

# Public Document Pack



To: Councillor Boulton, Chairperson; and Councillors Duncan and Mason.

Town House,  
ABERDEEN 5 October 2020

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet in **Virtual - Remote Meeting on WEDNESDAY, 14 OCTOBER 2020 at 10.00 am.**

FRASER BELL  
CHIEF OFFICER - GOVERNANCE

In accordance with UK and Scottish Government guidance, meetings of this Committee will be held remotely as required. In these circumstances the meetings will be recorded and thereafter published on the Council's website [here](#).

### **B U S I N E S S**

1.1 Procedure Notice (Pages 3 - 4)

**COPIES OF THE RELEVANT PLANS / DRAWINGS ARE AVAILABLE FOR INSPECTION IN ADVANCE OF THE MEETING AND WILL BE DISPLAYED AT THE MEETING**

**MEMBERS PLEASE NOTE THAT THE FOLLOWING LINK WILL TAKE YOU TO THE LOCAL DEVELOPMENT PLAN.**

[Local Development Plan](#)

**TO REVIEW THE DECISION OF THE APPOINTED OFFICER TO REFUSE THE FOLLOWING APPLICATIONS**

**PLANNING ADVISER - GAVIN EVANS**

- 2.1 34 Seaview Place - Change of Use from Amenity Land to Garden Ground - 200162 (Presentation) (Pages 5 - 22)
- 2.2 Delegated Report, Original Application Form, Decision Notice and Letters of Representation (if there are any) (Pages 23 - 42)  
Members, please note that all plans and supporting documents relevant to the review can be viewed online [here](#) and by entering the application reference number 200162.
- 2.3 Planning Policies Referred to in Documents Submitted (Pages 43 - 44)
- 2.4 Notice of Review with Supporting Information Submitted by Applicant / Agent (Pages 45 - 62)  
Members, please note that all plans and supporting documents relevant to the review can be viewed online [here](#) and by entering the application reference number 200162.
- 2.5 Determination - Reasons for Decision  
Members, please note that reasons should be based against Development Plan policies and any other material considerations.
- 2.6 Consideration of Conditions to be Attached to the Application - if Members are Minded to Over-Turn the Decision of the Case Officer

Website Address: [www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk)

Should you require any further information about this agenda, please contact Mark Masson on [mmasson@aberdeencity.gov.uk](mailto:mmasson@aberdeencity.gov.uk) / tel 01224 522989

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

### PROCEDURE NOTE

#### GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations shall be carried out in stages.
3. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
4. Once a notice of review has been submitted interested parties (defined as statutory consultees or other parties who have made, and have not withdrawn, representations in connection with the application) will be consulted on the Notice and will have the right to make further representations within 14 days.  
Any representations:
  - made by any party other than the interested parties as defined above (including those objectors or Community Councils that did not make timeous representation on the application before its delegated determination by the appointed officer) or
  - made outwith the 14 day period representation period referred to abovecannot and will not be considered by the Local Review Body in determining the Review.
5. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
6. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
  - (a) written submissions;
  - (b) the holding of one or more hearing sessions;
  - (c) an inspection of the site.

7. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
8. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

#### DETERMINATION OF REVIEW

9. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.
10. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-
 

“where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
11. In coming to a decision on the review before them, the LRB will require:-
  - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
  - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
  - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
12. In determining the review, the LRB will:-
  - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
  - (b) overturn the appointed officer’s decision and approve the application **with or without appropriate conditions.**
13. The LRB will give clear reasons for its decision. The Committee clerk will confirm these reasons with the LRB, at the end of each case, in recognition that these will require to be intimated and publicised in full accordance with the regulations.

# LOCAL REVIEW BODY

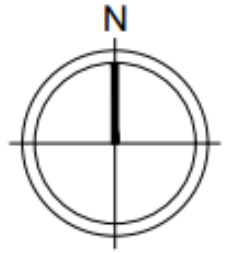


200162/DPP – Appeal against refusal of planning permission for:

