

Inverclyde Local Review Body

Our Ref: 13/0140/IC

REVIEW DECISION NOTICE

Decision by Inverclyde Local Review Body (the ILRB)

- Site address: 17 Cullen Crescent, Inverkip
 - Application for Review by Mr A Marsh against the decision by an appointed officer of Inverclyde Council
 - Application Ref: 13/0140/IC
 - Application Drawings: Proposed ground floor plan and elevations;
Existing ground floor plan and elevations;
Location, block and foundation plan.
 - Date of Decision Notice: 18 December 2013
-

Decision

The ILRB reverses the determination reviewed by it and deletes condition 2 of the planning permission granted in terms of the Decision Notice dated 30 July 2013. 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 review of condition 2 of the planning permission granted for the erection of conservatory and decking to the rear of the property at 17 Cullen Crescent, Inverkip requiring that the obscure glazing on the south-west elevation of the conservatory shall be retained in perpetuity, to prevent overlooking of the neighbouring garden at No 15 Cullen Crescent, was considered by the ILRB at a meeting held on 4 December 2013. The Review Body was constituted by Provost R Moran, Councillors G Dorrian, T Loughran, I Nelson and D Wilson (Chair).

2. Proposal

- 2.1 The application for review relates to the construction of an approximately 16 square metres conservatory which is approximately 3.5 metres from the side garden boundary with 15 Cullen Crescent. The floor level of the conservatory is that of the house, raised approximately 1.335 metres above the ground. In terms of a decision letter dated 30 July 2013 the obscure glazing on the south-west elevation of the conservatory required to be retained in perpetuity.

3. Preliminaries

- 3.1 The ILRB members were provided with copies of the following:
 - (i) Planning Application and plans specified above;

- (ii) Site photographs;
- (iii) The Appointed Officer's Report of Handling dated 26 July 2013;
- (iv) Representation;
- (v) Decision Notice dated 30 July 2013;
- (vi) Notice of Review form dated 19 September 2013;
- (vii) Further representation;
- (viii) Email dated 30 October 2013 from Mr A Marsh in response to further representation.

3.2 Having regard to the material produced 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. **Reasons**

4.1 The determining issue in this review is the overlooking of neighbouring gardens. The ILRB noted that there were a number of conservatories in the immediate vicinity of the application site none of which had obscure glazing. It was the view of the ILRB that the extent of overlooking of neighbouring gardens was no different, whether from the rear windows of the house or the conservatory, and that the extent of overlooking was greater from the upstairs windows of the property.

4.2 The ILRB determined that having regard to the whole circumstances and taking the application on its individual merits, the review be upheld and that condition 2 of the planning permission granted in terms of the Decision Notice dated 30 July 2013 be deleted.

Signed _____

Head of Legal & Democratic 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.