

5. **LRB 554** – Notice of Review Against Refusal Full Planning Permission for Change of Use and Extension from Business (Class 4) to Dwellinghouse (Class 9) at Muirskie Grange, Durris, Banchory, AB31 6EB – Reference: APP/2021/2863.

(iii) Agent's Response to Planning Service Response – Obscure Glazing.

RE: LRB 554 - Additional Info Received from Planning Re Obscure Glazing

16 August 2022

11:55

Subject	RE: LRB 554 - Additional Info Received from Planning Re Obscure Glazing
From	Maggie
To	Frances Brown
Cc	Pippa
Sent	16 August 2022 10:15

Good morning Frances, and thanks for this.

Pippa is on leave this week and so I am responding on her behalf.

First, in respect of the procedure being followed by the LRB in asking the opinion of the planners on matters discussed, we would highlight that the LRB is required to make a decision on an application independently of the officers who initially determined it. And, whilst it is recognised that Circular 5/2013 states that *“Where the local review body consider it necessary to take further advice before reaching a decision on the review it will be for the planning authority to arrange such advice”*, it is nevertheless expected that impartiality be maintained by obtaining such advice from an independent officer who played no role in the original determination of the application, and indeed the LRB is supported by a planning advisor whose role it is to provide expert planning advice when required. As such, it should not be necessary, nor is it appropriate, to revert back to the case officer for further advice.

The above notwithstanding, with regards to the question asked of the planners and their response to that, I have reviewed what was actually said at the LRB meeting, and note that the exact wording of the motion (at 2:47) was for determination of the application to be deferred for *“further procedure to ask opinion of the planners as to the nature of the velux and provision of obscured glass and if this is required...”*, with that then having been agreed unanimously. Further, prior to agreeing this, the LRB members had made it clear that their only concerns related to the potential for overlooking (although not all the members agreed this was an issue, and those that did were content that this could be addressed through the use of obscured glass, with the only question being on which windows this should be required) and whether suitable access to the garage could be provided, and that they would accordingly support the application if these points could be addressed/conditioned as appropriate.

In other words, the planners were not asked to comment on any wider privacy or amenity related concerns that they might have had when assessing the application, and whether those could be addressed if obscure glass were used. Rather, they were asked only to comment only on where obscured glass might appropriately be required to address the specific overlooking related concerns identified by the LRB. That being the case, it is not appropriate for the planners to effectively reassess the application in terms of amenity impacts or to revisit the LRB’s conclusion that the application is otherwise acceptable in amenity terms.

Likewise, the planners were also not asked to comment on the enforceability of a condition requiring obscured glazing, with the planning advisor to the LRB having confirmed during the meeting that obscure glazing could reasonably be conditioned, and the only caveat to that being that there were also practical elements to consider, i.e. which windows, and potential impacts of that on internal amenity. Indeed, and again contrary to the comments of the planner, it should be noted that the requirement for the use of obscure glazing is a standard and commonly used condition, as set out in the Council's own model conditions (model condition 03003), making it clear that the Council do consider this to be an appropriate remedy in principle, and the LRB having determined that it was also appropriate in this instance.

In terms then of the specific question that was asked, it is noted that Councillor Goodall suggested during the debate that the solution could be to just obscure the far left window (understood to be the northmost window on the east facing elevation of the roof plane) and, in the absence of anything in the planner's response to indicate that obscure glazing on this window would not be appropriate, or that it should be applied to any other windows, we would suggest this be conditioned accordingly, per the model condition referred to above.

I trust this is of assistance, and a condition can be applied to this effect, but please just let me know if anything further is required.

Meantime, I can confirm that we are also on the case with a response to the comments about access to the garage, and will revert on these separately as soon as we can.

Thanks.

Maggie

Margaret Bochel

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From: Frances Brown <frances.brown@aberdeenshire.gov.uk>

Sent: 10 August 2022 09:54

To: Pippa <pippa@auroraplanning.co.uk>

Subject: RE: LRB 554 - Additional Info Received from Planning Re Obscure Glazing

Good morning Pippa,

I have received the information requested from the Planning Service with regards to the use of Obscure Glazing (see attached).

Can you please discuss this with your client, and provide any comment by Wednesday 24 August 2022.

Many thanks.

Kind regards

Frances

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