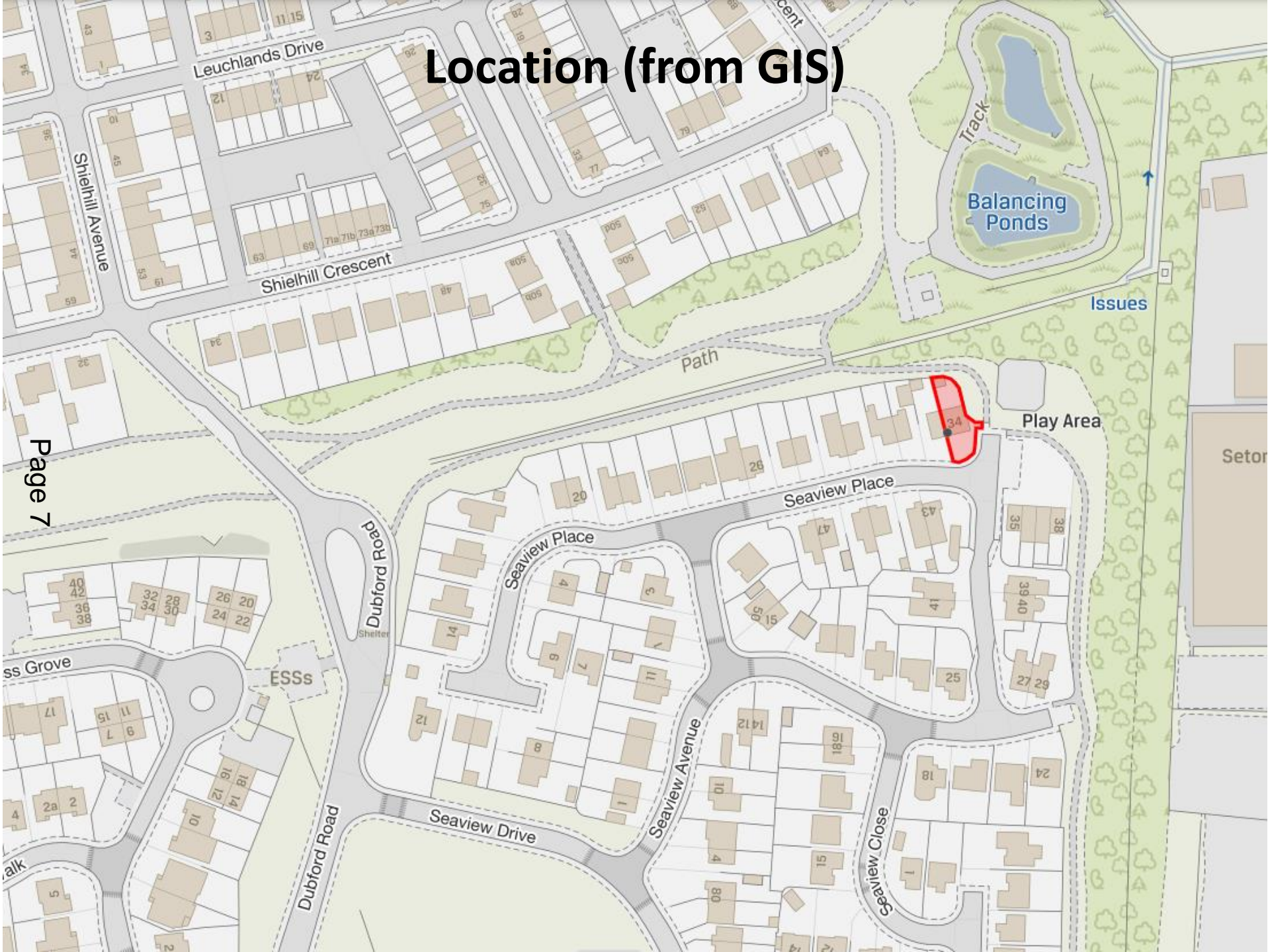
‘Change of use from amenity land to garden ground’

