

Agenda Item	6.6
Report No	PLS 021/18

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 13 March 2018
Report Title: 17/05604/FUL: Ms Michelle MacPherson
Lindfields, Balnafettack Road, Inverness, IV3 8QX
Report By: Area Planning Manager – South/Major Developments

Purpose/Executive Summary

Description: Erection of retaining wall, safety barrier and shed (retrospective)

Ward: 13: Inverness West

Development category: Local

Reason referred to Committee: Five or more representations

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **Grant** planning permission as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 This is a retrospective application for the erection of a retaining wall with a safety barrier (close boarded fence) above it and a shed located towards the front of the house, Lindfields, Balnafettack Road, Kinmylies, Inverness.
- 1.2 The wall height varies across the site, stepping from around 1m (plus fence) at the eastern side of the site, to 1.3m, 1.6m, to 1.9m (plus fence) at the western side of the site. The shed measures approximately 5m x 3m.
- 1.3 Surface water drainage has been built into the site to deal with the changes in drainage as a result of the new house being built. This includes drains and soakaways.
- 1.4 No pre-application advice provided.
- 1.5 The applicant has submitted a Structural Engineers report in relation to the wall. This report includes sectional engineering plans of the wall. Additional information has been provided by the applicant including a Report from a Materials Testing Engineer (Soil Expert).
- 1.5 **Variations:** None

2. SITE DESCRIPTION

- 2.1 This site is formed within the garden ground of 22 Highfield Avenue in the Kinmylies area of Inverness. The garden was subdivided in 2008 to form a house site in its northwest corner; the house is now built. The new house is on the higher part of the garden ground.

3. PLANNING HISTORY

- | | | | |
|-----|------------|---|--------------------|
| 3.1 | 28.06.2007 | 07/00391/OUTIN – Erection of house. | Permission Granted |
| | 21.04.2008 | 08/00169/REMIN – Erection of house. | Permission Granted |
| | 30.11.2011 | Variation to planning permission 08/00169/REMIN to change 1.8m high fence to 1m high retaining wall with close boarded fence above. | Approved |

4. PUBLIC PARTICIPATION

- 4.1 Advertised: No advert required

Representation deadline: 08.02.2017

Timeous representations: 6 (from 6 households)

Late representations: 0
- 4.2 Material considerations raised are summarised as follows:
 - Drawings are inadequate to appraise the application;

- Structural Engineer's report refers to existing wall – original application does not show a wall;
- Weep holes are not detailed in the design of the wall, but are built into the wall and let a lot of water through them;
- Lack of dimensions on the drawings showing the height of the wall;
- The height of the wall and fence are detrimental to the neighbour's amenity and outlook;
- Concerns regarding the increased amounts of rainwater entering neighbouring property;
- Position of shed blocks sunlight and vision.

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 No consultations were required for this application.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

Policy 28 - Sustainable Design
Policy 29 - Design Quality & Place-making

6.2 Inner Moray Firth Local Development Plan 2015

No specific policies apply

7. OTHER MATERIAL CONSIDERATIONS

7.1 No specific policies apply

Highland Council Supplementary Planning Policy Guidance

7.2 Not applicable

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.

Determining Issues

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.

Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy;
- b) the impact of the retaining wall, fence and shed on neighbouring properties;
- c) drainage of the site.

Development plan/other planning policy

8.4 The key policy in this case is Policy 28 of the Highland wide Local Development Plan. This seeks, amongst other matters, to ensure that development does not have a significantly detrimental impact upon individual and/or community amenity. Policy 29 is also relevant and requires the design of all development to make a positive contribution to the visual quality of place.

8.5 Providing that the amenity of neighbouring properties is not significantly affected, including as a result of surface water discharge in this case, the proposal would comply with the development plan.

Impact on neighbouring properties

8.6 In order to address the impact on neighbouring properties the context within which the situation has arisen needs to be explored. Prior to the grant of planning permission for the house on this site, around 80 Leylandii trees had grown to approximately 40+ feet. This significantly impacted on daylighting for a number of properties around the adjacent Highfield Avenue cul-de-sac. These trees marked the northwest boundary of No.22 Highfield Avenue. With the grant of planning permission the garden of No.22 was split to form a new house plot with a fence erected between the original house and the new plot. The Leylandii trees were felled. This subdivision provided an open site with steep slopes down to neighbouring properties.

8.7 Following the grant of permission, on the basis of a discussion between Building Standards and a Structural Engineer, it was agreed that the safest way to protect the site and neighbouring properties from landslip was to erect a retaining wall with a 1.2m high safety barrier (fence) on top. These works were undertaken without the benefit of planning permission although a previously agreed Variation to the Planning Permission (08/00169/REMIN) had been agreed to change the 1.8m high fence to a 1m high retaining wall with close boarded fence above.

8.8 The legacy of the removal of the large Leylandii trees has meant that a number of properties in the immediate vicinity have struggled with wet ground conditions. To address this and ensure that the new property has no additional impact on neighbouring properties, the applicant employed a drainage engineer to install a surface water drainage system to take water away from neighbouring properties and into a soakaway on the new house site. This installed drainage system has been agreed with Building Standards and therefore meets current regulatory

standards. The drainage engineer has confirmed that the system is working correctly.

