern raised and resubmit the design with an unamended floor plan.

I was advised that this revised application would undoubtedly be rejected due to non-compliance with the Supplementary Guidance relating to scale of development. Specifically General Principle 4 of section 3.1.4 - Householder Development: General Considerations, which states “The built footprint of a dwelling house as extended should not exceed twice that of the original dwelling”.

I am extremely concerned and perplexed that this is the basis for rejection for the following reasons;

- The premise for the footprint area calculation, prepared by Aberdeen City Council Planning Department and which forms the basis for their rejection, is a hypothetical worst case scenario. In addition to the current house and the extension requested, it includes the full plan view area of an external open stair appurtenance and the footprint of another application (170422/DPP) which we do not intend to build and have advised the Case Officer accordingly.
- The premise for the footprint area calculation, prepared by Aberdeen City Council Planning Department and which forms the basis for their rejection, is a hypothetical case which could not be practicably built as there would be a physical overlap and conflict between the details of the two separate planning applications (this application 190691DPP and 170422/DPP which has been discarded by the applicants).
- The premise for the footprint area calculation, prepared by Aberdeen City Council Planning Department and which forms the basis for their rejection, does not accurately reflect the actual footprint of the extension that we wish to build. It is an exaggerated and inaccurate calculation of the footprint of the building.
- The interpretation of the wording used in the Supplementary Guidance is extreme as the term 'should not' is being interpreted, in this particular case, as a mandatory requirement. No Guidance is available to the public to understand the relative importance of, and weight given to, terms such as should/should not, must/must not or shall, despite all being used in the Supplementary Guidance document. The difference between mandatory, compulsory, recommended and advisory terms appears to be open to personal interpretation.
- Approval of an application that apparently exceeded the “should not exceed” criteria was granted by the Planning Department for the property in April 2017.
- The Supplementary Guidance 3.1.5 House Extensions – Detached Dwellings a) states “The maximum dimensions of any single-storey extension will be determined on a site-specific basis”.
- Rejection of the application on the basis on a single perceived non-compliance with a sub-part of a Supplementary Guidance document would appear to be disproportionately harsh.
- When compared to the footprint of the house and garage originally on site, the footprint of the requested extension does effectively satisfy the requirements of General Principle 4.

The footprint of the extension that we actually wish to built would equate to a;

- 76.67% increase compared to the footprint of the current house which includes a 21.63m<sup>2</sup> integrated garage,
- 101.1% increase compared to the footprint of the original house and garage that was on site (essentially compliant with Supplementary Guidance General Principle 4),
- 137.6% increase compared to the original house if the original garage is excluded,
- 16.7% use of the area of the plot (significantly less than the minimum average footprint for the area).

In addition to these fundamental concerns,

The application property is bounded by a combination of tall boundary fencing and established vegetation which results in the rear of the property being almost completely obscured from view.

According to the public access website, not one of the occupants of the 23 properties contained on the list of Notified Neighbours raised an objection about the size or scale of the extension.

One concern regarding privacy was raised and, as discussed, I believe we have identified and agreed an acceptable course of action to address this concern. I do, however, believe that the foundation for any perceived privacy concern is tenuous, especially when compared to another planning applications regarding the objector's property which was granted without any concerns raised or mitigating measures being required.

According to documents available on Aberdeen City Council's Planning Department public access website, relating to three specific applications for house extensions and garage relocations on Kirk Crescent South, the size and scale of this application for an extension seems comparatively small and the interpretation of the Guidance appears particularly severe when compared to other developments that have been approved in the immediate neighbourhood, including

