

# WEST DUNBARTONSHIRE COUNCIL

## Report by Chief Officer – Regulatory and Regeneration

Planning Committee: 8<sup>th</sup> June 2022

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**DC22/052/FUL: Installation of decking (retrospective) at No. 144 Mirren Drive, Duntocher, Clydebank by Mrs C Shields**

### **1. REASON FOR REPORT**

- 1.1** An elected member has requested the application to be determined by the Planning Committee and this has been agreed in conjunction with the Convenor of the Committee and the appointed officer. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

### **2. RECOMMENDATION**

- 2.1** Grant full planning permission.

### **3. DEVELOPMENT DETAILS**

- 3.1** The application site comprises a two storey semi-detached dwelling house situated on the eastern side of Mirren Drive, Duntocher. Externally, the building is finished in brown facing brick, grey / brown dry cast render and a dark, weathered concrete tile roof. The property benefits from front and rear garden areas together with driveway and a detached single garage. The dwelling house is situated within an established residential area with a variety of dwelling houses of a similar design theme on Mirren Drive and Farm Road.

- 3.2** An area of timber decking has been erected to the rear of the dwelling house, accessed via a new set of French doors from the dining room. The decking projects around 2.5 metres from the rear wall of the house and extends to a floor area of around 6.5 square metres. The floor of the decking is around 1 metre high and is enclosed by a timber balustrade. A set of stairs to the rear of the decking gives access to the rest of the rear garden. As the works have already been undertaken, the application is considered in retrospect.

### **4. CONSULTATIONS**

- 4.1** None required.

## **5. REPRESENTATIONS**

**5.1** One objection was received in connection with the application. The concerns raised can be summarised as follows:

- The height of the decking is twice the permitted level and gives clear views to neighbouring gardens, to the detriment of the privacy of residents.
- Privacy issues have been exacerbated by the removal of an existing boundary hedge which has been replaced by a fence that has been poorly constructed.
- The decking provides an elevated area from which items may be thrown into neighbouring gardens.
- The decking may have been attached to the side wall of a neighbouring extension.
- The proximity of the decking to the neighbouring extension combined with a lack of a damp proof membrane may result in damage to this extension.

**5.2** A further representation in support has been received. This notes that there are no privacy concerns resulting from the proposal and highlights concerns regarding the height and maintainability of adjacent boundary hedges.

**5.3** The points raised in the representations received will be considered in Section 7 below.

## **6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN**

### West Dunbartonshire Adopted Local Plan 2010

**6.1** Policy GD1 seeks to ensure that all new development is of a high quality of design and respects the character and amenity of the area. The requirement for proposals to be appropriate to the local area inclusive of design and the effect on privacy is highlighted. Considering residential amenity, Policy H5 seeks to protect, preserve and enhance the residential character and amenity of existing residential areas at all times.

**6.2** The proposal complies with the policies of the adopted Local Plan and is assessed fully in Section 7 below.

## **7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

### West Dunbartonshire Local Plan (LDP2) Proposed Plan

**7.1** The modified LDP2 was approved by the Council in August 2020 and the Council then advised the Scottish Ministers of its intention to adopt the Plan. The Scottish Government issued a direction to the Council on 18<sup>th</sup> December 2020 requiring modifications to the housing parts of LDP2. None of the policies considered in the determination of these applications is affected by the Direction. LDP2 is therefore the Council's most up to date policy position and has significant weight in the assessment and determination of planning applications at this time.

**7.2** Policy CP1 of LDP2 seeks to ensure that all development takes a design lead approach and seeks to protect and enhance the amenity of existing communities. Policy H4 sets out that that the Council will protect, preserve and enhance the

residential character and amenity of existing residential areas at all time. It is consider that the proposal presents no conflict with the relevant policies of LDP2.

#### Principle of Development

- 7.3** The erection of a small area of timber decking within the rear curtilage of a dwellinghouse situated within an established residential area is acceptable in principle subject to all material considerations being addressed. This type of development is commonly found within residential areas and the development in principle complies with the adopted and proposed Plans.

