



Garioch Area Committee Report – 27 August 2019

Reference No: APP/2019/1034

Full Planning Permission for Change of Use from Open Space to Private Garden at 15 Scotsmill View, Blackburn, Aberdeenshire, AB21 0FZ

Applicant: Mrs Hronn Johannsdottir
Agent: Katrina Denholm Architect

Grid Ref:	E: 332778 N:653763
Ward No. and Name:	W12 - East Garioch
Application Type:	Full Planning Permission
Representations:	0
Consultations:	2
Relevant Proposals Map: Designations:	Aberdeenshire Local Development Plan 2017 Within Blackburn Settlement, Protected Land P3
Complies with Development Plans:	No
Main Recommendation:	Grant



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1. Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 of Part 2A List of Committee Powers and Section C.3.1c of Part 2C Planning Delegations of the Scheme of Governance as the application for development is a departure from the Development Plan and is recommended for approval.
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. Background and Proposal

- 2.1 Full planning permission is sought to change the use of land from open space to domestic garden ground at 11, 15 and 16 Scotsmill View, Blackburn. The properties are situated in a modern residential housing development within the settlement of Blackburn.
- 2.2 It is proposed to change the use of a small area of open space backing on to these properties to domestic garden ground. The proposal would encompass an area of open space of approximately 50 square metres and each of the gardens would see modest increases ranging from approximately 7.5 square metres up to 27 square metres.
- 2.3 The area of open space to the rear of the properties is designated as P3 Protected Land, within the settlement boundary of Blackburn in the Local Development Plan 2017. The site is also part of the Green Network and is identified as Prime Agricultural Land. The land is separated from gardens presently by 1.8m close-boarded fencing and comprises land laid to grass with some young trees in the immediate area.
- 2.4 A previous application (APP/2018/1480) was submitted and subsequently refused for the same proposal on the application site. This was submitted as it was maintained by the applicant that each of the properties had ongoing issues with drainage resulting in the ground becoming marshy. However, it was considered at that time that limited information had been provided to ascertain whether the proposed drainage would work to mitigate the existing drainage issues and no justification had been provided as to why the proposed drainage would have to incorporate some of the protected open space to the rear. Under the current application, supporting information in the form of a Surface Water Disposal Report has been submitted to provide further clarification.
- 2.5 The submitted Surface Water Disposal Report prepared by S.A. McGregor details that the three gardens suffer from 'waterlogging' and that the extension to the private gardens would accommodate remedial measures to rectify this. The change of use across the curtilages of three properties is to allow the drainage to be rectified together. The submitted report determines that the 'waterlogging' in the gardens is due to the thin layer of topsoil which is not considered to be adequately thick enough to naturally absorb rainfall and the compacted gravelly clay layer below which has very poor soil infiltration. Therefore, during rainfall events, the topsoil becomes waterlogged and the surface water is 'trapped' in the underlying gravelly clay.

- 2.6 The Report recommends that in order to alleviate the water below the topsoil, perforated land drains in narrow channels are installed below the topsoil within the clayey strata and are tied into the existing drain through the garden. Additionally, a soft landscaping area is recommended in the additional ground for the topsoil run-off.
- 2.7 The Report specifies the size and number of drains required, which has been calculated with regard to the garden area, soil infiltration rate and suitable distance between the drainage channels. As a result, it is stated that the existing garden ground of the three properties would only just accommodate the required minimum drainage to alleviate the underlying waterlogging whilst ensuring the garden was useable for the residents. Additionally, the area of land to undergo change of use would be adopted for soft landscaping only within the garden ground.

2.8 Relevant Planning History

APP/2018/1480 – Change of Use of Land from Open Space to Domestic Garden Ground – Refused, 09/10/2018

APP/2007/1069 – Alterations and Extension to Dwellinghouse - Permitted Development, 26/03/2007

APP/2004/0922 – Erection of 178 Dwellinghouses – Granted, 07/02/2005

3. **Representations**

- 3.1 No valid letters of representation have been received.

4. **Consultations**

- 4.1 **Infrastructure Services (Flood Risk and Coastal Protection)** has no comment to make on the proposals.
- 4.2 **Infrastructure Services (Natural Heritage)** has commented that existing trees are to be retained within the proposed new garden ground.

5. **Relevant Planning Policies**

5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage

change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.2 Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In light of this, for proposals which are regionally or strategically significant, or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

5.3 Aberdeenshire Local Development Plan 2017

Policy P1: Layout, siting and design
Policy PR1: Protecting important resources
Policy C4: Flooding

5.4 Other Material Considerations

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

6. **Discussion**

6.1 The key planning issues under consideration for this application are the principle of development and the impact the proposal would have on the amenity of the area.

