



## Buchan Area Committee Report 31 January 2023

Reference No: APP/2022/0780

**Full Planning Permission for Change of Use for Land to Residential Garden Ground (Part Retrospective) at 54, 56, 58, 60, 62, 64 & 66 Braehead Drive, Cruden Bay, Aberdeenshire, AB42 0NW**

**Applicant:** Caird Evered Ltd, Bardon Hall, Copt Oak Road, Markfield, Leicestershire, LE67 9PJ  
**Agent:** Ironside Farrar Ltd, 111 McDonald Road, Edinburgh, EH7 4NW

Grid Ref: E:408957 N:836812  
 Ward No. and Name: W06 - Peterhead South and Cruden  
 Application Type: Full Planning Permission  
 Representations: 9  
 Consultations: 3  
 Relevant Proposals Map: Aberdeenshire Local Development Plan 2023  
 Designations: R2 Reserved Land  
 Complies with:  
 Development Plans: No  
 Main Recommendation: Refuse



**NOT TO SCALE**

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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.3.1h of Part 2C Planning Delegations of the Scheme of Governance as the application is recommended for refusal 50% or a majority of responding Local Ward Members in the Ward, have requested that the application be referred to the Area Committee.

- Cllr Colin Simpson –to further discuss issues regarding sustainable development.
- Cllr Stephen Smith – To consider further the policy issues in this case.

1.2 The Monitoring Officer within Business Services has been consulted in the preparation of this report and had no comments to make and is satisfied that the report complies with the Scheme of Governance and relevant legislation

## 2. Background and Proposal

2.1 Full planning permission is sought for the change of use of naturalised former industrial land to garden ground at the rear of 52, 54, 56, 58, 60, 62, 64, and 66 Braehead Drive, Cruden Bay (Appendix 1 – Location Plan).

2.2 The site, measuring approximately 545 square metres, lies within the Cruden Bay settlement boundary, within the Reserved Land (R2) protected area, as shown in the Cruden Bay Settlement Statement, reserved for a path/cycleway/railway line that runs between a residential neighbourhood and the former Cruden Bay Brick and Tile Works, which is registered on the Historic Environment Record and is potentially contaminated land. Likewise, the line of the former railway that runs through the site is potentially contaminated.

2.3 The site is a strip of land to the rear of the properties, some of which have extended their garden curtilages into it through fencing. Where not claimed in this way, the land is overgrown. Starting from the west, the strip of land lies steeply in an embankment above the land to the north, before descending eastwards until it flattens out to approximately the same ground level as the former brickworks.

2.4 The application is part retrospective. Numbers 54, 62, 64, and 66 have erected fences to mark the new claimed boundaries and changed the land to residential curtilage; number 52 has maintained the land but not carried out physical development; and numbers 56, 58 and 60 have not claimed the land at the time of writing.

2.5 The site itself has no planning history, however, the following are applications adjacent to the site and are relevant to the assessment of this application:

APP/2011/0360 Residential Development for Erection of 216 Dwellinghouses with Associated Car Parking, Formation of Roadways, Landscaped and Open Space Areas and Drainage Measures. Granted, 30 January 2015.

2.6 In support of the application the following document was submitted:

Supporting letter, Ironside Farrar, 30 March 2022

### 3. Representations

3.1 A total of 9 valid representations (9 support) have been received as defined in the Scheme of Governance. All issues raised have been considered. The letters raise the following material issue:

- Improve visual appearance of the area.

### 4. Consultations

4.1 **Environment and Infrastructure Services (Contaminated Land)** has advised that as the application covers the southern embankment of the former railway, rather than directly the track bed, the likely level of contamination is such that a site investigation would not be required. However, it recommends that an informative note is appended to ensure investigative and/or remedial measures are taken if contamination is found at a later date.

4.2 **Environment and Infrastructure Services (Environment Team – Natural Heritage)** has advised that the topography is such that the change of use would not obstruct the development of a path through the protected site, but it is not able to provide comments on the implications of the application for the future development of a railway.

4.3 **Environment and Infrastructure Services (Roads Development)** has advised they it has no comments on the application.

### 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.

#### 5.1.1 National Planning Framework 4 (NPF4)

The revised National Planning Framework 4 (NPF4) has now been published and on 8 November 2022 was laid before Parliament for approval. The revised NPF4 will be before the Scottish Parliament for six weeks.

NPF4 will form part of the statutory development plan on adoption and publication (assuming the commencement of the necessary provisions in the Planning Act). Until then, the Revised NPF4 is a material consideration in development management decision making, although with limited weight until such times as it is adopted.

#### 5.2 Aberdeen City and Shire Strategic Development Plan 2020

The Strategic Development Plan (SDP) was approved on 12 August 2020.

The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years. 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.

