

Agenda Item	<b>3.1</b>
Report No	PLC/001/11

10/03788/FUL: Morven Taylor  
5 Garden Square, Alness, IV17 0WE

Report by Area Planning and Building Standards Manager

## SUMMARY

**Description :** Erection of garden decking area, fences, shed and summer house

**Recommendation - GRANT**

**Ward :** 07 – Cromarty Firth

**Development category :** Local development

**Pre-determination hearing :** Not required.

**Reason referred to Committee :** Objection by more than five householders

## 1. PROPOSED DEVELOPMENT

- 1.1 The application for detailed Planning Permission seeks retrospective permission for a stepped area of garden decking measuring approximately 8.3m x 3.4m and consent for two new timber outbuildings and new and heightened boundary fencing. A garden shed measuring 2.4m x 1.8m x 2.1m high is proposed on top of the decking and a summer house measuring 4.5m x 3.3m x 2.7m high is proposed on open ground on the opposite side of the access road from the existing house. It is proposed to erect a heightened timber palisade fence rising from 0.9m at the public road increasing to 1.8m at the gable end of the house. A lower 0.9m fence is proposed on the opposite side of the access road.
- 1.2 Pre-application discussion has resulted in the retrospective application being submitted following complaints received and subsequent correspondence with the previous householder dating back to 2008. The applicant bought the house in December 2009 and was unaware of any issues relating to the decking until she received a letter from the Planning office in July 2010. She immediately got in touch with the office and advised that she wished to regularise the situation with a retrospective application but also that she wished such application to include two outbuildings and changes to boundary fencing. The current application was lodged in September 2010.
- 1.3 There are no proposed changes to access or other infrastructure.
- 1.4 No supporting documents have been submitted.
- 1.5 No variations have been made to the application since it was lodged.

## **2. SITE DESCRIPTION**

- 2.1 5 Garden Square is a one and a half storey semi-detached three-bedroomed house situated within a five house cul-de-sac to the south side of Novar Road, on the western edge of Alness town centre. The house is set back over 18m from the public road and lies at a lower level than this road facing the site access.
- 2.2 The decking is situated on the higher part of the garden between the house and Novar Road. Three mature trees lie between the decking and a 0.9m high timber fence running to the heel of the public footpath. The top section of the decking is at a level with Novar Road and it is then stepped down marginally into the slope running down towards the house, elevated approximately 1m from existing ground level at its highest point around 6m away from the house gable.
- 2.3 An open level area of presently gravelled land lies directly opposite the front of the house on the other side of the site access road, with grassed land containing trees sloping up from this to Novar Road.
- 2.4 Surrounding uses are predominantly residential and immediately to the west is a small cul-de-sac serving three relatively new one and a half storey houses. The access to those houses runs immediately to the west of the fenced boundary of 5 Garden Square.

## **3. PLANNING HISTORY**

- 3.1 05/00513/FULRC Erection of five houses – Planning Permission granted 19.07.2005

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Neighbour Notification  
Representation deadline : 08.10.2010  
Timeous representations : 7  
Late representations : 1
- 4.2 Material considerations raised are summarised as follows:
- Height of proposed fences and position of proposed shed will reduce visibility from adjacent two access points onto Novar Road causing road safety issues
  - Position of shed and decking covering Scottish Water manhole which would add significant costs to any work being done which all residents are liable for
  - Decking on stilts higher than adjoining boundary fences
  - The proposed increased height of fencing will affect appearance of the immediate locality giving it a more closed in feeling and disregarding the open plan nature of Garden Square
  - The proposed summer house is a fairly large building which would reduce the light coming into Garden Square from street lights on Novar Road which could have implications for security of residents as there is no street lighting in Garden Square
  - The decking was built without planning permission or consultation with immediate neighbours so should be removed as soon as possible

- The proposed shed will be an eyesore to immediate neighbours
- The proposed summer house will be built over water pipes and electricity connections
- The proposed siting of the summer house is on land which has the possibility of containing contaminated soil as a pit was dug here previously which was filled in with tyres, wheels and car engines.

4.3 Non-material matters raised relate to the loss of views from existing properties caused by the heightening of the fence, the summer house and the shed. In addition reference is made to the title deeds attached to all properties within Garden Square. It is not apparent from the title deeds that any particular forms of development are precluded however notwithstanding this, compliance with the terms of the title deeds is a separate and unrelated matter to the terms of any planning permission.

4.4 All letters of representation can be viewed online [www.highland.gov.uk](http://www.highland.gov.uk), at the Area Planning Office in Dingwall and for Councillors, will be available for inspection immediately prior to the Committee Meeting.