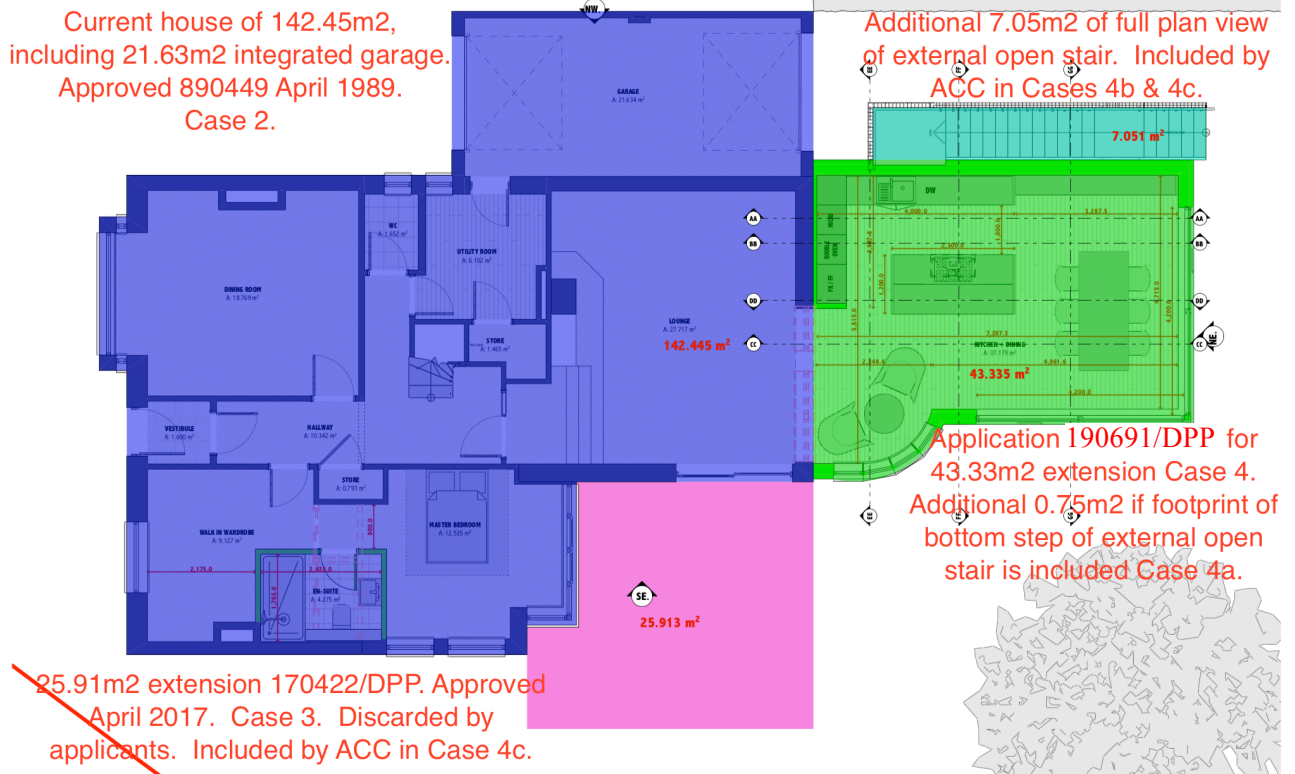
a neighbouring property.

Aberdeen City Council Planning Department advised me of the component parts that they have included in their calculation to determine the footprint of the extension. They have, on the advice of their Senior Management, declined to provide me with the actual measurements that they have used to formulate the basis for their decision. They have provided their calculation for the footprint of the original house (87.5m<sup>2</sup>). This figure is calculated from a plot plan drawing they have located but not shared with the applicant. I have, therefore, as directed, calculated the areas involved from physical measurements on site and calculations based on design drawings and Ordnance Survey charts. The figures are included in the following table, from which Case 4a are the figures used as the basis for my appeal and Case 4c is the hypothetical case developed and used by the Planning Department as the basis for their rejection.

Case	Description							
Case 1	Original house - Figure provided by Planning Department from drawings they located.							
Case 1a	Original house + original garage – Planning Dept figure + site measurement of garage base.							
Case 2	Original house + 890449 – Current house including 21.63m <sup>2</sup> integrated garage - Approved 1989							
Case 3	Original house + 890449 + 170422/DPP – Approved April 2017 - Discarded by applicant							
Case 4	Original house + 890449 + 190691/DPP – Living area footprint – Current application							
Case 4a	Original house + 890449 + 190691/DPP + actual footprint of external open stair - Basis of appeal							
Case 4b	Original house + 890449 + 190691/DPP + full plan view of external open stair							
Case 4c	Original house + 890449 + 190691/DPP + full plan view of external open stair + 170442/DPP							

