

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 9 MARCH 2021

PLANNING APPLICATION – 41 LORNE CRESCENT, MONIFIETH, DUNDEE, DD5 4DY

GRID REF: 350049 : 733044

REPORT BY SERVICE LEADER-PLANNING & COMMUNITIES

Abstract:

This report deals with planning application no. [21/00005/FULL](#) for rear garden landscaping, replacement fences and a garden room at 41 Lorne Crescent, Monifieth, Dundee, DD5 4DY for Mr and Mrs Petrie. This application is recommended for approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reason given in Section 10 of this report.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/ CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Community Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

3. INTRODUCTION

3.1 Full planning permission is sought for garden landscaping consisting of the regrading and releveling of an existing garden area of 41 Lorne Crescent, Monifieth. The development would also involve the formation of several sets of access stairs between regraded garden areas, the replacement of fences and the erection of a garden room of around 27 sq m with a mono pitch roof extending to 3.8m at its highest point. An existing patio area would also be extended by 2.4 metres. No soil would be required to be removed from the garden as this will be required as part of a cut and fill operation to form the new garden levels. The existing rear boundary fences that are currently 1.8 metres high on the east boundary, 1.1 – 1.5 metres high on the west boundary and 1.9 metres high on the south boundary would be replaced with 1.8 metre high fences on the east and west boundaries and a 2 metre fence with a pedestrian gate on the south boundary. A plan showing the location of the site is provided at Appendix 1.

3.2 The application property is a modern so-called 1½ storey semi-detached house that located within a medium density residential area at the north-east of central Monifieth. The topography of the area is defined by the raised beach to the north of central Monifieth. Lorne Crescent sits on an elevated position in comparison to the residential area to the immediate south at Boyack Crescent. Lorne Crescent generally sits between

the 25 and 20 metre contours. The application property sits just below the 20 metre contour. The garden area of the dwelling descends to the south to somewhere between the 15 and 10 metre contours over its 25 metre length. Boyack Crescent sits generally on the 10 metre contour. An access drive serving 24 Boyack Crescent lies directly to the south of the property and beyond that, lies the rear gardens of a number of modern properties in Boyack Crescent.

- 3.3 The application has been amended. The amended drawings make provision for changes in the roof style of the garden room from pitched to mono pitch and the access stairs to the west of the site have been moved away from the shared boundary with the adjoining property at 43 Lorne Crescent.
- 3.4 The application was subject to normal neighbour notification procedures. The nature of the proposal did not require that the application be the subject of press advertisement. The nature of the proposal did not require a site notice to be posted.

4. RELEVANT PLANNING HISTORY

There is no planning history that is directly relevant to the determination of this application.

5. APPLICANT'S CASE

A supporting statement submitted by the applicant's agent is available on the council's [Public Access](#) website. The statement has been submitted in response to objections received in respect of the application. The statement highlights that the garden as existing slopes in a manner that is not conducive to normal family and recreational activities. The statement outlines that the bottom of the garden captures most sun and is a logical place to site a garden room, and that siting a garden room at the top of the garden would result in a greater impact on neighbouring amenity. The statement outlines that in order to avoid the need for a large retaining wall, the regrading of the levels within the site represented a more practical and less visually intrusive option. The statement acknowledges concern expressed by the occupants of the adjoining neighbouring property regarding the positioning of access stairs on the boundary at the north of the site between the properties and in order to alleviate such concerns, the proposal has been amended and the stairs are repositioned off of the boundary by 1 metre. The statement indicates that concerns expressed regarding the siting of the garden room are misplaced as it would sit at almost the same level as the adjacent drive and any views from it would be into the applicant's own garden. The statement highlights that a garden room could be erected under permitted development rights. The applicant's agent indicates that the garden room has been included in the application as it forms part of the overall scheme for the garden. Additional east and south boundary drawings has been submitted to illustrate the points made in the supporting statement.

6. CONSULTATIONS

- 6.1 **Community Council** - No response received from this consultee.
- 6.2 **Angus Council - Roads** – Offered no objection to the proposal.
- 6.3 **Scottish Water** - Offered no objections but advised that the proposal impacts upon existing Scottish Water assets. The consultee advises that the applicant should contact the Asset Impact Team and identify any potential conflicts with this asset. Any conflict with the asset may be subject to construction proximity restrictions. An informative would be added to any decision notice should the Committee be minded to approve the application. The consultee also advises that no new connections will be permitted to the

public infrastructure and that any additional surface water should discharge to existing private means of disposal within the site.