## 5. CONSULTATIONS

5.1 **Alness Community Council:** The Community Council does not object to the application but makes the following comments:

- The application has been brought to the attention of the Community Council by residents of Garden Square who are against the proposals
- The decking was erected by the previous owner and neighbours have been concerned for some time that the decking blocks light and also because the Scottish Water manhole is buried beneath tons of earth
- The neighbours are also concerned that if the applicant is allowed to erect a high fence, shed and summerhouse there will be more issues with light being blocked as there is no lighting in Garden Square and also that visibility will be blocked onto Novar Road which is a very busy road.

5.2 **TECS (Transport):** No objections. There are no roads issues as the decking is set back to the rear of any 2.5m set back dimension visibility splay and will not interfere with egress from adjacent accesses onto the B817 public road.

5.3 **Scottish Water:** No objections. Confirmation has been received from the SW Regional Network Analyst that a camera survey has been carried out on this site and confirms that there has been no build over the existing manhole (grid ref 265327 869545) at this site. Note that there may be contaminated land issues relevant to the development of this site. The developer must ensure that satisfactory precautionary measures are taken to protect public water and sewer pipes from any possible contamination. The developer may have to submit a full soil investigation report to Scottish Water.

## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### **6.1 Highland Structure Plan 2001**

G1 Conformity with strategy

G2 Design for sustainability

### **6.2 Ross & Cromarty East Local Plan**

AIness Within area of existing housing.

## **7. OTHER MATERIAL CONSIDERATIONS**

### **7.1 Draft Development Plan**

Not applicable

### **7.2 Highland Council Supplementary Planning Policy Guidance**

Not applicable

### **7.3 Scottish Government Planning Policy and Guidance**

Scottish Planning Policy

## **8. PLANNING APPRAISAL**

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

### **8.3 Development Plan Policy Assessment**

There are no policy issues as the development comprises minor works relating to the use of 5 Garden Square as a private house.

### **8.4 Servicing**

There are no technical objections. TECS (Transport) is content that the existing decking and the proposed shed and heightening of fencing does not encroach on the existing visibility available from either of the two access points either side of the site onto Novar Road. Scottish Water has confirmed no objections and following a detailed site investigation has confirmed that there is no manhole under the decking as claimed by neighbours.

## 8.5 Representations

Eight third party representations have been received from the other four householders in Garden Square and from the three householders in the neighbouring development at 15 Novar Road to the immediate west, together with a representation from an Inverness address. Alness Community Council does not object however acknowledges the concerns of the neighbours.

- 8.6 Concerns expressed over visibility onto Novar Road being obscured are not substantiated by TECS (Transport) advice. The decking and proposed shed are set back more than 4m from the road edge, well behind the 2.5m visibility splay set back measurement and separated from the road by existing mature trees. The proposed heightened fence is set back even further than this at around 6m from the road edge gradually increasing from 0.9m to a height of 1.8m. The fence is only proposed on one side of the access, as far as the north-east corner of the house. A new 0.9m high fence on the other side of the access road will have no impact on visibility.
- 8.7 Concerns over the decking and shed being constructed over a manhole are not substantiated by Scottish Water's response which refers to a camera survey concluding that no manhole is affected.
- 8.8 The decking is at the level of the top of the garden slope, with the railings slightly higher than the garden fences. However the garden is steep and the applicant points out that even without the decking in situ, anyone standing or sitting at the top of the slope would have a clear view over the other houses within the development. The applicant submits further that the majority of the decking area is only 23cm from ground level with a small section elevated around a metre high from the ground. For the longer term the applicant proposes to soften the structure by using climbing plants and flowers. It is noted that the decking sits between the house and the road on rising land and that because of the elevation of the public road and both development accesses similar views of all properties can be achieved from those public vantage points. In the main the views from the decking are over the open front gardens of adjoining properties with only the back garden of 4 Garden Square affected, which is also overlooked from the public road, the adjacent access and the upper floor windows of 15, 15a and 15b Novar Road. An existing garden shed within the applicant's garden to the immediate rear of the house is higher than the mutual 1.8m high boundary fence and thereby further helps partly obscure views into this garden. It is therefore not considered that the decking creates any material reduction in established standards of privacy or amenity.
- 8.9 The two timber buildings proposed are modest in size. The shed proposed on top of the decking has a footprint of just over 4m<sup>2</sup> and a height of just over 2m. It will be seen against the mature trees immediately adjacent and set back over 4m from the public road. It will therefore not create any particular amenity issues. The summer house is larger with a footprint of just over 14m<sup>2</sup> and a height of less than 3m however remains a relatively small garden outbuilding set back against an existing 1.8m high timber boundary fence. It is distanced around 18m from the applicant's house and further from all other houses within the Square. In view of its design, location and modest size it is not considered that it will have any detrimental impact on the amenity of adjoining properties nor will it have any material impact on the amount of light spilled onto the area from the street lights on Novar Road.

