

Inverclyde Local Review Body

Our Ref: 19/0235/IC

REVIEW DECISION NOTICE

Decision by Inverclyde Local Review Body (the ILRB)

- Site address: 35 Balmore Road, Greenock
 - Application for Review by Mr G McLean against the decision by an appointed officer of Inverclyde Council
 - Application Ref: 19/0235/IC
 - Application Drawings: Drawing No. 2019 – PL – 001 – NM – Existing and Proposed Plans
Drawing No. 2019 – PL – 002 – NM – Existing and Proposed Sections
 - Date of Review Decision Notice: 10 September 2020
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Decision

The ILRB upholds the decision to refuse planning permission for the reasons given below and dismisses the review. Attention is also drawn to the Advisory Notice at the end of this Review Decision Notice.

1. Introduction

- 1.1 This Notice constitutes the formal decision notice of the ILRB 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 ILRB at a meeting held on 2 September 2020. The ILRB was constituted by Councillors J Clocherty, J Crowther, G Dorrian, D McKenzie, I Nelson, L Rebecchi and D Wilson (Chair).

2. Proposal

- 2.1 The application proposal is for retrospective planning permission for replacement and extension to the timber decking in the rear garden, the construction of a timber garden store along the rear boundary of the rear garden and the replacement of the rear boundary fence. The decking has been raised in height from the preceding deck and paved platform, the lowest level being raised by up to 0.4m, the middle level by up to 0.6m and the top level by between 0.2 and 0.8m. The two upper levels have been brought forward towards the house by approximately 1.1m for the middle level and 0.8m for the upper level. The application was refused consent in terms of a decision letter dated 9 December 2019.

3. Preliminaries

3.1 The ILRB members were provided with copies of the following:

1. Planning Application dated 4 September 2019 together with Plans and Photographs
2. Appointed Officer's Site Photographs together with Location Plan
3. Appointed Officer's Report of Handling dated 9 December 2019
4. Inverclyde Local Development Plan Proposals Maps
5. Inverclyde Local Development Plan 2014 Proposals Maps
6. Inverclyde Local Development Plan Proposed Plan 2018 Planning Application Advice Note (PAAN) 5 on Outdoor Seating Areas
7. Inverclyde Local Development Plan 2014 Planning Application Advice Note (PAAN) 5 on Balconies and Garden Decking
8. Representations in relation to the Planning Application
9. Decision Notice Dated 9 December 2019 Issued by the Head of Regeneration & Planning
10. Notice of Review Form Dated 4 March 2020 together with Supporting Documentation from Mr G McLean
11. Suggested Conditions Should Planning Permission be Granted on Review

3.2 Having regard to the material before the ILRB, the ILRB resolved that the Review Application could be determined without any further procedure allowed in terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

4. Findings and Conclusions

4.1 The determining issues in this review were the size and height of the decking and the impact of the proposal on the amenity of neighbouring residents.

4.2 Having regard to the whole circumstances, the ILRB having considered the matter afresh and, having taken into account the Inverclyde Local Development Plan and all relevant material and planning considerations, considered that the documentation submitted to it did not include sufficient evidence to reverse the appointed officer's decision, accepted the reasoning of the appointed officer and concluded that the application had been correctly refused for the reasons given in the Decision Notice dated 9 December 2019 namely:

1. the proposed decking by virtue of its location and height fails to meet the quality of being "Safe and Pleasant" in LDP Policy 1 as it allows an invasion of privacy towards neighbouring residential property which would impinge upon the enjoyment of neighbouring properties to the detriment of the amenity of neighbouring residents. As such the proposed decking is not in accordance with the guidance and advice contained within Inverclyde Council's Planning Application Advice Note (PAAN) 5 on "Outdoor Seating Areas"; and
2. the southern window on the outbuilding fails to meet the quality of being "Safe and Pleasant" in LDP Policy 1, as it allows opportunity for an invasion of privacy into a neighbouring residential property which would impinge upon the enjoyment of the neighbouring residential property to the detriment of the amenity of neighbouring residents and is contrary to the window to window guidance contained within Inverclyde Council's Planning Application Advice Notes Supplementary Guidance.

4.4 The Review Application was accordingly dismissed.

Signed _____

Head of Legal & Property Services
Inverclyde Council
Municipal Buildings
Greenock
PA15 1LX

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)

Notice under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2013

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.