

FPRB Reference: 21/355

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: 11 Foresters Lea Crescent Dunfermline Fife KY12 7TE
- Application for review by Ms & Mr Almond (Ms) Peck (Mr) against the decision by an appointed officer of Fife Council
- Application 21/00315/FULL for Full Planning Permission for Single storey extension with balcony to rear of dwellinghouse
- Application Drawings:
02 - Floor Plan Existing, 03 - Floor Plan Existing, 05 - Floor Plan Proposed, 06 - Floor Plan Proposed, 07A - Proposed Elevations, 08 - Photographs, 09 - Photographs, 10 - Photographs, 11 - Photographs,

Date of Decision Notice: 9th December, 2021.

Decision

The FPRB upholds the determination reviewed by them and refuses Planning Permission for the reason outlined below in section 4.0.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The above application for Planning Permission was considered by the FPRB at its meeting on 22nd November, 2021. The Review Body was attended by Councillors David Barratt (Convener), Alice McGarry, Graham Ritchie, Bill Porteous and Ross Paterson.

2.0 Proposal

- 2.1 The application site relates to a two-storey detached dwellinghouse located within a modern residential area of Dunfermline. The property is finished in wet dash render and a tiled roof, with the properties within the immediate locale being of a similar architectural style. The application property is enclosed by way of low wall to the front and features a side of house driveway providing off street parking for at least two vehicles along with a detached garage. To the rear, the boundary treatments comprise of a mixture of timber fencing and a brick wall. The application property, similar to neighbouring properties on the north western side of Forester's Lea Crescent, /

Crescent, features a significantly sloped rear garden which drops from north west to south east (from the rear property boundary to the rear elevation of the dwellinghouse). The steeply sloping garden is held behind a stone retaining wall which provides a small area of flat garden ground – concrete steps provide access to the top of the garden where a planter has been located. The rear garden is currently approximately 10.5m in length (when measured from the rear building line). The side boundary fences and wall vary in height throughout their length on account of the slope.

- 2.2 The proposal is for the erection of a single storey rear extension, with roof terrace. The extension would be on the northwest facing rear elevation and would have a footprint of 37 sqm and would measure 4m (d), 2.9m (h) (3.9m to include terrace and enclosure) and 9.3m (w). The extension would be constructed from materials to match the existing building and would include floor to ceiling bi-fold doors to the southwest elevation, a door to the northeast elevation and windows to the rear elevation, along with two rooflights. The terrace would be enclosed by way of 1.4m high railings and screen fencing. The extension would be used as a kitchen and dining room. The proposed extension would be located 6.4m from the rear property boundary (with 60 Scotland Drive), 1.4m from the boundary with 13 Forester's Lea Crescent to the north east and 4.8m from the south western boundary with 9 Forester's Lea Crescent. The rear elevation of extension would be 18m from rear elevation of 60 Scotland Drive. To accommodate the proposed extension, the rear garden area is proposed to be regraded and the retaining wall moved back.

3.0 Reasoning

- 3.1 The determining issues in this review were visual amenity and residential amenity. The FPRB considered the terms of the Development Plan which comprises the SESplan (2013) ("Strategic Development Plan") and the Adopted FIFEplan (Fife Local Development Plan 2017) ("Adopted Local Development Plan"). The FPRB also considered the provisions of Making Fife's Places Supplementary Guidance (2018) (including Appendices). The Fife Council Planning Customer Guidelines on Home Extensions (including garages and conservatories); Daylight and Sunlight; and Garden Ground also formed part of the assessment. The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended was noted.
- 3.2 The FPRB assessed the visual impacts of the proposed rear extension and its associated roof terrace. The FPRB considered that the height, massing, architectural style and finishing materials of the proposed rear extension would not give rise to adverse visual amenity concerns given its positioning to the rear of the dwellinghouse, concurring with the Appointed Officer's assessment. On this basis, the proposed development was considered to comply with Policies 1 and 10 of the Adopted FIFEplan (2017).
- 3.3 The FPRB assessed the potential daylight and sunlight implications of the proposal. With regard to potential loss of daylight, the FPRB concurred with the Appointed Officer assessment that the proposed development would not give rise to adverse loss of daylight concerns for the neighbouring residential properties. Furthermore, giving/

giving consideration to loss of sunlight to neighbouring outdoor amenity spaces, the FPRB once again sided with the Appointed Officer's assessment that due to the path of the sun and the height and position of the proposed development, the private rear garden ground of neighbouring properties would not experience a significantly adverse loss of sunlight. On this basis, the proposed development was considered to comply with Policies 1 and 10 of the Adopted FIFEplan (2017).