The applicant points out that the light from the two street lights on the pavement is dappled light through existing trees and will not be affected by the summer house in the location proposed. With regard to the allegation that contaminated soil exists on the site of the summer house SEPA and the Council's Contaminated Land Unit have both confirmed to the Planning office that they have no record of any incident investigated at this address. An informative note may however be appropriate given that the issue has been raised.

- 8.10 The third element of the application which has generated concerns over impact on amenity is the proposed fencing. A new section of 0.9m high fencing is proposed around the open land on the opposite side of the access which is to match the height of existing fencing. In itself this does not require planning permission however the applicant has shown this on the submitted plans for completeness and it is considered appropriate and compatible with adjoining boundaries. It is also proposed to increase the height of the existing fence on the west side of the access to provide some privacy to the garden area below the decking. The applicant has specified that her intention is a gradual increase in height of the existing fence down the slope from 0.9m at Novar Road to a maximum of 1.8m adjacent to the house, matching the height of the back boundary fence between the property and the development at 15 Novar Road. This fence will have no impact on any of the adjoining properties nor on visibility onto Novar Road. Furthermore by using the slope to dictate the increased height this is considered a sensitive solution which will ensure that the established amenity of the approach to the Garden Square housing development is not materially affected.

8.11 **Matters to be secured by Section 75 Agreement**

Not applicable

**9. CONCLUSION**

- 9.1 It is accepted that the decking should not have been erected without planning permission and that it has taken a considerable period of time to secure a retrospective application for the Council's formal consideration. It must be stressed however that the work was carried out by a previous householder and since the current householder became aware of the issue she has been extremely co-operative in trying to regularise the matter, whilst at the same time including her own proposals for two timber outbuildings and additional fencing within the submitted application.
- 9.2 Whilst the number of representations is acknowledged, there are no technical objections from consultees, with TECS (Transport) and Scottish Water satisfied that their own interests are not affected. Alness Community Council does not object.
- 9.3 The proposals have been assessed as to their impact on the established privacy and amenity of adjoining properties. As indicated at 8.5 above it is considered that no material detriment to amenity or privacy is caused by the existing decking or by the further relatively minor works proposed. Accordingly it is recommended that Planning Permission is granted subject to the conditions listed below.

## 10. RECOMMENDATION

**Action required before decision issued** N

Notification to Scottish Ministers N

Notification to Historic Scotland N

Section 75 Agreement N

Revocation of previous permission N

**Subject to the above**, it is recommended the application be **Granted** subject to the following conditions and reasons:

1. The development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice.

**Reason** : In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

2. No development shall start on site until the completed Notice of Initiation of Development (NID) form attached to this planning permission has been submitted to and acknowledged by the Planning Authority.

**Reason** : In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

3. Upon completion of the development the completed Notice of Completion form attached to this decision notice shall be submitted to the Planning Authority.

**Reason** : In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

4. For the avoidance of doubt, all fencing shall be erected and finished to match existing as shown on Approved Drawing 000002 – that is, closeboard timber fencing of 0.9m height on the east side of the site access road and 0.9m high fencing increasing directly in proportion to the slope to a maximum of 1.8m at the north-east gable corner of the house.

**Reason:** To ensure that the development progresses with sensitivity to the established amenity of the surrounding area.

5. For the avoidance of doubt the buildings erected shall be used for domestic purposes incidental to and ancillary to the use of house and shall not be used in association with any business or commercial use.

**Reason:** To safeguard the established amenity of the surrounding area.

## FOOTNOTE TO APPLICANT

**Conditions:** Your attention is drawn to the conditions attached to this permission. Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to meet these conditions may invalidate your permission or result in formal enforcement action.

**Contaminated Land:** Scottish Water note that there may be contaminated land issues relevant to the development of this site. The developer must ensure that satisfactory precautionary measures are taken to protect public water and sewer pipes from any possible contamination. The developer may have to submit a full soil investigation report to Scottish Water and should contact SW Customer Connections in this regard.