7. REPRESENTATIONS

7.1 18 letters of representation have been received from 9 households. 6 households have objected to the proposal and 3 households have submitted comments in support of the proposal. The letters of representation are attached as Appendix 2 and are available to view on the council's [Public Access](#) website.

7.2 The following matters have been raised in objection and are discussed under the Planning Considerations section of this report:

- That the proposed garden room is too large and is visually unappealing.
- Amenity impacts from the garden room consisting of overlooking, noise, obstruction of views and sun light/overshadowing impacts.
- Concern regarding the impact of the movement of materials and soils to and from the garden.
- The need to clarify of what the garden room will be used for and why it is so large.

7.3 The following matters have been raised in support and are discussed under the Planning Considerations section of this report:

- The proposal creates a more useable and safer garden for the family.
- The garden room will not block sunlight and will not create noise impacts.
- That most of Boyack Crescent backing into the lane have extensions and other works and structures in their garden areas that have not created any issues.

7.4 In addition, the following matters have been raised and addressed forthwith: -

- **Inconvenience, noise and road safety impacts arising from the construction of the development and the blocking of the access lane to the south of the site by associated vehicle movement** - the matters raised relate to aspects of the building works that are not regulated by the planning system or aspects that represent short lived and temporary impacts during the construction phase only. Such impacts are not generally considered to represent valid grounds for planning objection.
- **That neighbours 22, 31 and 33 Boyack Crescent were not neighbour notified** - statute requires that neighbours within 20 metres of the boundary of the application site are required to be notified. The three neighbours mentioned are outwith the statutory notification distance.
- **A member of Angus Council should be legally and duty bound to visit the site and meet up with objecting homeowners** - there is no legal requirement to visit the property or to visit objecting homeowners. The Planning Service would usually undertake a site visit for the purpose of site familiarisation however current local operational restrictions introduced in response to the Covid 19 emergency in relation to the undertaking of face to face meetings and the entering of domestic property restrict the undertaking of site visits to instances where such a visit is absolutely necessary. The application is supported by sufficient information, and other information is available via remote means to carry out an assessment of the proposal within current guidelines without the need to enter any sensitive property.
- **Matters relating to the ownership of the access lane to the south of the site including concern regarding the introduction of a pedestrian access gate onto**

that lane - the right of access over the lane is a civil matter between relevant parties and is not a material planning consideration.

8. PLANNING CONSIDERATIONS

- 8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise
- 8.2 In this case the development plan comprises: -
- [TAYplan](#) (Approved 2017)
 - [Angus Local Development Plan](#) (ALDP) (Adopted 2016)
- 8.3 The application is not of strategic significance and the policies of TAYplan are not referenced in this report. The relevant policies of the ALDP are provided in Appendix 3 and have been considered in the preparation of this report.
- 8.4 The key issues in relation to this proposal having regard to development plan policy are the impact of the proposed development on the amenity of occupants of neighbouring property, and the acceptability of the proposed garden works and the garden room in the context of the character and appearance of the area.
- 8.5 Policy TC4 relates to proposals for house and flat alterations/extensions and development within the curtilage of houses and flats. It indicates that development will be supported where the siting, design, scale or massing of the proposal does not:
1. adversely affect the residential amenity enjoyed by the house or surrounding domestic properties including, in the case of microgeneration, through noise or shadow flicker;
 2. detrimentally affect the character and/or appearance of the building, site or surrounding area; and
 3. result in the overdevelopment of the plot or a loss of garden ground, parking or bin storage.
- 8.6 Policy DS4 deals with amenity and requires all proposed development to have regard to opportunities for maintaining and improving environmental quality. It indicates that development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties. The policy identifies matters that will be taken into account and recognises that in some circumstances it will be appropriate to approve proposals that give rise to amenity impacts where they can be mitigated.
- 8.7 As indicated above, Lorne Crescent sits in an elevated position in comparison to the residential area to the south at Boyack Crescent. Rear gardens in the area are generally well screened and contain the usual expected range of ancillary structures and landscaping features that is typical of a residential area of this nature. Some views are afforded into garden areas to the rear of Lorne Crescent from properties to the south due to the generally elevated and sloping nature of the land that forms the gardens. The proposal would involve the formation of distinct areas of regraded garden and some areas would become more steeply graded and some levelled to create useable terraces in contrast to the current sloping and relatively featureless nature of the garden at present.
- 8.8 The regrading of the garden would be achieved by cutting and filling intermittently over its length. An existing seating terrace at the north of the site would be increased in size