at 34 Seaview Place, Aberdeen

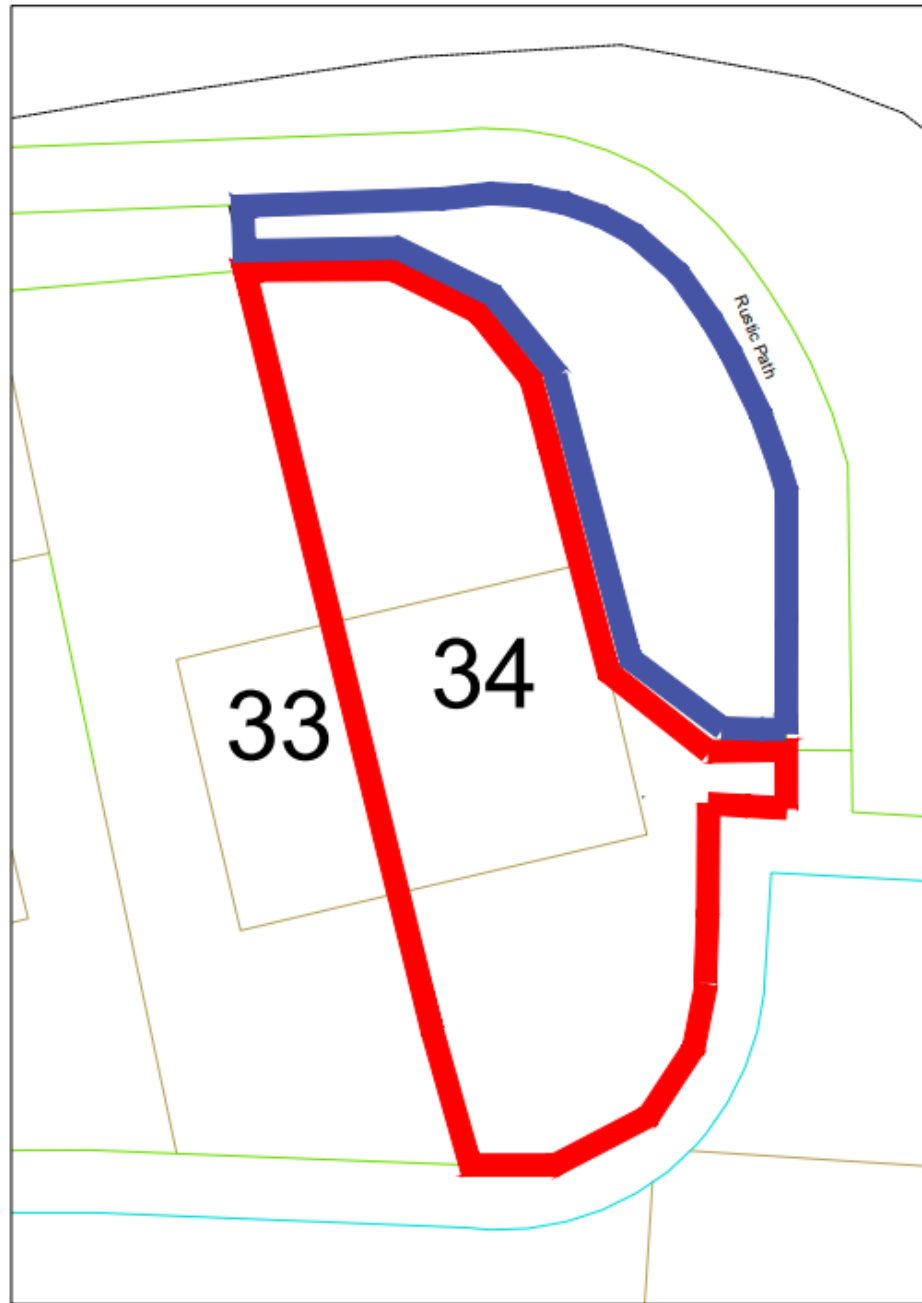
# Location Plan



# Location (from GIS)



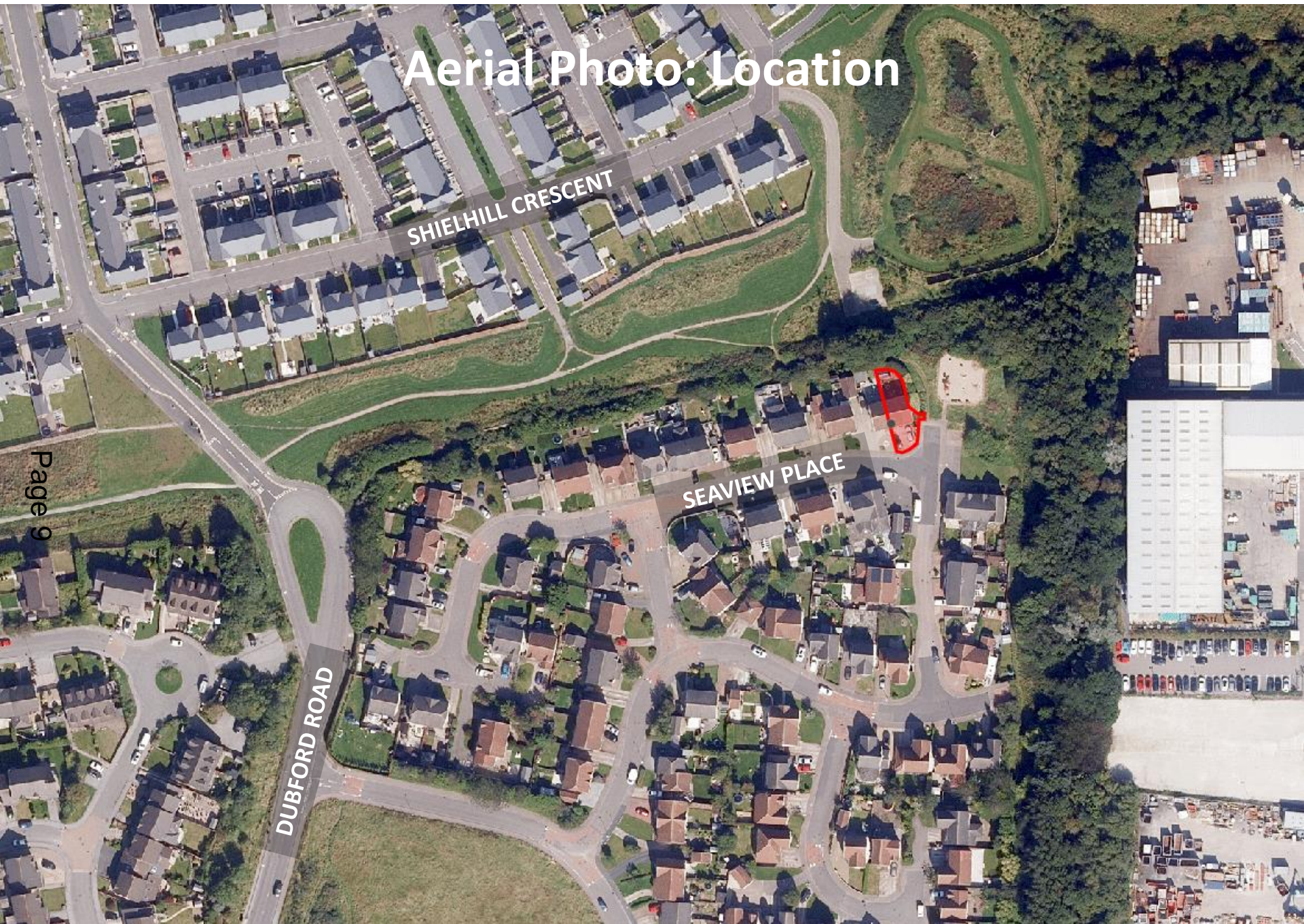
# Proposed Block Plan



Block Plan  
Scale 1:200



# Aerial Photo: Location



# Site Photos



# Site Photos



# Site Photos



# Site Photos



Photograph No. 1. Existing front/side fence of 34 Seaview Place.



Photograph No. 2. Proposal ground at the side of 34 Seaview Place.



Photograph No.7 Path at rear of 34 Seaview Place



Photograph No. 8 Over grown path rear of 29 Seaview Place



Photograph No. 3. Proposed ground, path and play park.



Photograph No. 4 Proposal ground at the side of 34 Seaview Place.



Photograph No. 9 Over grown path rear of 29 Seaview Place.



Photograph No. 10 Over grown path rear of 29 Seaview Place.



