

11. **LRB 394** – Notice of Review Against Refusal of Full Planning Permission for Erection of Boundary Fence and Gate (Retrospective) at Rowan, Netherly, Stonehaven, AB39 3RB – Reference: APP/2017/1031
 - (ii) Decision Notice, Report of Handling and Supporting Documents as submitted by the Planning Service



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Application Reference: APP/2017/1031

TO: Aiden Kennedy & Lucy Petrie
Rowan
Netherley
Stonehaven
Aberdeenshire
AB39 3RB

FOR: Aiden Kennedy & Lucy Petrie
Rowan
Netherley
Stonehaven
Aberdeenshire
AB39 3RB

In pursuance of the powers exercised by them as Planning Authority, this Council having considered your application for the following:

**Full Planning Permission for Erection of Boundary Fence and Gate
(Retrospective) at Rowan, Netherley, Stonehaven, Aberdeenshire, AB39 3RB**

and in accordance with the plan(s) docquetted as relative hereto and the particulars given in the application, do hereby give notice of their decision to **REFUSE Full Planning Permission** for the following reason:

- (1) Due to its height and materials, the proposed fence and gate is out of character with the local rural setting and has a detrimental visual impact. The application is therefore contrary to Policy R2: Housing and employment development elsewhere in the countryside and to Policy P1: Layout, siting and design of the Aberdeenshire Local Development Plan 2017.

Dated: 14 June 2017

Head of Planning and Building Standards

List of Plans and Drawings

Reference Number: Site Plan

Reference Number: Location Plan

**IMPORTANT – THIS IS A LEGAL DOCUMENT PLEASE RETAIN WITH YOUR
TITLE DEEDS**



NOTES

- (i) In the case of any permission granted, this does NOT incorporate any building warrant for any operations or change of use which may be required under the Building (Scotland) Act 2003. This must be obtained separately from the Council prior to the start of building operations.
- (ii) Any permission granted does not incorporate any listed building consent which may be required. This must be obtained separately prior to the start of building operations.
- (iii) Any permission granted is without prejudice to any further consents required from Aberdeenshire Council in its role as landowner.
- (iv) If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. A Notice of Review form should be obtained from and submitted to:

Head of Legal and Governance
Business Services
Aberdeenshire Council
Woodhill House
Westburn Road
Aberdeen
AB16 5GB

Tel: 01224 665147

Email: committee.services@aberdeenshire.gov.uk

A form may also be obtained from a local Planning office or the Council's website at www.aberdeenshire.gov.uk/committees/localreviewbody.asp

- (v) 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 5 of the Town and Country Planning (Scotland) Act 1997.

REPORT OF HANDLING

Application Reference: APP/2017/1031

Proposal: Erection of Boundary Fence and Gate (Retrospective)

Address: Rowan, Netherley, Stonehaven, Aberdeenshire, AB39 3RB

1. Description of proposal

Retrospective full planning permission is sought for the erection of a 1.8m timber screen fence and metal entrance gate at Rowan, Netherley.

Rowan forms part of an existing steading conversion which is situated in a large plot characterised by a rural setting within the Aberdeen Housing Market Area. Adjacent to the steading is a neighbouring property Burnside Farmhouse, separated by an unclassified public road. The design of the steading is traditional stone under slate. As part of the original planning permission for conversion of the steading permitted development rights were revoked.

The timber fence that has been erected is approximately 1.8m in height and extends approximately 31.8m enclosing much of the garden area with a 4.3m wide steel gate positioned on the road side which allows vehicular access.

2. Relevant Planning History

Pre-app advice given 20 August 2015 indicated timber fencing would unlikely be supported at this location, but that post and wire fencing may be more acceptable as boundary treatment. It was also recommended that the existing metal gate be replaced with a timber gate.

APP/2015/2713 – Erection of 1.8m Boundary Fence and Gate (Retrospective) – Withdrawn.

