

FPRB Reference: 20/350

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: 102 High Street Newburgh Cupar Fife
- Application for review by Mr Sharanjit Bookher against the decision by an appointed officer of Fife Council
- Application 20/03123/FULL for Full Planning Permission for Change of use from shop store to managers residential accommodation and external alterations including blocking up of door, installation of door and repairs to windows
- Application Drawings:
 - 04A - Proposed various - elevation, floor etc, 01 - Location Plan, 02 - Block Plan, 03 - Existing various eg elevation, floor etc, 05 - Supporting Statement,
- No Site Inspection took place.

Date of Decision Notice: 11th August, 2021.

Decision

The FPRB reverses the determination reviewed by them and approves Planning Permission subject to the conditions outlined below in section 4.0.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The above application for Planning Permission was considered by the FPRB at its meeting on 9 August 2021. The Review Body was attended by Councillors David Barratt (Convener), Alice McGarry, Ross Paterson, Bill Porteous and Mino Manekshaw.

2.0 Proposal

- 2.1 The proposed development site is a storeroom associated with a retail unit located on High Street, Newburgh. The property is separated from the retail unit with the building forming part of a terraced row of two storey properties which all attach to the rear (north) of the retail unit. The storeroom is on the ground floor only with an existing residential property above and there are residential properties adjacent (south and north). Access to the property is through a pend access from High Street. The site is located in Newburgh Conservation Area and identified as being within the Local Shopping Centre in the Adopted FIFEplan (2017).

- 2.2 The proposal is for the change of use of the storeroom to a residential property. The applicant has set out that this would be associated with the retail unit and sets out within the supporting information the need for the residential accommodation to support the shop. Internal alterations would include the formation of two bedrooms, W/C shower room, living room, vestibule and kitchen. External alterations would include the blocking up of a door, replacement of another with a timber panelled door and refurbishment and repair of the existing timber windows. The timber door and windows would be painted white.

3.0 Reasoning

- 3.1 The determining issues in this review were visual amenity, residential amenity, garden ground and waste management and road safety. The FPRB considered the terms of the Development Plan which comprises the TAYplan (2017) ("Strategic Development Plan") and the Adopted FIFEplan (Fife Local Development Plan 2017) ("Adopted Local Development Plan"). The FPRB also considered the provisions of Making Fife's Places Supplementary Guidance (2018) (including Appendices), SPP (2014) and PAN 1/2011 Planning and Noise. The Fife Council Planning Customer Guidelines – Garden Ground; Minimum Distances between Window Openings; Newburgh Conservation Area Appraisal and Management Plan (2017) and Fife Council's Planning Guidelines for Windows in Listed Buildings and Conservation Areas (2018) also formed part of the assessment.
- 3.2 The FPRB assessed the principle of development and noted that the site was located within the settlement boundary and within the Local Shopping Area within the Adopted FIFEplan (2017). The FPRB considered that the change of use of a vacant retail unit storeroom to a residential property would be in compliance with the Adopted FIFEplan (2017) and therefore was acceptable in principle. The FPRB considered the proposal to accord with Policy 1 of the Adopted FIFEplan (2017) subject to further detailed considerations.
- 3.3 The FPRB also noted that Policy 6 (Town Centres First) added some general weight towards approval of this application subject to more detailed considerations. The FPRB considered there to be benefit in the storeroom being re-used for residential purpose in terms of the vitality and viability of the settlement centre, particularly as the retail unit would remain. The FPRB considered the proposal to align with the general principles of Policy 6 of bringing greater numbers of people to the settlement centre.
- 3.4 The FPRB assessed the visual impact of the proposed external changes including those of the windows and the doors. In terms of the windows, the FPRB noted the concern of the Appointed Officer that the drawings were not clear as to the works proposed, however the FPRB were content that the applicant was committed to repairing the existing windows. The FPRB also noted that the description of the proposal was for repair of the windows only and replacement was not proposed. The FPRB were content that clarity on this issue could be secured by planning condition and therefore proposed a planning condition to secure the repair and refurbishment of the windows only and that details of this would be provided through the planning condition. With this, the FPRB considered that the proposal would have no detrimental impact on visual amenity and would have some betterment to the Conservation Area by seeing the repair of existing windows which were in disrepair and have some character. The FPRB considered the replacement door to be suitable

for the Conservation Area and concluded that it would have no significant detrimental visual impact. Similarly, the blocking up of the existing doorway was considered to be acceptable in terms of visual amenity. On this basis, the FPRB concluded that the development would comply with Policies 1, 10 and 14 of the Adopted FIFEplan (2017) in terms of visual amenity and impact on the Conservation Area.

