



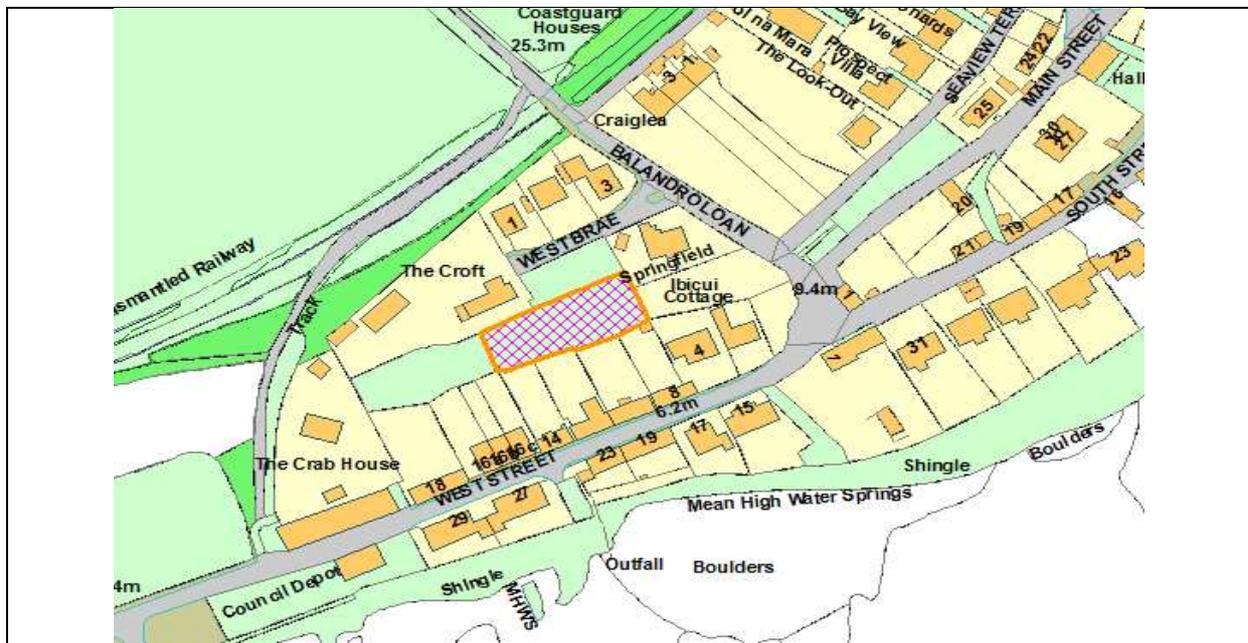
Kincardine & Mearns Area Committee Report 27 February 2018

Reference No: APP/2017/2742

Full Planning Permission For Erection of Summerhouse and Decking, Existing Shed Relocated (Retrospective) at Land To Rear Of 14 West Street, Johnshaven, DD10 0HL

Applicant: Mr George Best, 14 West Street, Johnshaven, DD10 0HL
Agent: StudioEAST Chartered Architects, King James VI Business Centre, Friarton Road, Perth, PH2 8DY

Grid Ref: E:379251 N:766812
Ward No. and Name: W19 - Mearns
Application Type: Full Planning Permission
Representations: 7
Consultations: Nil
Relevant Proposals Map: Aberdeenshire Local Development Plan
Designations: Within Settlement Boundary
Complies with: No
Development Plans:
Main Recommendation: Refuse



NOT TO SCALE

Reproduced from Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright and database rights. Ordnance Survey Licence Number 0100020767.

1. Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.9.1 of Part 2A List of Committee Powers and Section C.3.1i of Part 2C Planning Delegations of the Scheme of Governance as there have been valid objections from six or more individuals or bodies with separate postal addresses or premises. In addition, the application is recommended for refusal and at least two Local Ward Members in the Ward in which the development is proposed, have requested that the application be referred to the Area Committee.
- “I wish this application to be brought to Area Committee as I believe it merits further discussion regarding, policy P1 and P3.” (Councillor Jeff Hutchison)
 - “Suggest further discussion at Area Committee on Policy P1: Layout, siting and design and Policy P3: Infill and householder developments within settlements. After visiting the site, there are similar summer houses in the vicinity and other properties overlooking the same houses in West Street.” (Councillor George Carr)
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.
- 1.3 This application was deferred at the last meeting of the Kincardine and Mearns Area Committee on 6th February 2018 for a site visit. The site visit is to be carried out on 20th February 2018.