by 2.4 meters across its width and the southernmost level of the garden would be lowered to create a level area in which a garden room would be formed. The area on which the garden room would be located would be lowered to a height roughly akin to the adjacent track level to the south of the site. Other works such as the installation of stairs and fences would improve accessibility and privacy respectively. Taking account of the orientation of the garden area relative to the sweep of the sun in conjunction with the proposal to increase the levels of privacy of the garden area by both lowering levels and augmenting screening, the development would not result in any impact that is not typically found in an area of this nature. The greatest degree of overshadowing that would be created would be from the augmented garden fences which are fairly typical of rear fencing arrangements on modern developments and which are not significantly greater in height than existing fences. The extension of the existing terrace would not create additional or new overlooking as a terrace already exists immediately to the rear of the dwelling. The erection of a 27 sq m garden room within the 450 sq m garden area would not represent an overdevelopment of the site. The garden room would be used as an incidental structure to the main dwelling and as such it does not give rise to any amenity concerns within a residential area as its use falls within the same scope as that of the main dwelling. The garden room would be of modern appearance which is appropriate within the curtilage of a modern dwelling and within the wider area that is characterised by modern development. The size of the structure and its relationship with surrounding property would not result in unacceptable impacts on sunlight or daylight and would not result in adverse impacts resulting from overshadowing. The garden room would be located 25 meters from the existing dwelling to the east at 24 Boyack Crescent and would be sited adjacent to the parking and turning area for that dwelling. The garden room would stand 14 meters from the closest dwelling that lies to the south east at 14 Boyack Crescent and this distance is not inconsistent with the distance between existing out buildings and neighbouring dwellings in the wider area. The site would be adequately screened and no unacceptable effects on available sunlight or daylight would result.

- 8.9 The proposal does not give rise to any significant issues when assessed in in terms of relevant development plan policies outlined above. The proposal is compatible with development plan policy.
- 8.10 In relation to other material considerations it is relevant to have regard to the letters of objection in so far as they relate to relevant planning matters. As discussed above, the garden works, the erection of the proposed fences and the proposed garden room would not result in detrimental impacts upon neighbouring residential amenity and would not have any significant impact on the character or appearance of the area as they are not untypical of features within an established residential area. No matters of material relevance to the consideration of the application have been raised that have not been addressed in Section 7 above or in the foregoing discussion.
- 8.11 In conclusion the proposed development would not give rise to unacceptable impacts on the amenity of occupants of neighbouring property and it would not adversely affect the character and appearance of the application property or the wider area. The proposal is acceptable in the context of the relevant policies of the development plan and associated guidance. The letters of objection have been considered in the preparation of this report, but they do not raise material matters that justify refusal of planning permission in circumstances where the proposal is otherwise compatible with development plan policy.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of planning permission has potential

implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified.

10. CONCLUSION

It is recommended that the application be approved for the following reason.

Reason(s) for Approval:

The proposal is in accordance with the development plan as it does not give rise to unacceptable impacts on amenity, or on the character and appearance of the dwelling, its curtilage or the wider area and it does not result in overdevelopment of the garden. There are no material considerations that justify refusal of planning permission contrary to the provisions of the development plan.

Notes:

1. Please note that Scottish Water advise that the proposal impacts on Scottish Water assets, and as such the developer must identify any potential conflicts with this asset and contact the Asset Impact Team directly at service.relocation@scottishwater.co.uk
2. No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

REPORT AUTHOR: KATE COWEY SERVICE LEADER – PLANNING & COMMUNITIES
EMAIL DETAILS: PLANNING@angus.gov.uk

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APPENDIX 1: LOCATION PLAN

APPENDIX 2: LETTERS OF REPRESENTATION

APPENDIX 3: RELEVANT DEVELOPMENT PLAN POLICIES

APPENDIX 4: PLANNING SERVICE PRESENTATION