

Perth and Kinross Council  
Planning & Development Management Committee – 23 October 2019  
Report of Handling by Head of Planning & Development (Report No. 19/291)

**PROPOSAL:** Formation of decking (in retrospect)

**LOCATION:** 14 Willowgate Drive, Perth PH2 7FA

Ref. No: [19/00961/FLL](#)

Ward No: P12 - Perth City Centre

### **Summary**

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

## **BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 The applicant is seeking planning permission for the erection of timber decking (in retrospect) within the rear garden of 14 Willowgate Drive, Perth. The site relates to a two storey residential property which forms part of a modern housing development of 19 detached dwellinghouses.
- 2 A raised deck has been erected against the south east boundary within the rear garden. A complaint was received by this Service which was investigated by the Enforcement Team and found to breach Class 3D (2)(b) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) due to the decking floor level exceeding 0.5 metres in height. The applicant was advised that planning permission was required for the decking to be retained in its current form or alternatively the deck could be removed or altered to meet the criteria set out under the permitted development order.
- 3 The applicant's preference is to retain the decking in its current form for which planning permission is now sought in retrospect. It should also be noted that the applicant has erected a bamboo screen to the rear of the deck in an attempt to prevent overlooking; however, it does not form part of the planning application. The bamboo screen requires planning permission in its own right due to its height.

## **NATIONAL POLICY AND GUIDANCE**

- 4 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

## **National Planning Framework**

- 5 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

## **Scottish Planning Policy 2014**

- 6 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans;
  - The design of development, from initial concept through to delivery; and
  - The determination of planning applications and appeals.
- 7 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability: paragraphs 24 – 35
  - Placemaking: paragraphs 36 – 57

## **Planning Advice Notes**

- 8 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 40 Development Management
  - PAN 77 Designing Safer Places

## **DEVELOPMENT PLAN**

- 9 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

## **TAYPlan Strategic Development Plan 2016-2036**

- 10 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:

*"By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of*

*life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”*

- 11 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

### **Policy 2: Shaping Better Quality Places**

- 12 Seeks to deliver distinctive places by ensuring that the arrangement, layout, design, density and mix of development are shaped through incorporating and enhancing natural and historic assets, natural processes, the multiple roles of infrastructure and networks, and local design context.

### **Perth and Kinross Local Development Plan (LDP) 2014**

- 13 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 14 The principal relevant policies are, in summary;
- Policy RD1 - Residential Areas
  - Policy PM1A - Placemaking
  - Policy PM1B - Placemaking

### **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 15 The Proposed LDP2 2017 represents Perth & Kinross Council’s settled view in relation to land use planning and is a material consideration in determining planning applications. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. The Council approved the Proposed LDP (as so modified by the Examination Report) on 25 September 2019. The Council is progressing the Proposed Plan towards adoption, with submission to the Scottish Ministers. It is expected that LDP2 will be adopted by 31 October 2019. The Proposed LDP2, its policies and proposals are referred to within this report where they are material to the recommendation or decision.

### **SITE HISTORY**

- 16 None.

### **CONSULTATIONS**

- 17 None.

## REPRESENTATIONS

- 18 12 letters of representation were received from 7 households. In summary, the following points were raised in the representation(s) received:
- Visual impact
  - Contrary to Development Plan
  - Overlooking/loss of privacy
  - Noise
- 19 These issues are addressed in the Appraisal section of the report.

## ADDITIONAL STATEMENTS

20	Environment Statement	Not Required
	Screening Opinion	Not Required
	Environment Impact Assessment	Not Required
	Appropriate Assessment	Not Required
	Design Statement / Design and Access Statement	Not Required
	Reports on Impact or Potential Impact	Not Required

## APPRAISAL

- 21 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance, namely Perth & Kinross Council's Draft Placemaking Guide 2017.

### Principle

- 22 The determining factors in the assessment of this application are ultimately whether the principle of the development is acceptable and if the proposed scheme accords with the relevant provisions of the Local Development Plan. In this instance, the application site is located within the identified settlement boundary of Perth, where Policy RD1 'Residential Areas' is directly applicable. As this proposal is within an identified Residential Area, the principle of decking is therefore considered acceptable. Nevertheless, full consideration must be given to the design, layout, scale, massing and potential impact upon other residential properties. Other policies are also directly applicable to ensure that all new developments do not have an adverse impact on the amenity or character of existing areas.

