



DECISION NOTICE

The Town and Country Planning (Scotland) Act 1997

Detailed Planning Permission

Jon Frullani Architect
140 Perth Road
Dundee
DD1 4JW

on behalf of **Mr Paul Gibson**

Aberdeen City Council in exercise of its powers under the above mentioned Act hereby **refuses planning permission** for the development specified below and shown in the plans and drawings listed.

Application Reference Number	240711/DPP
Address of Development	1 Bayview Road Aberdeen AB15 4EY
Description of Development	Change of use to domestic garden ground, replacement and extension of boundary walls, removal of render to expose original granite on dwelling house, installation of flue, wall lights, CCTV and associated external alterations including to existing window/door openings (all retrospective); installation of intercom
Date of Decision	23 January 2025

DETAILS OF ANY VARIATION MADE TO THE APPLICATION

At the request of the Planning Service amendments were sought to the proposal as originally submitted. These amendments were as follows:

- That the proposed infilling of the northern boundary wall be entirely in granite, to match the existing gable end which currently forms part of the site boundary. The height of the boundary wall should not exceed the eaves level of the existing granite gable.
- The corresponding section of wall which forms the initial section of the western elevation to also be in granite & the height reduced to tie in with the corresponding reduced height of the northern boundary.
- The small section of reinstated granite wall required to tie in with the western boundary should also be tapered down to form that connection.
- In relation to the southern section of boundary wall, a reduction in height along its full length, ensuring the finished wall sits no higher than the roof of the bin store associated with the redevelopment of 86 Queen's Road.
- The inclusion of replacement tree planting to address the unauthorised tree removal (3 x mature Western Red Cedars) from within the curtilage of 1 Bayview Road. A detailed landscape plan to be submitted, with replacement planting located in the south-east corner of the site, along the boundary with Bayview Road, and the replacement trees to be as a minimum, heavy-standard in size and of the same species.

These requested amendments have not been incorporated into the current proposals by the applicant.

REASON FOR DECISION

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

The application, which with the exception of the installation of the intercom plaque is retrospective in nature, includes the proposed change of use of an area of land of some 255m² to domestic garden ground, extending the residential curtilage of 1 Bayview Road. The land in question forms part of the grounds of the former Aberdeen Grammar FP's Club at No 86 Queen's Road, currently under development as part of a change of use to residential flats. The proposed change of use does not in itself have an adverse impact on the character and appearance of the surrounding area, it does not result in over development of the site or in the loss of any open space, nor does it adversely affect residential amenity, with ample garden grounds to remain within the curtilage of No 86 in support of the approved residential use of that site. The principle of a change of use to domestic garden ground is therefore deemed acceptable on the basis that it would be compliant with the criteria of Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP).

The retrospective works also include alterations to a number of window and door openings of the property and to its external finish along with the introduction of a flue and external fixtures, including lighting, CCTV cameras and intercom. These aspects of the proposal, as implemented, are considered acceptable, and suitably address the relevant policies of the National Planning Framework 4 (NPF4) and Aberdeen Local Development Plan 2023 (ALDP), notably Policies 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of NPF4, Policies D1 (Quality Placemaking by Design), D6 (Historic Environment), D8 (Windows and Doors), H1 (Residential Areas) of the ALDP, the Council's Aberdeen Planning Guidance (APG) on the Repair and Replacement of Windows and Doors, and Historic Environment Scotland's guidance on Managing Change in the Historic Environment: External Fixtures.

Notwithstanding the above, and whilst acknowledging that the principle of introducing replacement and new boundary treatment to suitably enclose the extended residential curtilage is deemed acceptable, the unauthorised works do nevertheless raise significant concerns in terms of the scale and material finish of sections of the boundary walls, as erected. These concerns relate to the excessive height of the new wall erected along the entire length of the southern boundary, where it rises to a maximum of 3.25 metres, and along part of the northern and western boundaries of the site, where it rises to a maximum height of 4.2 and 4.4 metres respectively, and to the inappropriate introduction of a blockwork construction with rendered finish, in place of a traditional granite rubble construction, to sections of the wall forming the northern and western boundaries which are clearly visible from outwith the site. The introduction of new and replacement boundary wall as constructed has resulted in a significant adverse visual impact on the character and appearance of the Albyn Place and Rubislaw Conservation Area and on the setting of the adjacent listed building, 86 Queen's Road. This aspect of the proposal is contrary to Policies 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of NPF4 and Policies D1 (Quality Placemaking by Design), H1 (Residential Areas) and D6 (Historic Environment) of the ALDP. It fails to address the Council's APG on Householder Development relative to boundary treatment, the expectations of Historic Environment Policy for Scotland (HEPS) and Historic Environment Scotland's Managing Change in the Historic Environment guidance on 'Boundaries' and 'Setting'

In considering the adverse visual and daylighting impact, and particularly overbearing effect which the southern section of boundary wall will have on both internal and external space associated with the ground floor apartment located to the rear (north facing elevation) of 86 Queen's Road, resulting in the quality of residential amenity for future residents of this property being significantly compromised, it is also apparent that the boundary treatment, as erected, conflicts with the requirements of Policies H1 (Residential Areas) and D2 (Amenity) of the ALDP.

Following the unauthorised and therefore unlawful removal of three mature evergreen trees from the south-east corner of the site, as a result of works which took place in July 2024, the proposal has failed to address the loss of these trees and the significant adverse visual impact which their removal has had on the street-scene along Bayview Road. This is despite the planning authority having identified the need for appropriate replacement tree planting to be included as part of the application and for this to be addressed in the first instance through the submission of a detailed landscape plan for consideration. The proposal is therefore contrary to both Policy 6 (Forestry, Woodland and Trees) of NPF4 which seeks to protect and expand forests, woodland and trees, and Policy NE5 (Trees and Woodland) of the ALDP which clearly states that 'Development should not result in the loss of, or damage to, trees and woodlands', whilst also conflicting with the expectations of Policy 7 (Historic Assets and Places) of NPF4, which requires the retention of natural features, including trees, which contribute to the character of the conservation area and its setting.

Whilst the proposal is not deemed to be contrary to Policy 2 (Climate Mitigation and Adaptation) of National Planning Framework 4 (NPF4), it is apparent that in the absence of replacement tree planting on site, it does fail to suitably address the expectations of Policy 1 (Tackling the Climate and Nature Crises) of NPF4, with the unauthorised loss of mature trees further contributing to the nature crises.

There are no material planning considerations which would warrant approval of planning permission in this instance.



A full evaluation and account of the processing of the application is contained in the report of handling, which is available by entering the application reference number at <https://publicaccess.aberdeencity.gov.uk/>.

PLANS AND DRAWINGS

6816-1-P-309 REV D
6816-1-P-311 REV B
6816-1_P_307 Rev A
6816-1_P_301

Proposed Elevations
Proposed Site Layout
Proposed Elevations
Location Plan

Signed on behalf of the planning authority

A handwritten signature in black ink that reads "Daniel Lewis". The signature is written in a cursive, slightly slanted style.

Daniel Lewis
Development Management Manager

IMPORTANT INFORMATION RELATED TO THIS DECISION

RIGHT OF APPEAL

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 of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. A review request must be made using the 'Notice of Review' form available from <https://www.eplanning.scot/>.

SERVICE OF PURCHASE NOTICE

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.