Photograph No. 5 Proposed ground at side / Rear of 34 Seaview Place



Photograph No. 6 Path at rear of 34 Seaview Place



Photograph No. 11 Wall at 1 Seaview Close



Photograph No. 12 Curved wall at 18 Seaview Avenue

# Site Photos



Photograph No 13 Wall at 25 Seaview Avenue



Photograph No. 14 Wall at 48 Seaview Place

# Reasons for Refusal

- Results in loss of a valuable area of green space, which was included in 2010 Open Space audit and scored highly in terms of biodiversity
- Would result in fragmentation of a larger area of open space which contributes to the character, biodiversity and amenity of the area
- Would result in an irregular northern boundary extent and to the east the boundary would be irregularly close to a public footpath, making the path less attractive to pedestrians
- Potential to set unwelcome precedent – cumulative effect of similar proposals must be considered
- Conflict with Householder Development Guide and Green Space Network and Open Space SG documents
- Conflict with Policies H1, NE3, and D1 of ALDP, as well as equivalents in Proposed ALDP

# H1: Residential Areas

- Is this overdevelopment?
- Would it have an *'unacceptable impact on the character and amenity'* of the area?
- Would it result in the loss of open space?
- Does it comply with Supplementary Guidance?

(e.g. Householder Development Guide SG)



# D1: Quality Placemaking by Design

All dev't must *“ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials”*.

Proposals will be assessed against the following six essential qualities:

- Distinctive
- Welcoming
- Safe and pleasant
- Easy to move around
- Adaptable
- Resource-efficient

## NE3: Urban Green Space

- Permission will not be granted to redevelop parks, playing fields, sports pitches, woods, allotments or all other areas of urban green space for any use other than recreation and sport.
- Exceptions made where equivalent alternate provision is to be made locally
- In all cases, development only acceptable provided:
  - No significant loss to landscape character and amenity;
  - Public access maintained or enhanced;
  - Site is of no significant wildlife/heritage value;
  - No loss of established/mature trees;
  - Replacement green space of same or better quality is provided;
  - No adverse impact on watercourses, ponds, wetlands;
  - Proposals to develop outdoor sports facilities should also be consistent with SPP

# SG: Householder Dev't Guide

- Should not adversely affect spaces which make a worthwhile contribution to the character and amenity of an area;
- Proposals should not fragment or, if replicated, be likely to erode larger areas of open space or landscaping.
- Should not worsen or create a deficiency in recreational open space
- Should not result in loss of visual amenity – including loss of, or incorporation into private garden of, existing trees/landscaping


# Points for Consideration

- Zoning: Does the proposal satisfy the criteria of policy H1?
- Design: Is the proposal of sufficient design quality (D1) - *having regard for factors such as scale, siting, footprint, proportions relative to original, materials, colour etc?* In particular, would the proposal be ‘welcoming’, ‘safe and pleasant’ and ‘easy to move around’?
- NE3: is the loss of urban green space consistent with policy NE3?
- Supplementary Guidance: does it fragment an area of open space? If repeated, would this be likely to erode a larger area of open space? Would there be an adverse visual impact as a result of the works? Is any alternative area laid out in compensation?

# Decision-making

- **1. Does the proposal comply with the Development Plan when considered as a whole?**
- **2. Are there any material considerations that outweigh the Development Plan in this instance?**
- Decision – state clear reasons for decision, making reference to the Development Plan, its policies and any other material considerations of weight
- Conditions? (if approved – Planning Adviser can assist)

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 <p><b>ABERDEEN</b> CITY COUNCIL</p>	<h2 style="margin: 0;">Strategic Place Planning</h2> <hr/> <p style="margin: 0;">Report of Handling</p>
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<b>Site Address:</b>	34 Seaview Place, Aberdeen, AB23 8RL,
<b>Application Description:</b>	Change of use from amenity land to garden ground
<b>Application Ref:</b>	200162/DPP
<b>Application Type:</b>	Detailed Planning Permission
<b>Application Date:</b>	12 February 2020
<b>Applicant:</b>	Mr Philip Nicol
<b>Ward:</b>	Bridge of Don
<b>Community Council:</b>	Bridge of Don
<b>Case Officer:</b>	Roy Brown

### **RECOMMENDATION**

Refuse

### **APPLICATION BACKGROUND**

#### **Site Description**

The application site comprises a c.102sqm area of amenity open space to the west of 34 Seaview Place, a two-storey semi-detached dwelling, in a residential area.

The space predominantly contains soft landscaping by way of semi-mature shrubs and grass. The space forms part of a larger area publicly accessible open space containing a play area, a footpath and grass surrounded by vegetation and trees. There is no discernible boundary between the application site and the wider open space. The play area is bounded by a c.1m high fence.

