



## Strategic Place Planning

### Report of Handling

<b>Site Address:</b>	7 Airyhall Place, Aberdeen, AB15 7RH,
<b>Application Description:</b>	Erection of fence to front and side
<b>Application Ref:</b>	190128/DPP
<b>Application Type:</b>	Detailed Planning Permission
<b>Application Date:</b>	25 January 2019
<b>Applicant:</b>	Mr and Mrs Steven and Claire Mearns
<b>Ward:</b>	Airyhall/Broomhill/Garthdee
<b>Community Council:</b>	Braeside And Mannofield
<b>Case Officer:</b>	Roy Brown

## RECOMMENDATION

Refuse

## APPLICATION BACKGROUND

### Site Description

A modern 1½ storey semi-detached dwelling and its front and rear curtilage in a residential area. The dwelling has a northeast facing principal elevation. The application site is triangular in shape and is located on a corner plot between Airyhall Place and Airyhall Gardens. It is bounded by Airyhall Place to the northeast; 5 Airyhall Place to the southeast, which the property adjoins; 1 Airyhall Gardens to the northwest; and Airyhall Gardens to the north.

A fence varying between 2m and 2.2m in height has been erected without planning permission on the northeast, north and west boundaries. Prior to its erection, there was an original approximately 0.6m high concrete boundary wall on these boundaries and a hedge along the building line of the principal elevation to the northwest of the elevation, which divided the front curtilage with the private rear curtilage. It should be noted that the existing fence is not the subject of this current application, and any grant of this current application would not authorise the existing fence.

### Relevant Planning History

Planning permission was granted in 2017 for the erection of the 1.5 storey extension to the side of the dwelling (Ref: 170114/DPP).

The unauthorised erection of the current fence on the property was brought to the attention of the Planning Authority in June 2018. Planning application with reference 181521/DPP sought retrospective permission for the erection of that fence, before being withdrawn on the 31<sup>st</sup> October of last year.

## APPLICATION DESCRIPTION

## Description of Proposal

Planning permission is sought for the erection of a timber fence to the front and side of the dwelling around the northwest, north and northeast boundaries and the existing driveway.

Where it would bound the existing driveway, the timber fence would be c.1.9m in height and would sit on top of a c.0.3m existing masonry wall, resulting in an overall height of c.2.2m; and would be 1.5m in height around the northeast, north and northwest boundaries. The fence would run for c.9.1m along the northeast (front) boundary; for c.5.5m along the north; and for c.3.1m along the north west boundary, resulting in a total length of c.17.5m.

## Supporting Documents

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

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PLVYQ3BZKKQ00>.

*Planning Statement (Ref: 1127.05)* – Describes the site, the reason for the development and justification by identifying and showing photographs of nearby fences and walls of a similar height.

## CONSULTATIONS

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**Aberdeen City Council Roads Development Management** – No objection - Airyhall Place/Gardens is not subject to a mandatory 20mph speed limit but does have advisory 20mph signage and markings to which it can be expected that vehicles shall drive at or approximately 20mph. The agent has submitted a plan confirming that visibility splays of 2.5m x 22m can be maintained, as requested by Roads Development Management.

**Braeside and Mannofield Community Council** – No objection. The reduction in height from the previous withdrawn application is welcomed. They request that vehicle sight distances are maintained after the erection of the proposed fence.

## REPRESENTATIONS

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25 letters of objection have been received. The matters raised can be summarised as:

- The proposal would have a negative impact on road and pedestrian safety, specifically visibility splays when turning right from Airyhall Gardens onto Airyhall Place. Airyhall Place is highlighted as being a thoroughfare for children walking to Airyhall Primary School.
- The application is not in compliance with recommended planning regulations of being 1m in height, given its proximity to the road.
- The existing fence has been allowed to remain for the past 6 months without recourse.
- Request that the Roads authority undertake an assessment of the height of the fence relative to road and pedestrian safety, and visit the site.
- Request that the Planning Development Management Committee (PDMC) visit the site.

## 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, so far as material to the application unless material considerations indicate otherwise.

### Aberdeen Local Development Plan (ALDP)

Policy D1 - Quality Placemaking by Design

## Policy H1 - Residential Areas

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

The Householder Development Guide (HDG)

## **EVALUATION**

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### **Principle of Development**

The application site is located in a residential area, under Policy H1 of the ALDP, and the proposal relates to householder development. Householder development would accord with this policy in principle if it does not constitute over development, adversely affect the character and amenity of the surrounding area, and it complies with the Supplementary Guidance, in this case the Householder Development Guide (HDG). These issues are assessed in the below evaluation.

### **Design and Scale**

To determine the effect of the proposal on the character of the area it is necessary to assess it in the context of Policy D1 of the ALDP. This policy recognises that not all development will be of a scale that makes a significant placemaking impact but recognises that good design and detail adds to the attractiveness of the built environment.

The HDG states with regards to fences, walls and other boundary enclosures that in all instances, the scale and form of boundary enclosures should be appropriate to their context and should not detract from the street scene as a result of inappropriate visual impact. Policy D1 states that quality development will be informed by existing features such as existing boundary walls.

Given the existing fence is unauthorised, this assessment must consider what existed on the site prior to the erection of the existing fence. The site previously had a low 0.6m high boundary wall and a hedge set back from the boundary. The scale, siting and soft landscaped form of the previous boundary treatment was compatible in the surrounding suburban residential area, and was an appropriate method of boundary treatment for the front and side boundaries of this property with a prominent corner location. It did not have a detrimental impact to the visual amenity of the street scene.