Case	1	1a	2	3	4	4a	4b	4c
m <sup>2</sup>	78.5	92.75	142.44	168.36	185.78	186.54	192.84	218.74
Additional m <sup>2</sup>		N/A	63.94	25.91	43.33	44.09	50.39	76.3
δ original house + garage		N/A	68.93%	81.52%	100.30%	101.12%	107.91%	135.84%
δ original house		N/A	81.45%	114.47%	136.66%	137.63%	145.65%	177.70%
Status	<b>Original Development on site</b>		Approved April 1989 and completed <b>Current house</b>	Approved April 2017 but discarded by applicant	Footprint of current application Kitchen/ Dining living area.	<b>Includes actual ground contact footprint of open stair footprint. Basis of appeal.</b>	Extreme interpretation of appurtenance footprint – full plan view.	<b>Hypothetical worst case scenario Cases 2+3+4b. Basis of rejection by Planning Dept.</b>

ALL COMPONENTS INCLUDED IN ACC CASE 4C.  
ORIGINAL GARAGE EXCLUDED IN CASES 2 TO 4C



## **3 Context**

### **3.1 The property;**

20 Kirk Crescent South, Cults is a corner plot, basically triangular in shape, approximately 1114m<sup>2</sup> in area. It has a 1½ storey detached property with a west facing principal elevation. The property has an integrated garage and there is a large rear garden to the east <sup>(Ref 1)</sup>.

To the north, neighbouring 5 Kirk Drive (previously 22 Kirk Crescent South – reference application 100325 to replace 2 bed dwelling with 4/5 bed dwelling) has 2 storeys and a north facing principal elevation, with its amenity space located to the western side of the property, rather than the rear. The property is situated close to the common boundary but has limited windows on its southern elevation <sup>(Ref 1)</sup>. A combination of the natural topography of the land and the civil engineering works carried out to establish the foundations required to reposition the house results in 5 Kirk Drive having an elevated position relative to rear garden of 20 Kirk Crescent South.

To the south of the application property, 18 Kirk Crescent South has 1.5 storeys and is located on a corner plot, with a northwest facing principal elevation and rear garden to the southeast. This property is situated at an angle to the application site, with the distance between the properties increasing to the rear <sup>(Ref 1)</sup>.

The application property is bounded to the east by the elongated gardens of 3 Kirk Drive and 29 Kirk Brae.

The application property is bounded by a combination of tall boundary fencing and established vegetation which result in the rear of the property being almost completely obscured from view.

The original footprint of the application dwelling was 78.5m<sup>2</sup> (based on information provided by Aberdeen City Planning Department). The property also included a non integrated garage with a footprint of approximately 14.25m<sup>2</sup> (based on measurement of the remaining hardstanding as I do not have original drawings). Consequently the total footprint originally on site was 92.75m<sup>2</sup>.

Kirk Crescent South has an established development pattern of individually designed, one to two storey dwellings that see footprints of between 20% and 35% of each plot, with gardens and off road parking areas to the front and good sized gardens to the rear <sup>(Ref 4)</sup>.

### **3.2 The history of associated planning applications;**

Planning permission (reference 890449) was approved in April 1989 for an extension to the dwelling house <sup>(Ref 1)</sup>. The modifications included the removal of the original garage to allow the building of an integrated garage with an extension to the rear of the property. By extrapolation, the footprint of these modifications was 63.94m<sup>2</sup> as the current footprint of the modified house is 142.44m<sup>2</sup>. This equates to a 68.93% increase relative to the original house and garage footprint and a 86.45% increase relative to the original house footprint. The relocated integrated garage has a footprint of 21.63m<sup>2</sup> – Case 2.

Planning permission (reference 170422/DPP) was approved unconditionally in April 2017 for the addition of a single storey to the rear of the house <sup>(Ref 2)</sup>. The footprint of the approved extension was 25.91m<sup>2</sup> which would have resulted in the approved extension having a footprint of 168.36m<sup>2</sup>. This would equate to a 81.52% increase relative to the original house and garage footprint and a 114.47% increase relative to the original house footprint - Case 3.