Principle

6.2 In order to establish the principle of development, the proposal must be assessed against Policy PR1. Policy PR1 states that we will not approve developments that have a negative effect on important environmental

resources, such as open space. Development will not normally be permitted on areas of open space, unless the new use is ancillary to the use as open space. Important areas of open space are identified as “protected land” within the settlement statements.

- 6.3 The area of open space to the rear of the properties is designated as P3, Protected Land in the Aberdeenshire Local Development Plan 2017. P3 is protected to conserve the landscape/setting, which contributes to the Green Network in Blackburn.
- 6.4 The proposed development would remove approximately 50 square metres of the allocated P3 Protected open space that would square off the northern boundary line of the properties 11, 15 and 16 Scotsmill View. It is proposed to incorporate this area of land to address the existing drainage and waterlogging issues at the application site, collectively between the properties.
- 6.5 In the case of this application, the proposed development would be considered a departure from the Aberdeenshire Local Development Plan 2017 due to a loss of an area of protected open space, and as such the Planning Service requires strong justification.
- 6.6 A Surface Water Disposal Recommendation Report has been prepared to support the application. According to this report, it is stated that the garden ground of the application site suffers from waterlogging. In order to rectify this issue, the report recommends that perforated land drains are installed, and soft landscaping introduced. The additional drainage would allow the surface water to flow into the existing drain in the garden, and during periods of heavy rain, when the water is not able to infiltrate the thin layer of topsoil, the proposed soft landscaping would absorb this excess run-off.
- 6.7 The incorporation of the area of P3 land would facilitate these remedial measures to address the drainage issues. The size and number of drains has been calculated in the submitted report and it is argued that the existing garden ground would only just fit in the required minimum drainage whilst ensuring adequate useable garden space for the residents. Further to this, the additional area of P3 land that would be changed into private garden ground would be adopted for soft landscaping, and therefore the amount of useable garden space would not be changing from the existing situation.
- 6.8 With regard to the submitted Surface Water Disposal Report, it is considered that there is an acceptable amount of information and justification provided to support the development proposal. The report clearly details the encountered ground conditions indicating that there is waterlogging issues on the site and provides recommendations to address and alleviate the drainage issues. Additionally, the incorporation of a modest amount of the protected open space for the recommended drainage solutions has been adequately demonstrated. Therefore, the Planning Service can be assured that that the proposal would help to solve the existing drainage issue and sufficient justification has been provided as to why the proposed mitigation must incorporate protected open space to the north of the gardens. In light of the additional information submitted, it is considered that the proposal justifies departing from the Local Development Plan.

Layout, Siting and Design

- 6.9 Policy P1 aims to ensure that all development is of a high-quality design, is appropriate to its setting and does not adversely impact upon the character of the area. The proposed development would not drastically alter the visual appearance of the area. The existing line of irregular fencing would be straightened and moved slightly further north to incorporate some of the open space to the rear. This aspect of the proposal would not be overly conspicuous in the locality and would not materially impact the neighbouring properties. Additionally, as the proposal would straighten the line of fencing at the rear of the line of properties, this would deter any of the neighbouring properties to attempt to enlarge their garden ground. As such, it is deemed that the proposed development complies with Policy P1.

Technical Issues

- 6.10 The Council's Flood Risk and Coastal Protection Service was consulted as part of the application process and has no comment to make on the proposals. Therefore, it can be considered that the proposals are compliant with Policy C4: Flooding.

Conclusion

- 6.11 In light of the above, it is considered that there has been sufficient information submitted for the Planning Service to support the departure from Policy PR1 in this case and the proposal is considered to comply with Policy P1 and Policy C4 of the Aberdeenshire Local Development Plan 2017. It is therefore recommended that this application be approved.

7. Area Implications

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

- 8.1 An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

9. Sustainability Implications

- 9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

10. Departures, Notifications and Referrals

10.1 Strategic Development Plan Departures

None

10.2 Local Development Plan Departures

Policy PR1: Protecting important resources

10.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. The period for receiving representations has expired.

10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.

10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

11. Recommendation

11.1 **Grant Full Planning Permission**

11.2 **That the Committee agree the following reason for departing from the Aberdeenshire Local Development Plan 2017.**

The proposed development is considered an appropriate departure from Policy PR1: Protecting important resources of the Aberdeenshire Local Development Plan 2017, as the loss of an area of protected public open space has been sufficiently justified for drainage improvement. It is appropriately designed and scaled and would have no adverse impacts on the surrounding amenity, and all technical matters have been resolved in compliance with all relevant policies of the Aberdeenshire Local Development Plan 2017.

Stephen Archer
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Date: 29.07.2019