

Our Ref: 3585

SUPPORTING STATEMENT

NOTICE OF REVIEW IN CONNECTION WITH REFUSAL OF PLANNING PERMISSION FOR THE ERECTION OF A 1.9M HIGH WOODEN FENCE (RETROSPECTIVE) AT 13A POWIS CRESCENT, ABERDEEN, AB24 3YS.

This statement should be read in conjunction with our Notice of Review in response to the above Refusal of Planning Permission.

Context

The application site comprises a ground floor flatted property within a traditional 2 storey granite block of flats where the front and side curtilage is grass with mature shrubs and trees and shared between the application property and the neighbouring Flat C. The remaining shared curtilage of the block of flats is enclosed along the length of its boundary by 1m high metal fence.

Beyond the front garden to the east is a pedestrian pavement which bounds Powis Crescent which provides two way vehicular access with parking to one side.

Proposal

A full planning application was lodged retrospectively to gain formal approval for a 1.9m high fence which has been erected along the south, east and north boundaries of the front garden area. The fence includes a pedestrian access gate adjacent to the communal access path. Along the north boundary there is an existing change of ground level and existing retaining wall circa 1.5m high which is to be retained and the new fence extends between 400mm and 800mm above the existing cope level. The fence has been constructed using timber posts with horizontal bracing and vertical unpainted larch boards to the public face.

Justification

The purpose of this fence is to firstly provide a safe private amenity area for occupants of Flat A & Flat C and to allow this area to be used by their family and young child. Further it is to remove the current safety risk of having a low, open fence as the only barrier between the garden and the adjacent road. The communal rear garden area is currently used extensively by the occupants of the remaining flats in the block along with their dogs and as such is rendered unsuitable for use by the family and their young child.

Secondly the boundary enclosure has prevented the previously problematic issue of vandalism, broken windows and unauthorised access to the front garden by members of the public who would frequently bang on the windows. Collectively the above is having a negative impact [REDACTED] and provides vital child care to the applicant's young son. The applicant also on some occasions has to work from home and the problems of vandalism unauthorised access and the associated noise was making this very difficult.

In addition the communal street bins are positioned on the street directly adjacent to the front garden and the previous boundary fence at 1.0m high gave no level of visual protection from this area.

The front garden as existing has mature planting along the boundaries which extends to much higher than the proposed fence and has all been retained, in time this will grow over and soften the upper edge of the fence. There are also properties in the proximity along Bedford Road which have hedges at a greater height than the proposed height of the fence.

The previous boundary fence was only 1m high and of open metal tube construction, this in both height and design simply did not provide the required privacy, security or safety required to ensure the front garden can be used as beneficial amenity space.

Representations

Two letters of objection were received, the matters raised are summarised below;

The development is not consistent with Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan 2017 and the Supplementary Guidance due to the height and visual impact of the fence. [See Below](#)

The fence is unsafe as close to a corner of a road and block view to oncoming traffic and pedestrians. [See Below – Stated in Report of Handling that the fence does not impede on visibility for vehicle/pedestrian travel along Powis Crescent.](#)

It should also be noted that Froghall, Powis and Sunnybank Community Council were consulted and did not submit any objection to what is proposed.

Reasons for Refusal

We have listed and responded to the reasons for refusal below;

Policy D1 (Quality Placemaking by Design)

Policy H1 (Residential areas)

'The proposed development is considered inappropriate in terms of materials finish, scale and siting of the fence and associated gate in the context of the residential curtilage and the surrounding area....it is considered particularly intrusive within the streetscene, resulting in a significant adverse visual impact on the character and amenity of the residential area. Furthermore its approval would set an undesirable precedent for similar applications.' - Report of Handling.

We would not consider it to be unusual for a homeowner to want to protect their property from unwanted intruders and vandalism or for the preferred solution to be via the erection of a fence. Furthermore given our clients current situation whereby it is neither safe nor desirable to use the communal rear garden as safe amenity ground, it is also not unreasonable for them to wish to provide a secure, private area to the front of the property.

It's obvious that the previous boundary fence was insufficient in both height and design to fulfil any practical security or privacy requirement.

What has been erected does not constitute over development, does not result in an unacceptable impact upon the amenity of neighbouring dwellings, does not result in the loss of valued areas of open space nor does it impede on visibility for vehicle or pedestrian travel along Powis Crescent.

So the remaining issue is the visual impact on the streetscape, we believe this perceived impact is largely due to the fact that the vertical larch boarding has been left unfinished and appears as a bright tone on the streetscene. Our client has intimated they would be willing to paint the timber boarding a colour (say heritage green) which in our opinion would greatly reduce the visual impact. Our client would also be willing to reduce the height of the fence to 1.5m to further reduce the impact. Anything lower than 1.5m would not provide any reasonable level of privacy or security.

We have enclosed images to demonstrate how the fence would appear if it were to be painted heritage green to allow this option to be considered as part of the Local Review process.

It is also of relevance that the Equality Act 2010 provides legal protection to people from discrimination on the basis of disability and including the thresholds for the duty to allow 'reasonable adjustments' to be made for disabled people. Given that the applicant relies on a member of the family for vital childcare and [REDACTED] which has been exacerbated by the lack of secure, private external amenity space and by instances of vandalism, we would contend this would meet the threshold for a 'reasonable adjustment'.

Conclusion

The reasons we would request be considered while determining this Notice of Review are summarised as follows;

The proposal does not result in an unacceptable impact upon the amenity of neighbouring dwellings

The proposal does not impede on visibility for vehicle / pedestrian travel along Powis Crescent.

The Local Community Council made no representation of objection to the application.

The property previously suffered from vandalism and unauthorised access to the front garden which was collectively having a negative effect on the [REDACTED]

The communal rear garden is used extensively by other flat owners within the block and including by their dogs rendering it unsuitable for use by the applicant's family and small child.

The existing fence was unsuitable in terms of height and design to provide any practical privacy or security benefit to the property.

Our client would be willing to paint the fence any colour found to be acceptable to the Planning Service. (we would suggest Heritage Green)

Our client would be willing to reduce the height of the fence to 1.5m to reduce the impact.

Our client should have the right to protect the privacy and security of their property and the safety of their young child and to have a safe and secure area of beneficial amenity ground sufficient to allow enjoyment of an outdoor space.

Equality Act 2010 allowance for 'reasonable adjustments' to be made for persons suffering from a disability.



As Existing



With Green Painted Finish



As Existing



With Green Painted Finish