

Planning Committee

Auditorium, Shetland Museum and Archives, Hay's Dock, Lerwick

Tuesday 14 March 2017 at 2pm

Present:

F Robertson	M Bell
P Campbell	S Coutts
B Fox	A Manson
D Ratter	G Robinson
D Sandison	

Apologies:

None

In Attendance (Officers):

I McDiarmid, Executive Manager – Planning
J Holden, Team Leader – Development Management
D Hunter, Planning Officer
C Gair, Traffic and Road Safety Engineer
P Sutherland, Solicitor
L Adamson, Committee Officer

Chair

Mr F Robertson, Chair of the Planning Committee, presided.

Circular

The circular calling the meeting was held as read.

Declarations of Interest

None

03/17 Minutes

The Committee confirmed the minutes of the meeting held on 16 February 2017 on the motion of Ms Manson, seconded by Mr Bell.

Local Review under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) to be considered by the Planning Committee sitting as Local Review Body:

04/17 Local Review Ref: 2016/289/PPF – LR26 – To construct raised decking and fencing: 45 Fogralea, Lerwick, Shetland, ZE1 0SE

The Committee considered a report by the Team Leader – Development Management [RECORD Appendix 1] for a decision following a Local Review.

The Chair advised that the Planning Committee were sitting today as a Local Review Body (LRB), where under Section 43a of the Town and Country (Scotland) Planning Act it was agreed to extend powers to consider appeals, subject to the

relevant training. The Chair explained that the process would take the form of a Hearing. The objector and appellant are given the opportunity to address the meeting, where the time afforded to each address is 5 minutes. Members of the LRB can ask questions of the Officer, objector and appellant during the process. The Chair reported that the decision of the LRB is full and final, and should the appellant be aggrieved the only recourse would be to the Court of Session in respect of the handling by the LRB.

The Chair invited the Planning Officer who handled the case to make a brief presentation to the LRB.

The Planning Officer (D Hunter) gave a slide presentation, which illustrated the following:

- Site and Location Plans
- Elevations of the proposed decking and fence
- Fence details
- Street View September 2015
- Current Site Photos

In referring to the site visit earlier in the day, the Planning Officer said that Members in attendance would have noted that a fence had recently been erected along the eastern boundary of the site. He said that the LRB had only to consider whether the proposed 2 metre high fence along the eastern boundary should be permitted or not.

During his presentation, the Planning Officer highlighted the following points:

Shetland Local Development Plan (2014)

- GP2 – in this case compatibility of use
- Impacts on neighbouring dwellings
- Privacy, daylight and overshadowing

Privacy:

- 43 located below 45, no adverse privacy impacts expected from situation at time of initial assessment.

Overshadowing:

- Resultant overshadowing of the front curtilage of the neighbouring property.
- Small area of private amenity space associated with the 43 Fogralea and the overshadowing of this area would result in the loss of the most private amenity space associated with the property.

Daylight:

- Daylight into neighbouring window
- Fence is located 1.7m away, 3m in height from the perspective of 43 Fogralea, resulting in a significant loss of daylight into the property and having an adverse impact on the residential amenity of the dwelling.

Road

- The fence would extend into the visibility splay of the junction of the dwelling at 43 with the Road and would represent a road safety issue.

The Chair thanked the Planning Officer for the information provided.

The Chair advised from the site visit earlier in the day that a fence had already been erected at the application site. In that regard, clarity was sought from the Planning Officer in terms of the new fence, and whether the fence as built was permissible. The Planning Officer said that the LRB had to review the application as had been submitted, for the 2m fence. He advised that it would be a separate process to determine the fence that had been erected, which was generally 1m in height, but over the allowable height under permitted development rights in some places. The Executive Manager – Planning confirmed that the LRB were to make a decision on the report as presented, on the 2m fence and the decking, which was refused and was now to be reviewed by the LRB. He added that the fence that had been erected was not part of the consideration, and determination of the already erected fence would be a separate process.

In response to a question, the Planning Officer referred to photographs that had formed part of his presentation, where he pointed out that the level of garden ground at 45 Fogralea had been raised 0.5m prior to the new fence being built.

During the discussion, it was advised that the original application had been for raised decking and fencing at the site. When the application had been refused a separate application had been submitted for the decking, which had subsequently been approved. The LRB were therefore only to consider the proposals for the 2m fence.

Mr Robinson advised that he had been unable to attend the site visit, but had visited the site separately, and had been surprised that a new fence had been built. Mr Robinson said that it would appear the applicant was wasting the time of Members on the LRB, and that the applicant had not bothered to attend the meeting. Mr Robinson said that the way the application had been handled by the officers had been exemplary, as the original fence as proposed had been too high in terms of both daylight and overshadowing. Mr Robinson moved that the LRB support the recommendation of the Planning Officers and refuse the application. Mr Fox seconded.

During the discussion that followed, the Planning Officer advised that as far as he was aware, the neighbours/objector would not be opposed to a fence built within the parameters of permitted development rights. He said he believed however that an element of the new fence was above the height allowed under permitted development rights, which he advised would be considered through a separate process. In response to a question regarding the comment from the Roads Service for the fence to be set back a minimum of 0.5 metres from the back edge of the footway, the Planning Officer advised that the recommendation from the Roads Service would form part of the consideration of any subsequent application.

Decision:

The Local Review Body agreed to uphold the decision made to **REFUSE** planning permission for the development.

This being the final Planning Committee of this Council, the Chair thanked the Members for their attention to planning issues, and for their conduct in following the Planning processes and Policies. He advised on the improvements that have taken place within the planning system over his 17 years involved on the Planning Committee, which he said will be a good model to be followed in the future. The Committee thanked Mr Robertson.

The meeting concluded at 2.25pm.

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Chair