The Aberdeenshire Local Development Plan 2023 will continue to be the primary document against which applications are considered. The Aberdeen City & Shire SDP 2020 as approved forms part of the Development Plan.

#### 5.3 Aberdeenshire Local Development Plan 2023

On 13 January 2023 the Aberdeenshire Local Development Plan 2023 was adopted.

Policy P1 Layout, Siting and Design  
 Policy P4 Hazardous and Potentially Polluting Developments and Contaminated Land  
 Policy PR2 Reserving and Protecting Important Development Sites  
 Policy RD1 Providing Suitable Services

### 6. Discussion

- 6.1 The main issues for consideration are whether the application is acceptable in principle, and the impact it would have on the various potential spatial functions reserved for the site, what contribution the development would make

to place, and whether the potentially contaminated land is suitable for residential use without site investigation or remediation.

### Principle

- 6.2 Policy PR2 Reserving and Protecting Important Development Sites does not support development on sites which may reasonably be required in the future for improvements to transportation. This explicitly includes closed railways, their embankments and cuttings. This is the principle behind the designation of the strip of land onto which the application site encroaches, as the former railway line through Cruden Bay is protected for the future development of a path, cycleway and/or railway line.
- 6.3 It is acknowledged that, particularly towards the west of the site on the intact embankment with its steep drop to the north, it is unlikely that a foot/cycleway would be developed, due to the irregular and unfavourable terrain. This has been confirmed in the consultation with Natural Heritage. Were this to be the only potential use of the protected site, there might be justification for accepting the principle of development as a departure from the Plan.
- 6.4 However, the site also has potential value and is reserved in policy for the future development of a railway. While at first sight from the ground, it would appear that the application impacts on the embankment and not the former line of the railway itself, and it is not unreasonable for dwellings to back relatively closely onto urban railway lines, embankments are afforded the same protection under Policy PR2 and this distinction is not so clear cut towards the east of the site, as the ground level evens out between the site and the former brickworks to the north, particularly for the property at number 54. With the information available, it is reasonable to infer that the application's proposals are likely to have a potentially slowing, or even obstructive impact on the redevelopment of a railway along this route, with further implications for cost and viability. On this basis, the application is conflicts with the Development Plan, in particular Policy PR2 Reserving and Protecting Important Sites.

### Place and contaminated land

- 6.5 Policy P1 Layout, Siting and Design requires developments to demonstrate the six qualities of place, that they be distinctive, welcoming, safe and pleasant, adaptable, efficient and well-connected. The scale of development is modest. Overall, the proposals slightly increase the amenity of the respective rear gardens, which are extended in such a way as to not significantly impact on neighbouring amenity.
- 6.6 Public representations have raised the material issue that the proposals improve the visual appearance of the area. Given the scale of the development, its distance of approximately 150 metres from the public road, and the extent of naturalised land that there still is, any improvement in visual appearance is marginal. Notwithstanding this, the application does not conflict with Policy P1.

- 6.7 Policy P4 Hazardous and Potentially Polluting Developments and Contaminated Land states that we will not support development on contaminated land where suitable investigation and remediation has not taken place. As the site of a former railway line and in proximity to former brickworks, the site is potentially contaminated. Contaminated Land has advised that as only the embankment is being developed, it does not encroach upon the most serious levels of potential contamination under the former track bed further north. Therefore, no further investigation is merited under the current application, but the applicant should be aware that contamination may exist under the extended gardens, and that should any be identified at a later stage this should be reported to the planning authority and addressed immediately. On this basis, the application is deemed to accord with Policy P4.

#### Access

- 6.8 Policy RD1 Providing Suitable Services requires developments to provide and secure safe and amenable access. The garden extensions would not impact the access to the properties and Roads Development has advised that it has no comment.

#### Scottish Planning Policy

- 6.9 The siting of this development on land protected in the Local Development Plan for the development of a footpath, cycleway and/or train line runs contrary to Scottish Planning Policy to support the delivery of infrastructure, including transport.

#### Summary

- 6.10 The proposed development is in conflict with the Aberdeenshire Local Development Plan 2023, as it adversely impacts a protected site reserved for path, cycleway and/or railway line. There are no overriding material planning considerations that warrant a Departure to the Aberdeenshire Local Development Plan 2023.

### **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 integrated impact assessment is not required because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 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.

- 8.4 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.

## **9. Departures, Notifications and Referrals**

### **9.1 Strategic Development Plan Departures**

None

### **9.2 Local Development Plan Departures**

Policy PR2 Reserving and Protecting Important Development Sites

- 9.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.

- 9.4 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.