Signature: Allan J Todd

Designation: Area Planning & Building Standards Manager  
Caithness, Sutherland and Easter Ross

Author: Dorothy Stott

Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 - Location Plan  
Plan 2 – Layout Plan



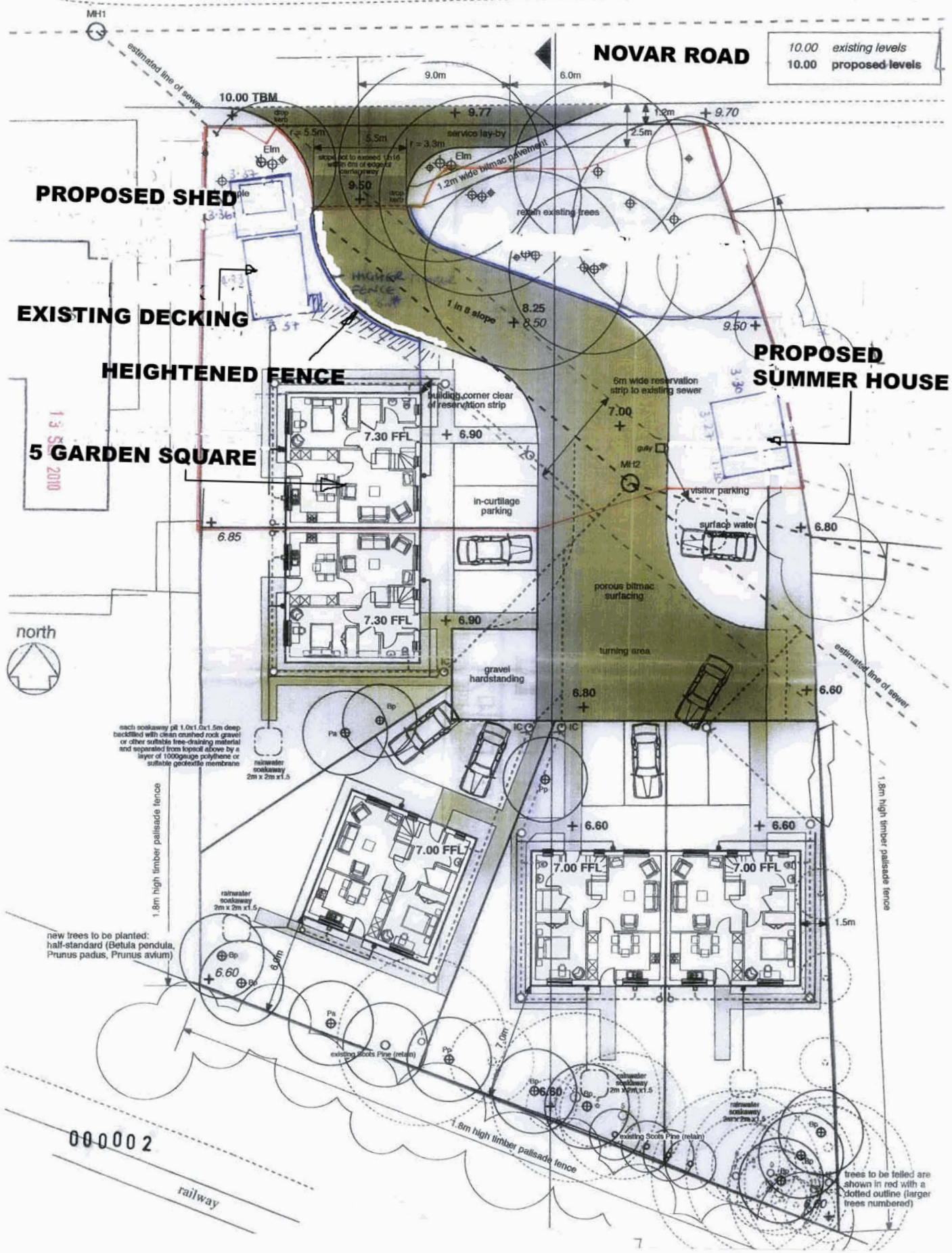
## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mr J Machattie	15b Novar Road, Alness	22.09.2010	A
Mrs A Murdoch	19 Provostsmith Crescent, Inverness	24.09.2010	A
Mr & Mrs G Henderson	4 Garden Square, Alness	27.09.2010	A
Mr D McAllister	1 Garden Square, Alness	28.09.2010	A
Mr & Mrs Kemp	2 Garden Square, Alness	28.09.2010	A
Mr & Mrs Peach	3 Garden Square, Alness	28.09.2010	A
Mr D Tombe	15 Novar Road, Alness	30.09.2010	A
Mr & Mrs A Murray	15a Novar Road, Alness	10.10.2010	A



10/03788/FUL  
 Erection of garden decking area, fences, shed and summerhouse  
 at 5 Garden Square, Alness IV17 0WE

Mrs M Taylor  
 5 Garden Square  
 Alness  
 IV17 0WE



10.00 existing levels  
 10.00 proposed levels

NOVAR ROAD

PROPOSED SHED

EXISTING DECKING

HEIGHTENED FENCE

5 GARDEN SQUARE

PROPOSED SUMMER HOUSE



new trees to be planted:  
 half-standard (Betula pendula,  
 Prunus padus, Prunus avium)

trees to be felled are  
 shown in red with a dotted outline  
 (larger trees numbered)

00-0002

railway