APP/2005/3570 – Conversion of Steading to Form 2 Dwellinghouses and 1 Associated Business Unit – Approved – Permitted development rights withdrawn.

3. Supporting Information

Supporting Statement – raising issues associated with health and safety, security and design.

Supporting Statement from Neighbours associated with previously withdrawn planning application APP/2015/2713.

Photographs of fence as existing.

4. Variations & Amendments

None.

5. Representations

A total of 2 valid representations (support) have been received as defined in the Scheme of Delegation. All issues raised have been considered. The letters raise the following material issue:

- Road safety

Concern was also raised in respect to the behaviour of the applicant's dog and the need for it to be contained by the fence, as erected. However, it is not considered that this issue is a material planning reason in their support of the planning application.

6. Consultations

Internal

Infrastructure Services (Roads Development) confirmed that the fence as positioned does not obstruct visibility and as such had no comment to make on this application.

7. Relevant Policies

Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

Aberdeenshire Local Development Plan 2017

Policy P1: Layout, siting and design

Policy R2: Housing and employment development elsewhere in the countryside

Policy R1: Special rural areas

8. Other Material Considerations

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

9. Directions by Scottish Ministers

None.

10. Discussion

As permitted development rights have previously been revoked, erection of a 1.8m boundary fence and formal metal entrance gate requires an application for full planning permission. This application was submitted retrospectively following investigations by the Council's Enforcement Team.

The principal issue to be considered in this case is the potential impact of the proposed development on the character of the surrounding rural area.

As the proposal lies outwith a settlement as defined in the local development plan, the relevant policies in this case are policies R2 and P1. Policy R2 permits development which would be appropriate to the greenbelt as per Policy R1: Special rural areas. This includes development that is ancillary to the main use of a building, such as boundary treatment for an existing dwellinghouse. Policy P1 aims to ensure that the layout, siting and design of development is appropriate.

Representations made in support of the application state there are road safety benefits associated with retention of the fence and gate. The Council's Road

Development Team have raised no comments in respect to the proposal but have confirmed that the fence does not pose a threat to visibility in this area. It is considered that the principle of there being some physical boundary treatment at this location would be accepted in order to maintain the secure boundary for residents, as sought by the applicant and representees, however it is believed that the scale of that proposed would not be in keeping with the surrounding area.

In order to try and mitigate the adverse visual impacts, a compromise was suggested through pre-application correspondence with the applicant that post and wire fencing with a timber gate would be more appropriate boundary treatment given the rural location. However, this has not been taken forward by the applicant at this time, in favour of retention of the fence and gate as existing.

In conclusion, the Planning Service has determined that the erection of a fence of this height and formal metal gates are an unwelcome addition to the character of the area and fails to respect its rural setting and has a suburban appearance given the overall height and material. There are no significant material planning reasons raised within the applicant's Supporting Statement that would give rise to the proposal being supported as a departure to the local development plan.

The proposal is considered contrary to Policy R2: Housing and employment development elsewhere in the countryside and to Policy P1: Layout, siting and design as contained in the Aberdeenshire Local Development 2017, and the application is therefore recommended for refusal.

11. Recommendation

REFUSE for the following reasons:

01. Due to its height and materials, the proposed fence and gate is out of character with the local rural setting and has a detrimental visual impact. The application is therefore contrary to Policy R2: Housing and employment development elsewhere in the countryside and to Policy P1: Layout, siting and design of the Aberdeenshire Local Development Plan 2017.

12. Process of Determination

The application was the subject of consultation with Local Members under the Council's Scheme of Delegation.

13. Planning Obligations

No

17/04/2017



Aiden Kennedy & Lucy Petrie
Rowan, Burnside Steading
Netherley
Stonehaven, AB39 3RB

Aberdeenshire Council Planning Department
Viewmount
Arduthie Road
Stonehaven, AB39 2DQ

Retrospective planning application for garden fence and gate

Please find enclosed resubmission of a retrospective planning application (your ref: COMP/2016/0232) for erection of a wooden garden fence and metal gate at the above named property.