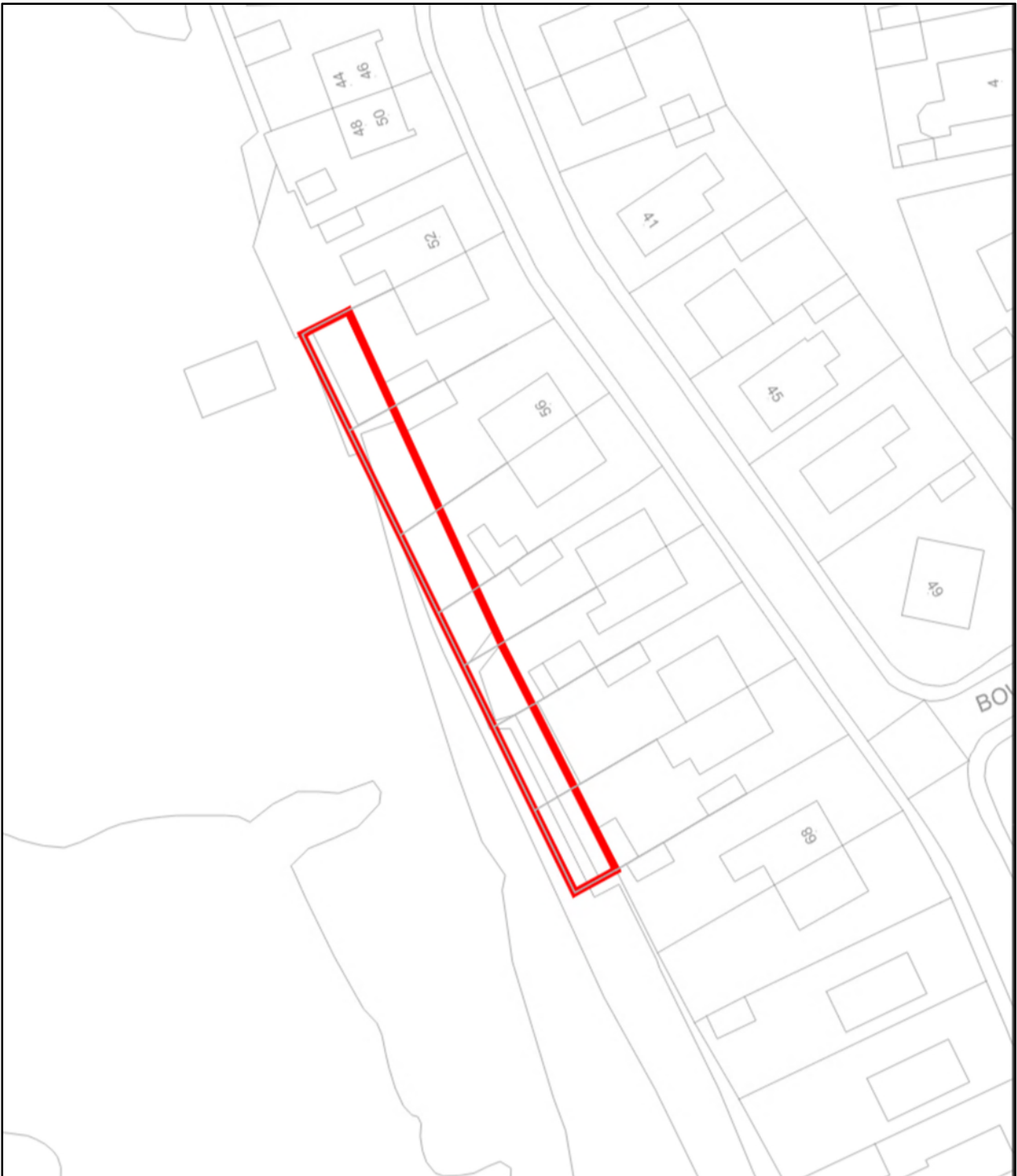
- 9.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

## **10. Recommendation**

### **10.1 REFUSE Full Planning Permission for the following reason:-**

01. The proposed development is in conflict with the Aberdeenshire Local Development Plan 2023 as the site is reserved and protected for the development of a footpath, cycleway and/or train line. The application is contrary to the provisions of Policy PR2 Reserving and Protecting Important Development Sites, and Scottish Planning Policy 29, which supports the delivery of infrastructure. The development would negatively affect the development of a train line across this protected site, and there are no material planning considerations which would support a Departure to the Plan.

Alan Wood  
 Director of Environment and Infrastructure Services  
 Author of Report: Esmond Sage  
 Report Date: 6 January 2023





# Comments for Planning Application APP/2022/0780

## Application Summary

Application Number: APP/2022/0780

Address: 54, 56, 58, 60, 62, 64 & 66 Braehead Drive Cruden Bay Aberdeenshire AB42 0NW

Proposal: Change of Use for Land to Residential Garden Ground

Case Officer: Roslyn Purdie

## Customer Details

Name: Miss Alison Black

Address: Smithy House Cruden Bay Aberdeenshire AB42 0NJ

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I strongly support this. This proposal would make great use of ground currently which isn't being used for any purpose and would greatly improve the visual appearance of the area.