- 8.9 The significant changes in site levels between the new house and neighbouring properties are particularly challenging, and in order to address this, a standard 1m high retaining wall around the site, as agreed, would not have been sufficient. The highest section of wall is in the southwestern corner adjacent to sheds and garage at No.20, and continues north along the side at No.22. The applicant has offered to finish the concrete block wall facing these houses to an agreed finish in consultation with their owners in order to address their concerns in relation to its visual appearance.
- 8.10 Given the path of the sun, it is not considered that the shed will have an adverse impact on sunlight into the neighbouring house (No.20). In terms of daylight, it is considered that the removal of the Leylandii trees has improved daylighting to this property. The inclusion of a retaining wall and fence is not considered to have a significant impact on daylight. The design and siting of the shed is typical for the area, and it is considered that the shed is acceptable with regards to its impact on individual and community residential amenity.

Drainage

- 8.11 Weep holes, which are small openings that allow water to drain from within a wall, were included as a detail in the retaining wall and appear to have caused concern to neighbouring properties. The engineer that designed the drainage system has advised that in this case the weep holes were not necessary and therefore could be blocked up if desired. In itself, this is not a planning consideration as they do not affect the drainage solution in place. The applicant has advised they would be willing to block up the weep holes at the neighbour's request.

Other material considerations

- 8.12 As this is a retrospective application, the submitted drawings were considered adequate to assess the application. Wall heights are included on the site layout plan. There are no other material considerations.

Non-material considerations

- 8.13 The issue of wall foundations allegedly being located outside of the planning application site and within the curtilage of a neighbouring property is a private legal matter and not a material planning consideration.

Matters to be secured by Section 75 Agreement

- 8.14 Not applicable

9. CONCLUSION

- 9.1 This is a retrospective application to raise the height of the retaining wall and locate a shed in one corner of the site. Given the degree of steepness of the slope between the new house site and the immediate neighbours to the east and south, the applicants considered that it was safer to construct a retaining wall rather than

to rely only on a wooden fence to ensure a solid build platform for the house. It is considered that the impact of the proposal has minimal impact on individual and community residential amenity and therefore complies with Development Plan policy 28.

- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
Notification to Historic Scotland	N
Conclusion of Section 75 Agreement	N
Revocation of previous permission	N

Subject to the above, it is recommended that planning permission be **GRANTED**.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). 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 adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Construction Hours and Noise-Generating Activities

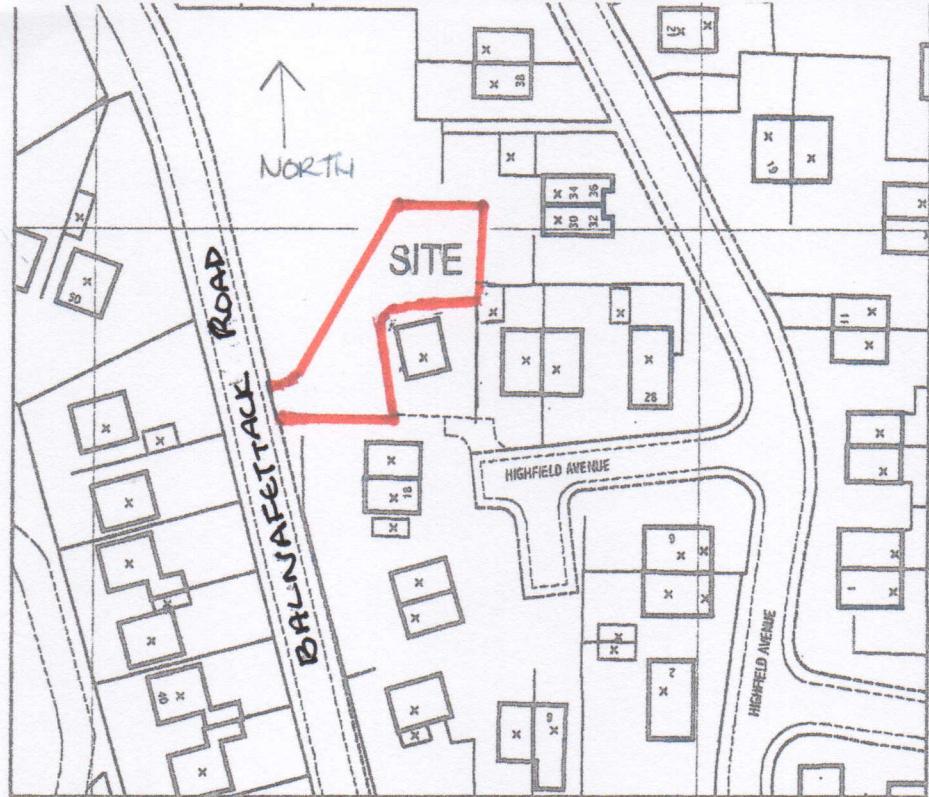
You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more

information.