- 3.4 The FPRB assessed the potential privacy impacts of the proposed development, including window-to-window distances between properties and overlooking of neighbouring private amenity spaces/rear garden areas. With regard to privacy within neighbouring dwellings (window-to-window/terrace-to-window distances) to the rear (58 and 60 Scotland Drive), the FPRB considered that the proposed development would not raise any adverse concerns given as the rear elevation of the proposed extension would be more than 18m from the rear elevation of neighbouring properties to the north west. On the matter of overlooking of neighbouring rear garden areas from the proposed rooftop terrace, the FPRB gave consideration to the views of neighbouring garden areas currently achievable from within the application property and its garden ground, as well as the views achievable into the application property's garden ground from properties on Scotland Drive which sit at a much higher level than the application property. The FPRB considered that although some views into neighbouring garden grounds are currently achievable from within the application site, these views are ultimately passive whereas the proposed rooftop terrace would offer an opportunity to continuously overlook the entirety of the rear garden areas of neighbouring properties, notably 9 and 13 Forester's Lea Crescent, to the detriment of the residential amenity of occupants of the neighbouring properties, concurring with the Appointed Officer assessment. The FPRB also considered options to potentially mitigate the overlooking concerns, including those suggested by the appellant to increase the height of the rear boundary fence from 1.6m to 1.8m. Upon consideration, the FPRB concluded that the suggested increase in fence height would not be sufficient to mitigate the overlooking concerns raised and raised concerns that this could have a detrimental impact on visual amenity. The proposed development was therefore considered to be contrary to Policies 1 and 10 of the Adopted FIFEplan (2017).
- 3.5 The FPRB assessed the impacts the proposed development would have on the size and usability of the application property's remaining rear garden area. The FPRB concluded that as the proposed extension would occupy less than 25% of the existing garden ground area it would be in-keeping with the recommendations within the planning customer guidelines on 'Garden Ground'. On this basis, the proposed development was considered to comply with Policies 1 and 10 of the Adopted FIFEplan (2017).
- 3.6 The FPRB concluded that the proposed development would give rise to significantly adverse residential amenity concerns given the overlooking of external amenity spaces of neighbouring properties which would be achievable from the proposed rooftop terrace. The FPRB did not consider there to be any other matters for consideration or any material considerations which would outweigh the Development Plan position. The FPRB therefore upheld the Appointed Officer's decision and refused the application.

4.0 Decision

4.1 The FPRB upholds the decision of the Appointed Officer and refuses planning permission for the following reason(s):

- 1) In the interest of protecting residential amenity; the proposed roof terrace by virtue of its location, size and orientation, would result in a significant increase in vantage points for which to overlook neighbouring garden areas to the detriment of the amenity and privacy of the neighbouring residents. As such it is considered that the proposal does not comply with Policies 1 and 10 of the Adopted FIFEplan (2017).

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Proper Officer

NOTICE TO ACCOMPANY REFUSAL ETC. TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

*Notification to be sent to applicant on refusal of planning permission or
on the grant of permission subject to conditions*

NOTICE TO ACCOMPANY REFUSAL ETC. TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

*Notification to be sent to applicant on determination by the planning authority of an
application following a review conducted under section 43A(8).*

1. If the applicant is aggrieved by the decision of the planning authority -
 - (a) to refuse permission for the proposed development;
 - (b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; or
 - (c) to grant permission or approval, consent or agreement subject to conditions,

the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions 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 which has been or would be permitted, the owner 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 V of the Town and Country Planning (Scotland) Act 1997.