The height of the proposed fence, however, would appear incongruous with the original dwelling and the surrounding area. Its 1.5m and 2.2m heights would not be appropriate given its location to the front and side of the property adjacent to the public road in its suburban context. It would disrupt the building line of the principal elevation of the pair of semi-detached properties. Because of its height, siting on and length around the vast majority of the public boundaries, the proposed fence would appear unduly prominent on the streetscape, to the detriment of the street scene, in conflict with the Supplementary Guidance: 'The Householder Development Guide' and the character of the surrounding area, in conflict with Policies H1 and D1 of the ALDP.

### **Precedent**

The Planning Statement submitted by the agent justifies the development by noting that there are already walls and fences that are greater than 1.5m in height on corner sites along Airyhall Place and therefore that a precedent has been set. There are, however, no examples of planning permission being granted for boundary treatment to the front and sides of properties under current policies and guidance. The Supplementary Guidance: 'The Householder Development Guide' states that no existing alterations which were approved prior to the introduction of this supplementary guidance will be considered by the planning authority to provide justification for a development proposal which would otherwise fail to comply with the guidance set out in that document. Further, each application must be decided on its own merits and therefore similar

boundary treatment cannot be used to justify this proposal, which would have a detrimental impact on the street scene.

There is no record that any of the four boundary enclosures identified in the Planning Statement (bounding 124 Craigton Road; 9 Airyhall Place; 27 Airyhall Drive and 28 Airyhall Place) have been granted planning permission or were the subject of any planning application. Development which could be unauthorised in the area would not in any way justify the grant of planning permission of this proposal and would not qualify as precedent as they would not have been as a result of decisions by the Planning Authority.

The grant of planning permission in this application could set an unwelcome precedent for boundary enclosures of a similar scale, height and design in the surrounding area, which would have a significantly detrimental impact on the street scene, and thus the character of the surrounding area, in conflict with Policies D1 and H1 of the ALDP.

### **Public Safety**

In their comments, Roads Development Management state that the priority junction between Airyhall Place and Airyhall Gardens is not a 20mph zone, but has advisory 20mph signage and markings to which it can be expected that vehicles shall drive at that speed. The applicant has submitted a plan demonstrating that the proposal would not adversely affect the visibility splay of the junction between Airyhall Place and Airyhall Gardens. Therefore, the proposed fence would not have a detrimental impact on the visibility splay of any approaching cars.

The proposal would not adversely affect pedestrian safety given there is a footway on both sides of both Airyhall Gardens and Airyhall Place. The fence would not impede the visibility between vehicles and pedestrians, including children, crossing Airyhall Gardens.

Given the low speed of the traffic in the area, and the fact that the proposed fence would not have an adverse impact on the visibility splay on the junction, it can be concluded that the proposed fence would not adversely affect road and pedestrian safety. Roads Development Management have not objected to this planning application.

### **Amenity**

The Supplementary Guidance: 'The Householder Development Guide' states with regards to fences, walls and other boundary enclosures that proposals for boundary enclosures will not be permitted where they would result in an unacceptable impact upon the amenity of neighbouring dwellings. In this instance, the proposed fence would not adversely affect the level of residential amenity of any neighbouring property in terms of the level of sunlight, daylight and privacy afforded to them, in accordance with Policies H1 and D1 of the ALDP; and the Supplementary Guidance: 'The Householder Development Guide'.

### **Matters Raised in the Letters of Representation**

The matters raised in relation to road and pedestrian safety have been satisfactorily addressed in the above evaluation.

With respect to the length of time taken to take action against the existing fence, the regularisation of a boundary enclosure at 7 Airyhall Place has been on-going through the submission and assessment of this application and the previous application before it, which was withdrawn before a decision was made. The proposed fence is being refused primarily on the basis of its height and its negative impact on the character of the surrounding area. The existing unauthorised fence is even greater in height than the proposed fence. It therefore could be subject to formal enforcement action.

There are no “recommended planning regulations” requiring fences near roads to be no greater than 1m in height, nor is there any relevant planning policies and guidance recommending a specific height, and each planning application would be assessed on their own merits. However, if the fence was no greater than 1m it would not require planning permission as it would be permitted development under the provisions of Class 3E of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.

The request for the PDMC to undertake a site visit cannot be addressed in this evaluation. As this application is being determined under delegated powers, the PDMC will not visit this site.

It would be the position of Roads Development Management as the roads authority to independently consider whether a site visit was required for them to inform their consultation response to the Planning Authority. Roads Development Management were made aware of this request through further consultation following the submission of these letters of objection.

### **Matters Raised by Braeside and Mannofield Community Council**

The submitted plan satisfactorily demonstrates that the proposal would not adversely affect vehicular visibility.

## **RECOMMENDATION**

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Refuse

## **REASON FOR RECOMMENDATION**

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The proposed fence would be incongruous in design, siting, scale and height to the original building and the surrounding area. Because of its height, the proposed fence would have a detrimental impact on the street scene which would have an adverse impact on the character of the surrounding area. The grant of planning permission for such a proposal could also set a negative precedent for similar development which would be significantly detrimental to the character of the surrounding area. The proposal would therefore conflict with Policies D1 – Quality Placemaking by Design and H1 – Residential Areas of the Aberdeen Local Development Plan; and the Supplementary Guidance: ‘The Householder Development Guide’. There are no material planning considerations that warrant the grant of planning permission in this instance.