2. Background and Proposal

- 2.1 The application site forms part of an undeveloped area which was sold with 14 West Street by the previous owner. 14 West Street has its own garden ground (curtilage) to the rear which extends back in line with the gardens of the other properties on West Street. The undeveloped area to the north has been used by the owners as extended garden ground and has access only through the garden of 14 West Street, it has been planted with fruit trees and maintained as an extended area of garden, although it is not the defined curtilage of the house. A small timber shed was located in the top north east corner of the site. The ground is steeply sloping down to the south with a retaining wall of varying heights running along the rear boundaries of West St.
- 2.2 The summerhouse was erected without planning consent as the applicant understood it was permitted development within his garden. Materials for the construction were brought to site through the feu of Springfield. The construction was underway when it was reported to the Planning Service, who advised the applicant that it required planning permission and they were advised to stop work other than making the building wind and watertight. An enforcement complaint has been held pending the outcome of the application. Planning consent is required because the summerhouse and deck have been constructed on land which is not defined as the curtilage of the house. For the avoidance of doubt, in this case the floor level of the deck is more than 0.5m and the combined height of the deck and summerhouse is 3.49m above the existing ground line which would mean that planning consent would have

been required even if it had been built within the curtilage of 14 West Street as decking is restricted to 0.5m in height above ground level and the combined height of decking plus attached structure is restricted to 2.5m. Building Standards have confirmed that no Building Warrant is required for the work.

- 2.3 The site is located on land outwith the Johnshaven conservation area but is immediately adjacent to it on the south and east boundaries. The conservation area boundary has been drawn to exclude the undeveloped area which is the subject of this application, but the conservation area includes Springfield House to the north east and the properties along West Street to the south. Springfield House is a category C listed building built in 1845 as a merchant's house then used as a manse, 14 West Street is also listed, category C, both have been listed since 1990. There are properties along West Street, numbers 4, 8, 10 and 12, which are located at a significantly lower level than the application site.
- 2.4 The decking measures 35.34 sq m and has access steps to the west. The decking has been sited on the least steep part of the land and the north edge of the deck and the summerhouse are located on flatter ground but it slopes away steeply to the south. From the ground level to the top of the glazed balustrade is 2.1m, the floor level of the deck is 1m above the existing ground line. Below the balustrade the 1.4m difference between the ground level and the decking would be timber clad.
- 2.5 The summerhouse measures 6.08m x 3.9m with overhanging eaves. From the top of the deck level, the summerhouse is 2.49m high to the south and 2.22m to the rear. It is located 2.65m from the east boundary and 1m from the north boundary. Internally the plan shows a storage area accessed from the east, a store accessed internally and having a high level window to the east and a garden room (17.7 sq m) accessed via two bi-fold glazed doors to the south.
- 2.6 An existing small timber garden shed would be relocated from the north east corner to the west of the site. The existing boundaries are a 1.4m high granite rubble wall to the east which is set at a lower level and therefore 1m above the finished floor level. The north boundary is a 1.2m fence. The sectional drawing shows the ground level change from north to south across the site.
- 2.7 The applicant is proposing planting to the front of the deck cladding to screen the timber cladding, climbing plants are proposed to the north boundary and a native hedge along the east boundary where access for maintenance is easier. There is a rubble stone retaining wall with existing hedgerow planting along the shared boundary to the south.
- 2.8 A Design Statement from the applicants agent states that the summer house provides enclosed space and additional decking incidental to the enjoyment of the existing dwelling house. The small shed has been on site for 15 years and allows servicing of the orchard and hedges. The land was purchased in 2004 along with the purchase of 14 West St and has been used for domestic enjoyment over 13 years with an orchard established on the land. The summerhouse is on a gentle north-south slope with a greater incline on the rest of the site. The proposal 'seeks to minimise any impact on the conservation area or neighbouring listed buildings'. It is also 'located a substantial distance from neighbouring properties with its principal orientation

away from neighbouring properties. This minimises any potential overlooking issues'. The design 'is in keeping with that of a conservation area using natural timber cladding and a pitched slate roof.' The colour has been applied following advice from the Planning Service. The clients have made considerable efforts to resolve the issue and have met all neighbouring residents to try and discuss concerns and find acceptable solutions. These include evergreen planting to the north boundary, planting of indigenous hedgerow to the east boundary, allowing considerable growth of the hedgerow on the south boundary, obscure glazing to the high level window, the painting of external cladding and construction of a glass balustrade with a solid lower section around the decking. These measures will further reduce the visual impact of the summerhouse whilst preventing overlooking onto neighbouring properties.

