

We are seeking review of our recently refused planning application for a 6ft fence at the side of our house because we believe we have been penalised because someone cannot see into our garden, a garden which we have made lovely and family friendly for our 5-year-old pet dog and our now 11-week-old baby. We feel that an appeal allows someone out with the Moray Council Planning department to review this application and take a nonbiased point of view considering all aspects and hopefully come up with a solution as to how we can maintain a safe, enclosed, private garden for our family home. We feel an appeal would help support us in a fair trial as every time we submit something to the Moray Council it seems to be a different excuse each time and a lack of care and consideration for what we are trying to do. Most importantly, our reasons for appealing the refusal are child and pet safety, cleanliness, theft prevention and privacy, none of which have been considered by the Moray Council Planning Officers.

The application has been refused twice and, on both occasions, has had a new reason for refusal, none of which relate to the original letter regarding a 6ft fence at the side of the house. The first refusal was because the fence did not fit the character of the area and was not deemed safe by the transport manager as it is on the roadside. The second refusal was again because it did not fit the character of the area, but the planning officer had also added in that it blocks vision of crime. It has been frustrating not being able to have someone from the Council come round to the garden and try and help us keep somewhat of our fence or explain things to us. Covid has continually been used as an excuse but with all due respect, my wife works as a nurse, and we do not need reminded about how covid has impacted on our lives. A simple discussion when site visits were taking place could have been arranged at a two-meter distance in the garden. In reference to the transport manager's report – he is the only person at the Council who seemed to consider our privacy and so failed our current fence but commented with new drawings what he would deem road and path safe therefore grant permission. We were happy to change the fence to meet the new drawing and so submitted that on the second application, but it was failed and given another new reason for refusal. Our fence was erected in 2018 a few months after we moved into the property. We were served a notice to apply for retrospective planning for the 6ft fence three years later in 2021. The policies – DP1 and PP3 of the Moray Local Development Plan 2020 in which the planning officers refer to in their reports are policies which were not in place when the fence was initially erected. With regards to the 2020 policies – why were we asked to apply for retrospective planning and pay a fee if the policies about character of the area and crime reference were already in place. The planning officer who served the notice either did not know about these policies suggesting they were not in place until after our application was submitted or he believed we would get permission for the fence.

In addition I would also like to add that taking our fence down to 4ft will not make a difference to viewing crime. We also share a 6ft fence between the neighbouring house which has been in place since 2017 by choice of both parties therefore there is no vision down to the neighbouring gardens and this has never been an issue and the neighbours are grateful for the extra bit of privacy. Policy DP1 2020 refers to the development not adversely impacting neighbouring properties in terms of privacy, day light and overbearing loss of amenity as quoted by the latest planning officer in her report. When our neighbours were served with letters about our fence, they did not understand what the problem was. With regards to loss of amenities we are not sure what amenities our fence prevents someone from having. Our architect was also of the same opinion. We are not responsible for reporting crime that happens out with our property boundary. With reference to not fitting the character of the area, there has been a house extension in the local area where the materials used have been new and updated models, so it does not match with the surrounding houses in the

neighbourhood, yet it was passed by planning. There are several properties in the local area with 6ft fencing on the roadside and blocking vision round paths, in particular Dornoch Links, Elgin – the path coming from the street onto the fast Elgin – Birnie Road with no vision round the corner but this was passed by planning. We have gone from initially being informed that planning is required for a 6ft fence at the side of the house to being told that the fence at the back blocks vision round the path to then the front driveway restricting view to then the fence being out of character and now the fence blocks vision of crime. Having a 4ft fence would allow a police officer to look further round the corner onto the path but from a distance they would need to be on the same path to view what crime they were witnessing, similar for regular pedestrians.

The review should also consider why the Moray Council planning department only responded to our many contacts in the beginning because we reported concerns to our Local MSP. The Council have not been very forthcoming nor supportive in the matter. We were posted a letter and just expected to take the fence down which we have not and sadly in the process have had no support from the Council around how we can maintain some of our privacy in our own bought home. There have been different views and reasons shared by the Council over an initial letter, a phone call and reports but no direct face to face verbal communication. We have spoken to the local head teacher at the High School with regards to children during school hours who have accessed our garden for no good reason, littering, trying to feed our dog and on one occasion damage to the property by a school child. We also spoke with Police Scotland about items missing from the garden when we initially moved in and were told that there is minimal, they can do because it is open to opportunists with a 4ft fence. We previously wrote and discussed the issues with the lack of communication from The Moray Council to Richard Lochhead and have again contacted him with regards to this matter.

The removal of the 6ft fence down to a 4ft fence would cause child safety and road safety issues due to problems we occurred with the 4ft fence we had when moving into the property where people would purposely open our gate resulting in our dog being able to escape from the garden. There was also the road safety factor of my autistic nephew who would regularly climb over the 4ft fence due to lack of understanding of road safety.