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: Elaine Watt (785039)
Background Papers: Documents referred to in report and in case file.
Relevant Plans: 000001 Location Plan
000002 Drainage Layout Plan
000003 Site Layout Plan



location plan. scale 1:1250.

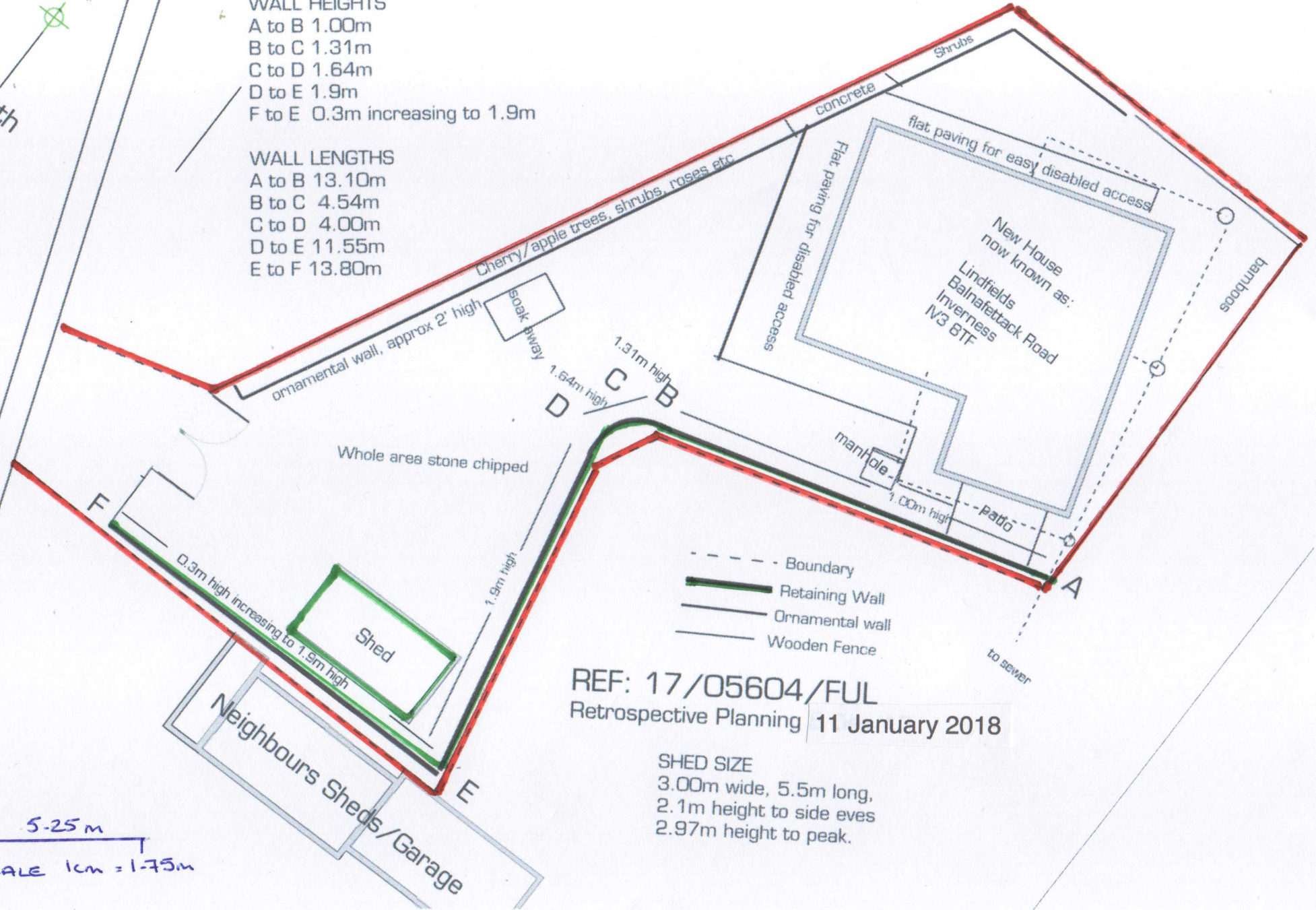
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Balnafettack Road

North

WALL HEIGHTS
 A to B 1.00m
 B to C 1.31m
 C to D 1.64m
 D to E 1.9m
 F to E 0.3m increasing to 1.9m

WALL LENGTHS
 A to B 13.10m
 B to C 4.54m
 C to D 4.00m
 D to E 11.55m
 E to F 13.80m



REF: 17/05604/FUL
 Retrospective Planning 11 January 2018

SHED SIZE
 3.00m wide, 5.5m long,
 2.1m height to side eaves
 2.97m height to peak.

5.25m
 SCALE 1cm = 1.75m



Balnafettack Road

Cherry/apple trees, shrubs, roses etc

concrete

Shrubs

New House
now known as:
Lindfields
Balnafettack Road
Inverness
IV3 8TF

soakway

soak away

Whole area stone chipped

manhole

— Solid Drain to Soakaway
— Field Drains

to sewer

Shed

Neighbours Sheds / Garage

REF: 10/2616/ERC
Drainage: Field drains,
Rainwater, Soakaway.
Nov 17