- 2.9 Following the receipt of comments and objections from neighbours the Planning Service has sought clarification from the applicant's agent. He has confirmed that all measurements are correct, a measured survey was carried out. He has advised that slates would be fixed over the existing metal roof as a cosmetic feature, the metal roof would remain underneath as the performing part of the roof. The north boundary will have a climber (clematis or similar) to provide a dense but compact planting scheme allowing access for maintenance. The east boundary would have native hedging (hawthorn or beech) and this area is easily accessible for maintenance. The planting to the front of the decking would not be hedge planting but is proposed to use a climber (clematis or similar) to soften the look of the deck and its junction with the ground. The ground level has not been raised, existing earth has been moved to spread spoil and even off the ground levels. The agent has commented that he is unable to confirm the full extent of earlier site investigations however the installation was carried out by a company whose principal line of work this is. The installation appears to have been carried out in a methodology consistent with domestic decking/garden room installations. He has advised that surface water from decked area would drain through the deck, rainwater from the roof will be collected in a water butt for garden use with any overspill falling to ground, this is a small roof area similar to many domestic sheds/outbuildings that manage rainwater in similar fashion. In relation to the Design statement comment which says 'its principal orientation is away from neighbouring properties' the agent has stated that 'The summerhouse is oriented away from Springfield and other properties behind and therefore does not present an overlooking issue here. The properties in front of the building are notably lower but some distance away. The principle view from the summerhouse is above (and beyond) these with the existing hedgerow planting providing extensive additional privacy.'

3. Representations

- 3.1 A total of 7 valid representations (7 objection) have been received as defined in the Scheme of Delegation. This does not include multiple representations from the same household which equate to 8 letters in total. All issues raised have been considered. The letters raise the following material issues:

- Overlooking from large cabin
- Not in keeping with the location and conservation area
- Although not in the conservation area it is surrounded by it on three sides
- Impact on the adjacent listed building
- Scale of the building, clearly visible from the road in West Street

- Inappropriate materials
- Large patio doors and extensive decking overlook properties below which are at a much lower level
- Door and window and decking overlook Springfield
- 5 properties are badly overlooked
- Other summerhouse referred to in the application is not comparable, it does not overlook, or negatively impact any other households
- Dimensions given for height and distance from boundary are incorrect
- Impact of additional loading on existing embankment and retaining walls
- Potential disturbance from users of the cabin
- No emergency vehicle access
- Proposed planting is not a solution to overlooking
- Summerhouse dominates its surroundings in all directions
- The building has a metal roof at a low pitch which could not be replaced with slate
- Structure has a negative impact on the village
- Drainage arrangements do not take into account roof drainage and impact on retaining walls
- Ground is liable to land slips
- Hedge will have no leaves for 6 months of the year, part has already been removed and the height of the bank means that it could take years for trees to grow into a screen
- Design, with large glass panels maximises views without consideration of neighbours privacy
- Glass balustrade would not increase privacy

Additional matters raised include impact on property prices, Title deed burdens on the land and impact on views which are not material planning considerations.

4. Consultations

4.1 No consultations undertaken

5. Relevant Planning Policies

5.1 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.

5.2 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.

5.3 Aberdeenshire Local Development Plan 2017

Policy P1: Layout, siting and design

Policy P3: Infill and householder developments within settlements

Policy HE1: Protecting historic buildings, sites and monuments

Policy HE2: Protecting historic and cultural areas

Policy RD1: Providing suitable services

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

Section 64(1) requires that in making decisions on applications for development in conservation areas, there shall be special attention to the desirability of preserving or enhancing the character or appearance of that area.

Section 59 states that in considering applications which affect the setting of a listed building planning authorities shall have special regard to the desirability of preserving the setting of the building.

Johnshaven Conservation Area Planning Guidance Note 2013 notes the healthy mix of old and new buildings and spaces. Sheds and buildings should take their design principles and massing from the existing buildings.

5.4 Other Material Considerations

5.4.1 Appeal at 8 Castle St

APP/2015/3870 was an application for the formation of decking and erection of a timber garden room on a steeply sloping site. This application was within the conservation area and was for a 3.3m x 4.5m x 2.6m high timber garden room on the upper level of decking to the rear of 8 Castle St. It was determined under the previous Local Plan and refused by the Kincardine and Mearns Committee due to its detrimental impact on the conservation area and the size and scale would be seen as dominant in the conservation area. A subsequent appeal was dismissed with the Reporter noting that the overall effect of the decking and summerhouse would be 'an alien and dominant feature in the conservation area due to its scale, design and materials' Considering other summerhouses in the area the Reporter concluded that they are a distinctive feature however they were much less obtrusive 'as they

did not have the combination of a conspicuous elevated position and extensive decking' as in this proposal.

