

## Inverclyde Local Review Body

Our Ref: 16/0067/IC

### REVIEW DECISION NOTICE

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Decision by Inverclyde Local Review Body (the ILRB)

- Site address: 53 Shankland Road, Greenock
  - Application for Review by Mr L Mulaghton against the decision by an appointed officer of Inverclyde Council
  - Application Ref: 16/0067/IC
  - Application Drawings: Location Plan
  - Site Inspection took place on 29 September 2016
  - Date of Decision Notice: 12 October 2016
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### **Decision**

The ILRB reverses the determination reviewed by it and grants Planning Permission. 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 firstly at a meeting held on 7 September 2016. The ILRB was constituted by Councillors T Loughran, I Nelson, L Rebecchi and D Wilson (Chair). At that meeting the Members of the ILRB decided that they wished to carry out an unaccompanied site inspection before making a decision in respect of this matter. The meeting was adjourned to allow the site inspection to be carried out and said site inspection attended by Councillors T Loughran, I Nelson and L Rebecchi took place on 29 September 2016.

The ILRB reconvened on 5 October 2016 to determine the matter. The ILRB on 5 October 2016 was constituted by Councillors T Loughran, I Nelson (Chair) and L Rebecchi.

#### **2. Proposal**

- 2.1 A timber deck approximately 4.8m by 4.4m, with a floor level approximately 2.4m above ground level at the highest point, has been erected to the rear of the building at 53 Shankland Road, Greenock. The floor is enclosed by a timber balustrade. The floor level of the deck is approximately 1m below floor level of the lower ground floor of the building, with approximately 2.6m separating the deck from the rear of the building. The supporting structure of the elevated deck is clad in horizontally fixed, timber decking boards and a door located to the rear provides access to its sub-structure. The overall finish is light coloured timber.

A mushroom and dark green coloured plastic store, measuring approximately 1m by 0.6m deep by 0.9m high, is sited to the rear of the deck. The application was refused consent in terms of a decision letter dated 30 May 2016.

### 3. Preliminaries

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

- (i) Planning Application, location plan and photograph;
- (ii) Site photographs;
- (iii) The Appointed Officer's Report of Handling dated 27 May 2016;
- (iv) Planning Application Advice Note 5;
- (v) Consultation response and representation in respect of the planning application;
- (vi) Decision Notice dated 30 May 2016;
- (vii) Notice of Review Form dated 5 July 2016 together with supporting documentation;
- (viii) Letter dated 25 July 2016 from Mr and Mrs Mulaghton in relation to new material submitted with the Notice of Review Form; and
- (ix) Photograph provided by the applicant considered by the ILRB at its meeting on 7 September 2016.

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 issues were (a) the objector's comments that a line of sight from the deck into the lower ground floor bedrooms impacts on privacy, which the site inspection had established was not an issue given the level of the decking, and (b) whether the deck, by virtue of its size and proximity to neighbouring windows, would allow the opportunity to undertake a range of functions to an extent that the activity may impinge upon the enjoyment of neighbouring property to the detriment of the amenity of neighbouring residents, contrary to the aims of Policy RES1 of the Inverclyde Local Development Plan and Planning Application Advice Note No. 5 on Balconies and Garden Decking. The ILRB noted that the applicants could, without requiring planning permission, sit on chairs on paving slabs below the neighbour's windows and that the decking, being further away from neighbouring windows, would be less likely to impinge upon the amenity of neighbouring residents. The ILRB also noted comments from the Planning Adviser that, as the premises are flatted, there are no permitted development rights and any application for decking requires planning permission.

4.2 Having regard to the whole circumstances, including the site inspection, the ILRB, following a vote, determined that the review application be upheld and that planning permission be granted.

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.