## **Design, Layout and Visual Amenity**

- 23 The rear garden gently slopes away from the south east and north east boundaries which has required the decking to be built up at its lowest point which is approximately 0.9m above ground level. A timber balustrade has been erected around the deck at a height of 1.05m. The overall structure reaches a maximum height of 1.95m with an approximate footprint of 25sqm.
- 24 Bamboo screening has been added along the existing fence at the rear of the decking in an attempt to reduce any potential overlooking. No drawings have been submitted for the bamboo screen, however, it is evident it exceeds the height of the existing shared fence. The shared fence has also been double boarded which prevents direct views through it and as such see no requirement for it. It is therefore recommended this screen be removed (Condition 2). Concerns have been raised in respect of the visual impact of the decking. The decking is a well-constructed structure, though, given the layout of rear gardens there is no doubt it will be seen from neighbouring properties. In time, as the structure weathers and integrates into its surroundings, its visual appearance will be reduced. It is therefore considered the proposal is in keeping with the character of development in the area.
- 25 It is considered the proposed design, scale and materials of the proposal is appropriate and has no detrimental impact on the visual amenity of the area. As such the proposal is considered to be in accordance with policies RD1, PM1A and B of the LDP.

## **Landscape**

- 26 The proposal is set within existing garden ground and would have no adverse impact on the wider landscape.

## **Residential Amenity**

- 27 The main concern from neighbouring properties relates to potential overlooking of garden ground resulting in a loss of privacy. The most affected property relates to number 10 Willowgate Drive, located to the east of the application site. The house and garden ground sits at a higher level, at an approximate distance of 10 metres from the deck/shared fence. The property to the west (number 16) sits at a lower level than the application site, the distance from the decking to the shared boundary is approximately 12m.
- 28 The layout of rear gardens in this residential area allows mutual overlooking between neighbouring plots due to the topography of the land and boundary treatments. Whilst many have made attempts to mitigate overlooking through planting along communal boundaries, it is understood the applicant removed planting along the south east boundary in order to maximise garden ground, opening up views between the application site and number 10 Willowgate Drive.

- 29 The decking has since been erected along the boundary raising concerns of overlooking across rear gardens. Whilst the height of the decking would be such that it would be possible for a person standing on it to see over the top of the existing boundary fence, the pre-existing situation allowed for mutual overlooking.
- 30 Whilst it is regrettable planting has been removed along this boundary, there is no restriction in planning terms to prevent the applicant from doing so. In the absence of the raised deck, existing ground levels would allow, to a degree, overlooking across rear gardens in any case. Furthermore, planting/boundary treatments at number 10 Willowgate Drive would allow the occupants control over and help mitigate overlooking into the application site.
- 31 Concerns have also been raised in respect of noise from the decking due to its elevated position. The proposed decking is not considered to intensify the use of the rear garden and whilst it is 0.4m higher than what could be erected under permitted development this is not considered significant enough to raise concerns of noise from a domestic property. As is the case with any situation where noise levels are considered to be excessive and thereby unacceptable, awareness would need to be brought to the attention of the Council's Environmental Health Service which would be investigated under their legislation.
- 32 The juxtaposition of existing residential properties and associated garden ground is such that there is a degree of inter-visibility over garden ground. It is considered that the development will not exacerbate this and that the decking can be accommodated without resulting in any significant loss of residential amenity. As such the proposal is considered to be in accordance with policy RD1 of the LDP.

### **Drainage and Flooding**

- 33 The site is not within an area at risk of flooding. There are no concerns with drainage as part of this proposal.

### **Developer Contributions**

- 34 No developer contributions are required in this instance.

### **Economic Impact**

- 35 The economic impact of the proposal is likely to be minimal and limited to the construction phase of the development.

### **LEGAL AGREEMENTS**

- 36 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

37 None.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

38 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan and there are no material considerations which indicate otherwise.

39 Accordingly the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **A Approve the application**

#### **Conditions and Reasons for Recommendation**

1. Within 3 months of the date of this decision notice, the bamboo screen shall either be removed or reduced to the same height as the existing communal fence to the satisfaction of the Council as Planning Authority.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

### **B JUSTIFICATION**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

### **C PROCEDURAL NOTES**

None.

### **D INFORMATIVES**

As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

Background Papers: 7 letters of representation  
Contact Officer: Gillian Peebles 01738 475330  
Date: 10 October 2019

**DAVID LITTLEJOHN**  
**HEAD OF PLANNING & DEVELOPMENT**

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