- 3.5 The FPRB assessed the residential amenity implications of the proposal. On privacy, the FPRB concluded that the proposal is unlikely to have any significant privacy implications for neighbouring properties as the gardens in these areas are already overlooked and there would be no direct line of sight between any proposed window to an existing one. The FPRB noted that the Appointed Officer's main concern was that the privacy afforded to the new property as its privacy would be affected by users of the third party garden areas surrounding the property. The FPRB considered this to be a minimal impact and noted that this type of design and layout was common in high street areas and historic locations. They concluded that this could be mitigated by the resident, if necessary, through the use of privacy film or blinds. As the privacy issue was not one caused by the development on other parties and was an issue fully in the control of the future resident, the FPRB concluded that the proposal would not cause or have any significant privacy issue and would comply with policies 1 and 10 of the Adopted FIFEplan (2017) in this regard.
- 3.6 The FPRB noted that the property would have no dedicated private amenity space and therefore did not accord with the 'Garden Grounds' planning customer guidelines which requires 50sqm per flat. The FPRB determined that the property did not require the specified level of private amenity space for two reasons. The FPRB considered this property to be associated with the retail unit and accepted the applicant's justification that the two should be considered together. The FPRB accepted that an employee of the retail unit would inhabit the residential property and thereby private amenity space may not be required as it may not be their permanent dwelling. To control this the FPRB proposed a planning condition restricting the occupation of the property to owners, occupiers and employees of the retail unit. Secondly, the FPRB noted that in centrally located, high density areas within settlements, there tends to be lower levels of private amenity space given the mixture of uses involved. The FPRB concluded that this can be accepted to promote residential properties to be part of the mix of uses in these areas. The FPRB thereby concluded that the planning customer guidelines on 'Garden Ground' did not need to be met in this instance and that this would not have a detrimental impact on the amenity of future residents.
- 3.7 In terms of refuse storage, the FPRB considered that as the residential property was associated with the retail unit, then a combined approach to refuse storage could be found. This could either be through the storage bins being placed in the same location as the retail unit bins or the retail bins also being used for the residential unit given that the residential unit is directly associated with the retail unit. The FPRB thereby concluded that bin storage would not be a significant determining factor in the assessment of this application.
- 3.8 The FPRB assessed the impact of the proposal on road and pedestrian safety. The FPRB noted that the proposal did not include any off-street parking but concluded that this would not be a significant concern. As the property is associated with the retail unit the FPRB considered that there would already be traffic movements associated with the retail unit which this proposal would not exacerbate as it would likely be carried out by the same person operating the retail unit. The FPRB also concluded that there was sufficient dedicated on street car parking for a property of

this nature and did not consider that this proposal would significantly affect the level of available parking. The FPRB noted that a previous planning application for this proposal was refused with parking being one of the reasons for refusal however the FPRB concluded that the policy had now moved to discourage individual private vehicle trips and thereby the lack of dedicated parking was not as significant an issue for a property within the settlement core as it may have been historically. The FPRB noted the comments from Transportation Development Management but concluded these should be outweighed by the previous points made. On this basis, the FPRB concluded that the development would not have any significant road or pedestrian safety issues and was in accordance with Policies 1 and 10 of the Adopted FIFEplan (2017).

- 3.9 The FPRB concluded that the development would have no significant detrimental impact in terms of the matters addressed by the Report of Handling and the proposal would comply with the Development Plan. The FPRB noted the comments by Public Protection and their desire for a planning condition connecting the property to the existing retail unit due to noise concerns. The FPRB concluded that this condition was necessary in order for the proposal to be acceptable in terms of garden ground, refuse collection, parking and noise. The FPRB did not consider there to be any other matters for consideration or any material considerations which would outweigh the Development Plan position. The FPRB did not consider there to be any grounds to refuse the application and reversed the decision of the Appointed Officer.

4.0 Decision

- 4.1 The FPRB therefore reverses the decision of the Appointed Officer and approves Planning Permission subject to the following conditions and reasons:

- 1) The occupation of the residential unit hereby approved shall be restricted to only the owner, occupier, manager or employee (and their dependants) of the retail unit at 102 High Street, Newburgh.

Reason: To define the planning permission taking into account the relationship of the property with the existing retail unit and neighbouring properties in the interests of residential amenity and road safety.

- 2) For the avoidance of doubt, the windows on the property shall be repaired and refurbished only through the terms of this planning permission. BEFORE ANY DEVELOPMENT STARTS ON SITE, final details of the repair and refurbishment of the windows shall be submitted for the written approval of Fife Council as planning authority. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of visual amenity and protecting the Conservation Area.

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Proper Officer

Advisory notes

1. The length of the permission: This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. Notice of the start of development: The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. Notice of the completion of the development: As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended))

NOTICE TO ACCOMPANY REFUSAL ETC. TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

*Notification to be sent to applicant on refusal of planning permission or
on the grant of permission subject to conditions*

NOTICE TO ACCOMPANY REFUSAL ETC. TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

*Notification to be sent to applicant on determination by the planning authority of an
application following a review conducted under section 43A(8).*

1. If the applicant is aggrieved by the decision of the planning authority -
 - (a) to refuse permission for the proposed development;
 - (b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; or
 - (c) to grant permission or approval, consent or agreement subject to conditions,

the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.