# Comments for Planning Application APP/2022/0780

## Application Summary

Application Number: APP/2022/0780

Address: 54, 56, 58, 60, 62, 64 & 66 Braehead Drive Cruden Bay Aberdeenshire AB42 0NW

Proposal: Change of Use for Land to Residential Garden Ground

Case Officer: Roslyn Purdie

## Customer Details

Name: David Findlater

Address: 66 Braehead Drive Cruden Bay Peterhead AB42 0NW

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I am strongly in support of this application as it is waste ground that would benefit from this change of use to garden ground.

# Comments for Planning Application APP/2022/0780

## Application Summary

Application Number: APP/2022/0780

Address: 54, 56, 58, 60, 62, 64 & 66 Braehead Drive Cruden Bay Aberdeenshire AB42 0NW

Proposal: Change of Use for Land to Residential Garden Ground

Case Officer: Roslyn Purdie

## Customer Details

Name: Mrs Joyce Findlater

Address: 66 Braehead Drive, Cruden Bay Peterhead AB42 0NW

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I am in support of this application, I have lived in my property for 13 years and this was always garden area.

# Comments for Planning Application APP/2022/0780

## Application Summary

Application Number: APP/2022/0780

Address: 54, 56, 58, 60, 62, 64 & 66 Braehead Drive Cruden Bay Aberdeenshire AB42 0NW

Proposal: Change of Use for Land to Residential Garden Ground

Case Officer: Roslyn Purdie

## Customer Details

Name: Mrs Jill harrison

Address: Links Cottage, Aulton road Cruden bay Peterhead AB42 0NJ

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:As this land is no use for anything else, I cannot foresee any problem in changing this ground into gardening ground. Therefore I totally support this application

# Comments for Planning Application APP/2022/0780

## Application Summary

Application Number: APP/2022/0780

Address: 54, 56, 58, 60, 62, 64 & 66 Braehead Drive Cruden Bay Aberdeenshire AB42 0NW

Proposal: Change of Use for Land to Residential Garden Ground

Case Officer: null

## Customer Details

Name: Mr james manson

Address: 70 Braehead Drive Cruden Bay Peterhead Peterhead AB42 0NW

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Why is this extension stopping at No 66 Braehead Drive and not continuing further?

# Comments for Planning Application APP/2022/0780

## Application Summary

Application Number: APP/2022/0780

Address: 54, 56, 58, 60, 62, 64 & 66 Braehead Drive Cruden Bay Aberdeenshire AB42 0NW

Proposal: Change of Use for Land to Residential Garden Ground

Case Officer: Roslyn Purdie

## Customer Details

Name: Mr Gavin Mcleay

Address: Smithy House Cruden Bay Aberdeenshire AB42 0NJ

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I support this . The ground has not been used for anything for over 20 years. This would provide better use of the wasted land making it beneficial for the residents living there and our community .

# Comments for Planning Application APP/2022/0780

## Application Summary

Application Number: APP/2022/0780

Address: 54, 56, 58, 60, 62, 64 & 66 Braehead Drive Cruden Bay Aberdeenshire AB42 0NW

Proposal: Change of Use for Land to Residential Garden Ground

Case Officer: Roslyn Purdie

## Customer Details

Name: Mr Colin Mcleay

Address: 62 braehead drive Cruden bay Aberdeenshire Ab420nw

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I strongly approve of this application . This ground has been waste land for many years and would benefit the ground going into garden ground .

# Comments for Planning Application APP/2022/0780

## Application Summary

Application Number: APP/2022/0780

Address: 54, 56, 58, 60, 62, 64 & 66 Braehead Drive Cruden Bay Aberdeenshire AB42 0NW

Proposal: Change of Use for Land to Residential Garden Ground

Case Officer: null

## Customer Details

Name: Mrs Ann-marie Smith

Address: 54 Braehead Drive Cruden Bay Peterhead AB42 0NW

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I am in full support of the application .



# Comments for Planning Application APP/2022/0780

## Application Summary

Application Number: APP/2022/0780

Address: 54, 56, 58, 60, 62, 64 & 66 Braehead Drive Cruden Bay Aberdeenshire AB42 0NW

Proposal: Change of Use for Land to Residential Garden Ground

Case Officer: null

## Customer Details

Name: Mr barry smith

Address: 54 braehead drive, Cruden Bay Braehead Drive Cruden Bay Peterhead AB42 0NW

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I support this for the land to be used as been in used for over 25 years