6. Discussion

- 6.1 The key issues in determining the application are the location and design of the summerhouse and decking, its impact on amenity, and the impact on the conservation area and nearby listed buildings.
- 6.2 The properties which are most significantly affected are 4, 8, 10 and 12 West Street which are directly below the summerhouse and decking, the difference in ground levels, added to the size of the summerhouse, the extent of the decking and the glazed frontage to the summerhouse all result in significant overlooking of the rear of the properties and their private garden ground. The applicant has tried to address the concerns by planting around the building, however the proposed planting in front of the raised deck would not reduce overlooking as the windows and glazed balustrade would not be screened. The existing planting along the south boundary is unlikely to grow significantly higher to help with screening due to the difference in ground levels.
- 6.3 Springfield lies to the north east and is a substantial granite built house in a large feu, the summerhouse and deck would be located around 2.6m from the boundary wall. Photos show the visual impact of the summerhouse which is clearly visible from the feu of Springfield and can be seen clearly from within the conservation area to the south west as a distinctive feature in views of Springfield. The use of obscure glazing to the high level window of the storage area would prevent any direct overlooking from within the summerhouse and most of the decking area is to the south and west so the overall impact on Springfield is considered not to be significantly greater than the existing use of the ground for garden, although there would be greater year round use than is likely from open garden ground. The setting of the listed building is considered to be compromised from some viewpoints as the summerhouse is a dominant feature in views across existing gardens on West Street towards Springfield, however it is less dominant in views of Springfield from public locations in the conservation area. On balance, it is considered that the setting of the listed building has not been adversely affected in most main public views. 14 West Street is also listed but is a distance away from the development and is not affected by it.
- 6.4 Policy P1 seeks development which is distinctive with a sense of local identity through the creation of a sense of place and the aesthetics of design features and elements, it should also encourage both activity and privacy, providing security and protecting amenity. Johnshaven exhibits a variety of building styles and there are a number of summerhouses in the village, taking advantage of the coastal location. Some of these are traditional in style while others have taken a more contemporary approach. Both can be successful but it depends on the context of the site, and in this case it is considered that the combination of the size and design of the summerhouse and the scale of the decking due to the slope of the ground, results in an inappropriate development, in conflict with the established identity of the village.
- 6.5 The location of the development on a steeply sloping site results in a significant impact on views within the village, and whilst it is accepted that the site itself is not in the conservation area, it is bounded on two sides by it and is widely visible in association with properties within the conservation area.

Policy HE2 states 'we will not allow development that would not preserve or enhance the character or appearance of a conservation area. This applies both to developments within the conservation area and proposals outwith that would affect its setting'

- 6.6 A further matter raised by objectors is the impact on ground stability, the agent has advised that the development has been installed by experienced contractors and that surface water and roof water will drain to ground and be collected in water butts for garden use. Open decking would allow surface water to drain through to ground and use of water butts for roof water would be acceptable but relies on regular emptying to prevent overflow and erosion. On smaller ancillary buildings this is a standard approach but there is a large covered surface which would rely on effective management of water collection. The development does not require a building warrant and from a planning perspective its impact on existing retaining walls and ground stability is not a material consideration. Should problems arise it would be a private civil matter to be resolved between the applicant and any affected properties.
- 6.7 In summary, the development of the raised decking and the summerhouse are considered inappropriate for the steeply sloping site located on the edge of the conservation area. There would be an unacceptable impact on the privacy of properties on West Street which would be difficult to adequately mitigate because of the level change. In addition the design, scale and siting of development results in an adverse impact on the character and appearance of the adjacent conservation area. Whilst it is accepted that the applicant has attempted to find solutions to resolve concerns it is considered that the development is not acceptable and is recommended for refusal.

7. Area Implications

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

- 8.1 An equality impact assessment is not required because [state reasons using the guidance provided by the Equalities team] and does not have a differential impact on any of the protected characteristics.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

9. Sustainability Implications

- 9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

10. Departures, Notifications and Referrals

10.1 Strategic Development Plan Departures

None

10.2 Local Development Plan Departures

Policy P1: Layout, siting and design

Policy P3: Infill and householder developments within settlements

Policy HE2: Protecting historic and cultural areas

10.3 The application is a Departure from the valid Local Development Plan and has been advertised. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.

10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.

10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

11. Recommendation

11.1 **REFUSE for the following reasons:-**

01. By virtue of its siting and the sloping nature of the site, the development would have an unacceptable impact on the privacy and amenity of nearby properties and would be contrary to Policy P1: Layout, siting and design and Policy P3: Infill and householder developments within settlements of the Aberdeenshire Local Development Plan 2017.

02. By virtue of its proximity to the Johnshaven Conservation Area, nature of the development proposed and prominence of the site from public viewpoints, the development would not be considered to preserve or enhance the character or appearance of the conservation area and as such it would not comply with Policy HE2: Protecting historic and cultural areas of the Aberdeenshire Local Development Plan 2017.

Stephen Archer
Director of Infrastructure Services
Author of Report: Jan Regulski
Report Date: