

THE HIGHLAND COUNCIL

NORTH AREA PLANNING APPLICATIONS COMMITTEE
16 December 2014

Agenda Item	6.5
Report No	PLN/089/14

14/02938/FUL Mr Gordon Christie
An Cabar, 7 Mountrich Place, Dingwall, IV15 9RH

Report by Area Planning Manager

SUMMARY

Description: Erection of decking (retrospective)

Recommendation: REFUSE

Ward: 09 – Dingwall & Seaforth

Development category: Local development

Pre-determination hearing: Not required

Reason referred to Committee: Local Member referral

1. PROPOSED DEVELOPMENT

- 1.1 An application has been received for the erection of decking within the garden ground of the property known as An Cabar, 7 Mountrich Place, Dingwall. The application is retrospective as the decking is already in situ.
- 1.2 Planning permission is required in this instance as the floor level of the deck exceeds 0.5m in height and the combined height of the deck and handrail exceeds 2.5m.
- 1.3 The decking measures 24m x 2.4m and extends along the entire frontage of the property. The front garden area has been landscaped in order to form a flat lawn, and the decking extends out from this grassed area to the boundary of the site. A 1.1m handrail (measured from the deck) surrounds the structure on three sides.
- 1.4 **Variations:** None

2. SITE DESCRIPTION

- 2.1 The site comprises a detached house with garden ground situated within a group of houses located on the north-eastern edge of Dingwall. A burn runs along the east boundary with open land beyond. Mountrich Place occupies a sloping site and access is taken off Old Evanton Road to the north. Three further house plots are located to the south of the site with an application for renewal of planning permission currently pending for the plot immediately adjacent (14/03978/FUL)

3. PLANNING HISTORY

3.1 **98/00940/FULRC** – Erection of house and garage – Planning Permission granted 26.01.1999.

History of adjacent plot to immediate south:

02/00537/FULRC – Erection of house and garage. Planning Permission granted 21.11.2002

11/03725/FUL – Erection of house. Planning Permission granted 16.12.2011

14/03978/FUL - Erection of house (Renewal of 11/03725/FUL). Pending consideration

4. PUBLIC PARTICIPATION

4.1 Advertised: No

Representation deadline: 27.08.14

Timeous representations: 1

Late representations : 0

4.2 Material considerations raised are summarised as follows:

- Deck is imposing and intimidating, being higher than the existing 1.8m fence.
- Loss of privacy to future house.
- Handrail of deck does not provide screening.

5. CONSULTATIONS

5.1 None

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland-Wide Local Development Plan 2012

Policy No 28 Sustainable Design

Policy No 34 Settlement Development Area

6.2 Ross & Cromarty East Local Plan (2007) as continued in force

Within Settlement Development Area

6.3 Inner Moray Firth Proposed Local Development Plan (2014)

Within Settlement Development Area

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide (January 2013)

7.2 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (June 2014)

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**

Policy 28 of the Highland-wide Local Development Plan sets out the criteria against which developments will be assessed. Relevant to this proposal is the extent to which the development impacts on residential amenity.

8.4 **Material Considerations**

Background

The decking was installed without consent and, following a letter of complaint, it was established that planning permission was required. It was made clear to the applicant at that time that the structure as built may not receive planning permission and therefore it was suggested to him that he may wish to consider amended proposals. However, a planning application was subsequently received for the structure as existing.

Third party representation

A letter of representation from an adjoining landowner has been received expressing concern in respect of the intrusive nature of the structure and loss of privacy to the future house approved to the immediate south of the site (11/03725/FUL).

Appraisal

Whilst this adjoining house has not yet been built, it has an extant detailed permission which is in the process of being renewed (14/03978/FUL). In this instance, the Planning Authority has a responsibility to ensure that any new development does not result in a material loss of privacy or amenity to such future property as approved. Whilst it is the rear of the house which will be directly overlooked by the decking, this includes the car parking area and drying area, as well as full length windows into the main entrance vestibule and high level windows to the living area.

Although it is acknowledged that the sloping nature of the plots in this area results in some overlooking between properties, it is considered that the decking in this instance is excessive and will negatively impact on the amenity and privacy of the future house on the site below. The structure extends above the existing 1.8m high boundary fence particularly towards the eastern side. The decking is 24m long,

located on the boundary of the site, and will only be some 5m from the house when built. Given the height above and proximity to the boundary fence, it will have an imposing effect on the entrance to the future house. Additional screening on the decking may help in respect of privacy but would only serve to accentuate the height of the structure which would add to its imposing nature. The only realistic solution which would mitigate against such loss of amenity and maintain an open outlook from the applicant's property would be to reduce the extent of the decking and pull it further away from the mutual boundary.

It was suggested to the applicant that he discuss alternative options with his neighbour with a view to reaching a compromise, however following discussions between the applicant and the objector it was established that no compromise could be reached between the parties. Notwithstanding this, the local planning office staff would be willing to continue to work with the applicant in an attempt to achieve an amended proposal which could gain officer supported.

8.5 Other Considerations – not material

The objector expressed concern that the loss of privacy will also likely have an adverse effect on the value of the future property.

8.6 Matters to be secured by Section 75 Agreement

N/A

9. CONCLUSION

9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Accordingly It is recommended that permission be refused and enforcement action be pursued to secure removal of the unauthorised decking. As noted at section 8 above, the applicant is encouraged to revisit the design, extent and footprint of the decking to devise an amended proposal which mitigates the negative impact on the amenity and privacy of the adjoining house plot. It is suggested that a maximum period of three months be allowed to facilitate this action before formal enforcement action is pursued.

10. RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended the application be **REFUSED** for the following reasons and that an Enforcement Notice is served requiring removal of the decking structure.

1. The proposal is considered contrary to Policy 28 of the Highland-wide Local Development Plan in respect of the impact on residential amenity. The height of the decking, and its elevated location on the southern boundary of the site, results in an imposing structure which will be detrimental to the amenity and privacy of the proposed neighbouring house.
2. The proposal is considered contrary to Policy 34 of the Highland-wide Local Development Plan which only supports proposals within Settlement Development Areas if they meet the requirements of Policy 28 of the Highland-wide Local Development Plan. The proposal does not accord with Policy 28 as it will have a detrimental impact on residential amenity.

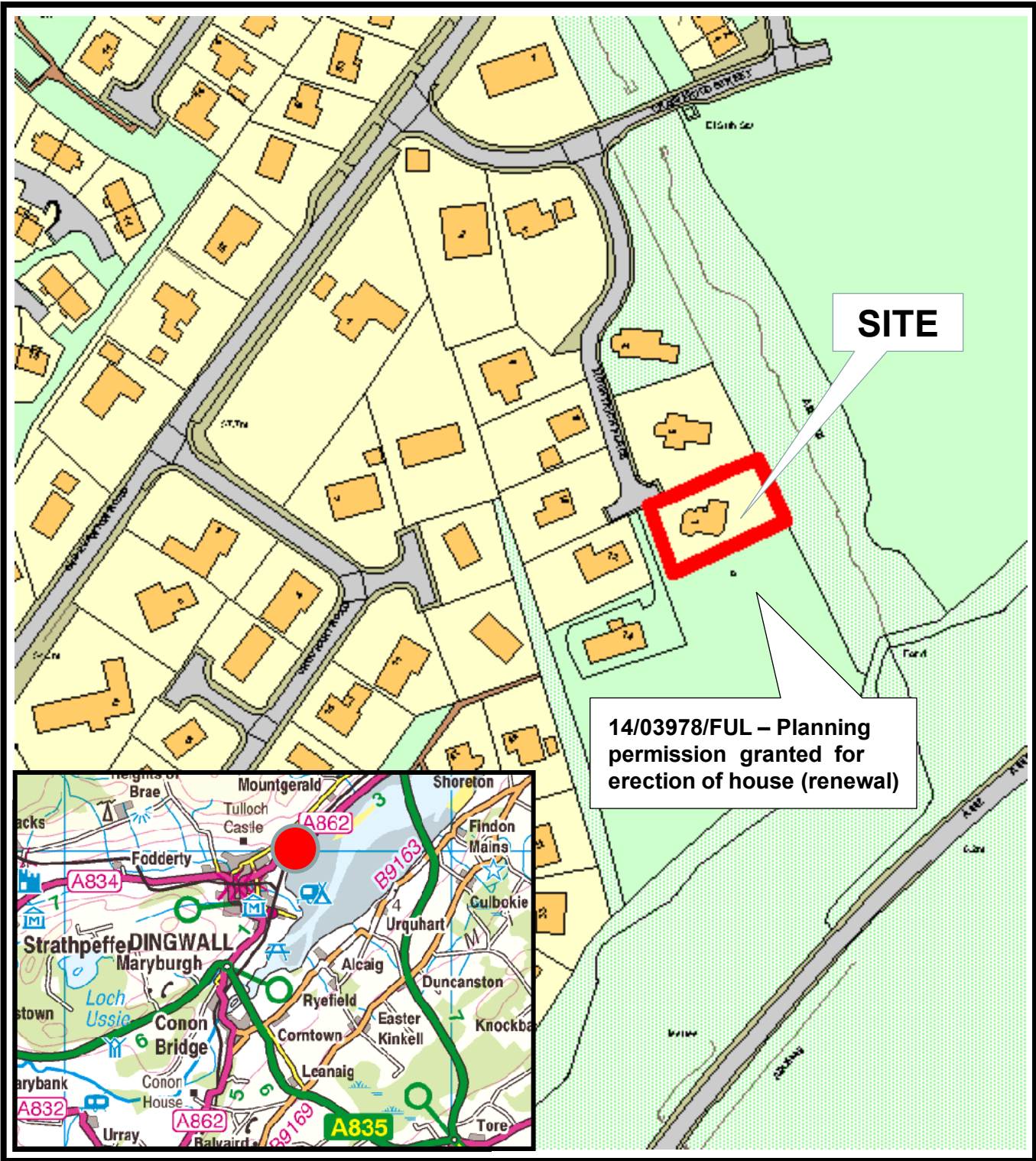
Signature: Dafydd Jones

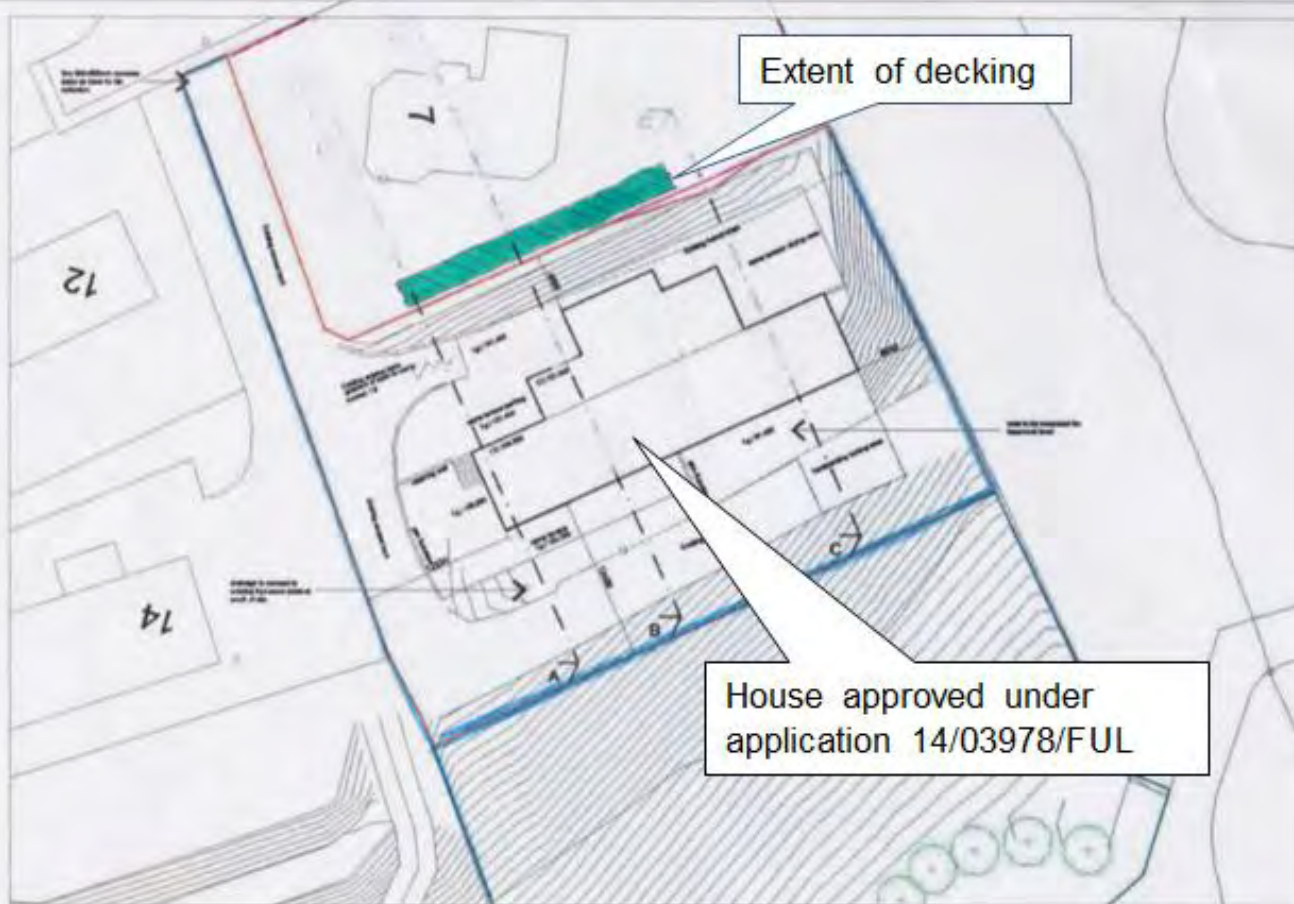
Designation: Area Planning Manager North

Author: Patricia MacRae

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

Relevant Plans:
Plan 1 - Location Plan
Plan 2 - Site Layout Plan
Plan 3 - Photographs





Extent of decking

House approved under application 14/03978/FUL



GORDON CHARISTIE
 7 MOUNTAIGN PLACE
 DINGWALL
 IV/S 9RH

PROPOSAL REFERENCE: 0000 95905

LOCATION PLAN

NOTE: AREA OF DECKING OUTLINED
 IN MAP AS BELOW. 24m x 2.4m

1cm = 6.0135m