Prior to advancing to building warrant stage we received a cost estimate for the building work which was substantially greater than the target budget figure we had agreed with our architect. Furthermore, we identified compromises inherent in the design, (i.e. loss of views to the rear garden as a result of converting the existing kitchen to a downstairs bathroom) that made us question the cost and benefit of this option. We decided not to progress or build this option and, despite the additional cost and time, we decided to start again and look for an alternative design solution. I have advised the current Case Officer that we do not intend to pursue this application and would fully accept if this application was revoked, rescinded or the approval of application 190691/DPP was granted on the condition that application 170422/DPP was cancelled or not progressed. Practically, it would be impossible to construct both applications even if we had the inclination and financial resources to do so. Nevertheless, currently, the footprint of this application is also included in the total footprint calculation being used to assess application 190691/DPP.

After this “false start” and with a better understanding of our requirements we reverted to conceptual sketches we had

commissioned in 2013 and 2015 from a firm of architects. During late 2017/early 2018 we worked with two local companies that specialises in house extensions, window and door replacement, kitchen design and installation. All these companies proposed solutions that involved extensions to the rear of the property. All were similar or larger in area than the current application. Although we liked the concept and the simplicity of integrated design/supply/build for a fixed price provided by the home improvement companies, the proposals offered were based on the standard window/door sizes and configurations they supplied. We decided we wanted a more innovative and personalised design to enhance the extension and overall appearance of the house. We therefore started work with MAC Architects in late May, 2018.

Planning application 190691/DPP was submitted in APRIL 2019 for the addition of a single storey extension to rear with terrace and external stair.

The footprint of this application is 43.33m<sup>2</sup>, excluding the open access stairs (7.051m<sup>2</sup>), which would result in a footprint of 185.78m<sup>2</sup>. This would equate to a 100.30% increase relative to the original house and garage footprint and a 136.66% increase relative to the original house footprint – Case 4.

If the actual footprint, of the open access stairs is included, i.e. ground contact area (0.75m<sup>2</sup>), this would result in a footprint of 186.54m<sup>2</sup>. This would equate to a 101.12% increase relative to the original house and garage footprint and a 137.63% increase relative to the original house footprint – Case 4a.

On 12 December, 2018, the case officer assigned to the application 181859/DPP advised that, having completed the assessment, there were two specific concerns regarding the proposal:

- firstly, the scale of development relative to the original dwelling.
- Secondly, the concern of a neighbour regarding privacy.

Due to the close proximity of the festive period it was mutually agreed to withdraw the application in order to discuss and understand the concerns.

A meeting was held at the applicants property on February 14, 2019 to allow the applicant, the Architect and the Case Officer to discuss the concerns raised and potential mitigating measures. The meeting was attended by a local Councillor who I had discussed my application with and who agree to attend to have a more complete understanding of the situation.

### **3.3 Other relevant planning applications;**

Planning application Ref 100325/DPP for a 4/5 bed dwelling to replace the 2 bed dwelling on 22 Kirk Crescent South. Existing house and garage replaced with larger house and integrated double garage. The application was approved in May 2010. “The reason(s) on which the Council has based this decision are as follows:- Subject to removal of the existing house, the proposed replacement house is considered to be compatible with the residential character and amenity of the area and would not result in any significant detriment to the residential amenity of adjacent property or the visual amenity of the area so that it would accord with local plan policies 8 and 40. The proposal has been sensitively designed so that it would enhance the visual amenity of the area and would accord with the objectives of local plan policy 1, 2 and 33’<sup>(Ref 3)</sup>. The build occupies approximately 34% of the site area.

Planning application 160075/DPP - Demolition of existing dwelling and development of replacement house - 15 Kirk Crescent South Aberdeen AB15 9RR. Existing house and garage replaced with larger house and integrated double garage. “The building would occupy 31% of the site area. This figure would see an increase of 10% in plot coverage towards the higher end of the streets development density pattern, but nonetheless remains acceptable and in keeping”<sup>(Ref 4)</sup>.

Planning application 090149/DPP - To replace the existing house/garage with new design and layout - 11 Kirk Crescent South, Cults, Aberdeen. Existing house and garage replaced by larger house and relocated garage with upper floor facilities<sup>(Ref 5)</sup>.