#### Design and Appearance

- 7.4** The decking is of a compact appearance and is located within a rear curtilage. In this instance, the decking is immediately to the rear of the existing house and positioned adjacent to the blank gable of a neighbouring rear extension. Accordingly it is not visible from any public vantage points. The structure is typical of that often found within a domestic setting and no concerns in respect of the design and appearance arise.

#### Impact on Residential Amenity

- 7.5** In assessing areas of raised decking, particularly where they are accessed directly from a room of the existing house, a balance must be sought between the creation of an outside area of residents to relax and enjoy good weather, and ensuring that neighbouring residents are not unacceptably disturbed by any activity associated with the decking and the transference of activity directly from the house to the decking. It must be ensured that the decking is not of a size that affords residents the opportunity to undertake a wide range of functions throughout extensive periods of the day and evening to the extent that regular and/or continuous activity may impinge upon the enjoyment of neighbouring gardens. The decking which has been erected extends to a floor area of around 6.5 metres and it is not considered that an area of decking of this size would result in a level of activity that could unacceptably disturb neighbouring residents.
- 7.6** The second amenity consideration in this case is that of overlooking and loss of privacy. It must be considered whether the decking constructed leads to additional and unacceptable overlooking and loss of privacy beyond the established position. Neighbouring residential properties lie to both the side of rear of the application site and a degree of overlooking and intervisibility between properties already occurs from both upper windows and also over lower sections of boundary fencing. The decking erected must be considered in this context. The decking is around 5.5 metres from the southern side boundary of the garden with the neighbouring house beyond being at 90 degrees to the application site. The distance to the boundary together with the boundary treatment ensures that no additional and unacceptable overlooking occurs to the properties to the south.
- 7.7** To the north, the decking adjoins the blank gable of a neighbouring extension. More distant views towards the rear portion of the neighbouring garden to the north are possible if standing on the very edge of the decking. From the centre of the decking which will be where the bulk of the activity would be expected to occur, the height of the decking together with the boundary fence ensures that no significant or unacceptable overlooking occurs which would be to the detriment to the privacy of neighbouring residents. The adjoining rear gardens of houses on

Farm Road are some 20 metres distant from the decking and no privacy implications arise.

- 7.8 Overall, it is considered that the decking constructed would not result in any additional overlooking and loss of privacy beyond the established position and accordingly no unacceptable impact on the privacy and amenity of neighbouring residents occurs.

#### Representations Received

- 7.9 Turning to the objection received, concerns are raised that the height of the decking is twice the permitted level. Whilst it is true that the floor level of the decking is in excess of the height which could be constructed as permitted development, it does not follow that this renders the decking constructed to be unacceptable. It does, however, require the submission of a planning application and an assessment of all material planning considerations in the determination of the planning application. As is assessed above, it is concluded that that no additional and unacceptable overlooking and loss of privacy arises as a result of the decking constructed. Whilst the concerns regarding the removal of a boundary hedge are noted, this has no bearing on the assessment of the planning application. Whether or not the decking is attached to the wall of the neighbouring extension together with the provision of a damp proof membrane between the decking and the neighbouring extension are civil matters which are not material to the consideration of this application. Whilst nothing has been advanced to substantiate the suggestion that items are thrown over garden fences at this location this, in any case, this can also have no bearing on the assessment of the planning application.

- 7.10 The representation in support is noted inclusive of the view that there are no privacy implications resulting from the proposal.

### **8. CONCLUSION**

- 8.1 The decking erected is acceptable both visually and in respect of the amenity of neighbouring residents. The development also presents no conflict with both the adopted West Dunbartonshire Local Plan together with the proposed West Dunbartonshire Local Development Plan 2. Whilst an objection has been received, there are no material considerations which suggest that the application should be refused.

### **9. CONDITIONS**

None.

**Peter Hessett**

**Chief Officer – Regulatory and Regeneration**

**Date: 8<sup>th</sup> June 2022**

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**Appendix:** Appendix 1 – Location Plan

**Background Papers:**

1. Application forms and plans;
2. West Dunbartonshire Local Plan 2010;
3. West Dunbartonshire Local Development Plan 2 Proposed Plan.
4. Representations

**Wards affected:** Ward 4 - Kilpatrick