In addition to the information detailed in the form and attached plans we kindly ask you to take the following supporting statement into consideration when processing our application for erection of a fence and gate to separate our back garden from the public road:

Health & Safety

Our garden leads directly onto a national speed limit public road with no speed calming measures; we have a young child and a large dog who play in the garden and consider that a barrier is necessary to avoid collisions and to prevent injury or death. The fence also improves road safety for other road users and local residents. Another concern is horse riders who utilise the road as our dog has a strong instinct to chase which could spook the horses and cause an accident. The installed fence has been assessed and does not impede driver visibility in any way (see attached technical consultation).

We own a German shepherd dog and require an enclosed garden to keep him secure and safe, away from farm animals and other public road users. A fence of this height is required to provide an effective barrier as our dog can jump or scale fences less than 1.8m in height.

Prior to erecting the fence we had a large cow (escaped from a nearby field) bound through our garden damaging the lawn and drain covers, also a dog that runs unfettered in the area was using our garden as his toilet of choice; the simple fence prevents further damage and fouling.



Security

The property is adjacent to the public road with five external doors, an oil tank, garden furniture and a garage building directly accessible, installation of the fence and gate provides an additional barrier improving security and deterring thieves. There have been several burglaries in the area since we moved in to the property so improved security is advised. With the fence in position only the front door is directly accessible off the public road and the house is clearly demarked as private land.

As such a high proportion of house burglaries take place via rear or side windows and doors the police advise that the back garden is made more difficult to access, our house insurance provider also advised us that the back garden should be secured if possible.

Environment

In the interests of the character and appearance of the property we went for a rustic / agricultural style using unpainted treated wood and galvanized metal. The fence is the same colour as the one directly opposite on the other side of the road and the wooden fence is a similar style and height to many others on our road (B979). Furthermore the close boarded timber construction of the fence is the same style as the boundary treatment applied at the property on the other side of the steading development we live in. We also consulted all immediate neighbours prior to erecting the fence and no objections were made.

Our aim was to satisfy the practical need for security, privacy and safety whilst also enhancing the character, style and functionality of the property. Since erection of the fence neighbours have complimented the style and construction of the fence: one commenting that it, "finished the property well". After receiving notification of an objection we again consulted our immediate neighbours who assured us that they had no issue at all with it and would support any necessary planning application (see attached petition).

We went to every length to install a fence which benefits the property, improves safety of road users and compliments the style of the building without having any negative impact on the area or on other local residents.

In summary we do not believe that alteration or removal of the existing boundary treatment would be in the public interest and we ask that the additional factors mentioned in this letter are fully considered when assessing this application.

Rowan, Burnside Steading



Yours sincerely,

Aiden Kennedy & Lucy Petrie
Owners
Rowan, Burnside Steading

Enc.:

1x householder planning application form

1x ownership certificate

1x site plan showing location of new fence

1x location plan

4x pictures of installed fence and gate showing elevations and view from road

1x technical consultation from Aberdeenshire Council Infrastructure Services

1x neighbor support petition

Your planning consultation entitled [Rowan Netherley Stonehaven Aberdeenshire AB39 3RB](#) on Ward Pages has closed, your proposal has been Accepted. Full results are shown below:

Councillor	Response	Comments	Interest Declared
Cllr. Colin Pike	Reject	To allow discussion on the supporting documentation submitted, the visual impact and policy interpretation	<ul style="list-style-type: none"> ● No Interest Declared
Cllr. Alastair Bews	No Response		<ul style="list-style-type: none"> ● No Response
Cllr. Ian Mollison	Accept		<ul style="list-style-type: none"> ● No Interest Declared
Cllr. Alison Evison	Accept		<ul style="list-style-type: none"> ● No Interest Declared