Planning application Ref 140455/DPP – Erection of 1.5 storey extension – 43 Kirk Crescent North, Cults, Aberdeen, AB15 9RP. Approved unconditionally July 2014, completed 2018. This extension has a clear and unrestricted view over the amenity area of 5 Kirk Drive and was approved with no privacy objections or issues being raised<sup>(Ref 6)</sup>.



## **4 Conclusions**

The current house has not been modernised or modified in the last 30 years. Our primary objective is to upgrade and improve the house to:

- provide a modern integrated living/kitchen/dining area located at the rear of the property,
- thereby, allowing conversion of the current kitchen to create a master bedroom with ensuite on the ground floor,
- incorporate mitigating design features for future age, health and accessibility related issues that the occupants may experience.

The application property is bounded by a combination of tall boundary fencing and established vegetation which result in the rear of the property being almost completely obscured from view.

Over a period of more than five years we have identified and considered many different design options. During this time we engaged the services of three different Architects and two house improvement companies, all of which have well established track records of providing good quality design and successful house extension in and around Aberdeen. Plans to extend to the rear of the property were developed by each and every one of these different companies. All designs were similar or larger in area than the current application.

After considering several different options and layouts, we identified a plan that meets our objectives and submitted a planning application which was validated on 30 October 2018. We believe the design is in full compliance with the aims of Supplementary Guidance; Householder Development Guide section 3.1.4; General Considerations as it incorporates good quality design giving due consideration to siting, scale, context and design of parent building to ensure the development does not erode the character and appearance of our residential area.

We were informed by the Planning Department in late December 2018 that our planning application was going to be rejected on the basis of the scale of development. They also cited a privacy concern raised by one neighbour. On advice, we withdrew the application on 20 December 2018 to allow discussions on possible mitigating measures.

A meeting took place with the Case Officer at the applicant's property on 14 February 2019. At that meeting we agreed to amend the design to provide additional mitigating measures to address a concern regarding privacy raised by one neighbour.

Nevertheless, the Planning Department stated that they intended to reject our application on the basis of a non-compliance with one sub-principle of the Supplementary Guidance, specifically General Principle 4 of section 3.1.4, which states "The built footprint of a dwelling house as extended should not exceed twice that of the original dwelling".

My concern is that the premise the Planning Department has constructed and cited as their justification for rejecting the application is fundamentally flawed. The premise is exaggerated and impracticable and it does not accurately reflect the footprint of the extension that we want to build.

The interpretation and use of the term "should not" is extremely harsh and, in the absence of any guidance, is open to personal interpretation. Furthermore, a planning application that apparently exceeds this "should not" criteria has previously been granted for the property by the Planning Department.

According to the public access website, not one of the occupants of the 23 properties contained on the list of Notified Neighbours raised an objection about the size or scale of the extension.

I have had discussions with neighbours and occupants in the area who have raised no objections, are supportive of the extension and were openly surprised that scale of development on the site had been identified by Aberdeen City Council Planning Department as the reason to reject this planning application. Especially when compared to the size and scale of other developments that have been developed in the immediate neighbourhood, including a neighbouring property.

According to documents available on Aberdeen City Council's Planning Department public access website, relating to

three specific applications for house extensions and garage relocations on Kirk Crescent South, the size and scale of this application seems comparatively small and the interpretation of the Guidance appears particularly severe.

On the advice of the Planning Officer, I have prepared this statement in preparation for a Local Review Body.

I do, however, respectfully request and hope that my new application 190691/DPP be reconsidered and approved by Aberdeen City Council Planning Department.



## **5 References from Aberdeen City Council Planning Department Public Access Website;**

- Ref 1 Report of Handling Detailed Planning Permission 170422/DPP. 20 Kirk Crescent South
- Ref 2 Decision Notice Detailed Planning Permission 170422/DPP. 20 Kirk Crescent South.
- Ref 3 Delegated Report Detailed Planning Permission 100325/DPP. 22 Kirk crescent South.
- Ref 4 Report of Handling Delegated Report Detailed Planning Permission 160075/DPP. 15 Kirk Crescent South.
- Ref 5 090149/DPP To replace the existing house/garage with new design and layout. 11 Kirk Crescent South.
- Ref 6 140455/DPP – Erection of 1.5 storey extension – 43 Kirk Crescent North.

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