The application site is bounded immediately to the east and north by a public footpath which links with the footpaths of the open spaces serving Dubford to the north. The play area is located approximately c.4m to the east of the application site. The open space forms part of a large network of open spaces that surround Seaview Place, Seaview Close and Seaview Crescent and connects to the open spaces of Dubford to the north. These are linked by formal and informal public footpaths. The open space surrounding the site is located within the Green Space Network.

#### **Relevant Planning History**

Planning permission was granted in 2003 for the two-storey side extension on 34 Seaview Place which currently exists.

Several applications for the change of use from amenity open space to domestic garden ground and the erection of a boundary fence were determined in 2017 in the wider area:

App No	Address	Decision Date	Summary of Reasons for Decision
171309/DPP	<u>9 Seaview Place</u> Site set several metres away from public road and the proposal was to extend garden to align with boundaries of the adjacent properties.	30 <sup>th</sup> November 2017 (Approved)	No impact to the established landscape features of the corridor of open space in the immediate vicinity between the space and the road. Negligible impact to the landscape setting and character of the surrounding area. Resulted in regular boundary layout as the proposal would extend garden only as far as the established boundary fence line of the adjacent properties. The site itself did not have significant biodiversity, recreation and sport value. It would not have set a precedent given future proposals would likely result in irregular boundary layouts and result in the loss of significant landscaping.
170693/DPP	<u>12 Seaview Place</u> Prominent site on road junction which beyond established boundary lines. Fence would be set 1.5m back from the footway.	21 <sup>st</sup> July 2017 (Refused) (Decision upheld by Local Review Body)	Significant detrimental impact to visual amenity of the surrounding area by the incorporation of the public open space into a private garden; the removal of established shrubs and trees which contributed to local landscape character, and the prominence and siting of the fence. Adverse impact to road safety as a result of the fence affecting visibility splay of a road junction. The proposal would set a precedent which would result in further erosion of the design and quality and visual amenity of the wider housing area, and beyond.
170328/DPP	<u>52 Seaview Drive</u> Site adjacent to sub-station and separated from the wider open space by a dry-stone dyke.	29 <sup>th</sup> June 2017 (Approved)	No significant loss of landscape character and amenity. The site was not considered to have significant wildlife or heritage value. There was no loss of established trees. The proposed use would facilitate outdoor activities. No impact with respect to flooding and drainage. Given the unique features of the site and its location, a precedent would not be set. It is unlikely that the site would have been an intended area of open space for the original development, but rather a space left for the sub-station that was never utilised.
170257/DPP	<u>12 Seaview Place</u> Same site as 170693/DPP but the fence in this proposal was	13 <sup>th</sup> April 2017 (Refused)	The reasons were the same as those in 170257/DPP.



	located directly on the edge of the footway.		
161787/DPP	<u>29 Seaview Avenue</u> Site adjacent to public footpath, but was not prominent from the wider area and not near public play area.	13 <sup>th</sup> June 2017 (Overturned by LRB)	At review, not considered to conflict with Policy NE3 and not result in significant loss of character and amenity in the surrounding area. The development would enhance amenity by tidying up an unkempt piece of amenity land. There be no significant erosion of amenity provision.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Planning permission is sought for the change of use of the site from amenity space to domestic garden ground, which would be associated with 34 Seaview Place.

No physical development is proposed. This application considers the principle of use as residential curtilage. Land ownership and use rights are a separate legal matter for any parties concerned.

### **Supporting Documents**

All drawings and the supporting statement can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q5A41IBZFJB00>

*Report to Support Planning Application (Prepared by all Design (Scotland) Ltd)*

Statement setting out why the applicant's agent considers the proposal would comply with planning policies and guidance. It contains supplementary photographs.

## **CONSULTATIONS**

**Bridge of Don Community Council** – No response received.

## **REPRESENTATIONS**

None

## **MATERIAL CONSIDERATIONS**

### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

### **National Planning Policy**

Scottish Planning Policy

### **Aberdeen City and Shire Strategic Development Plan (2014) (SDP)**

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable

economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In the 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 Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP may also be a material consideration. The Proposed SDP constitutes the settled view of the Strategic Development Planning Authority (and both partner Councils) as to what should be the final content of the next approved Strategic Development Plan. The Proposed SDP was submitted for Examination by Scottish Ministers in Spring 2019, and the Reporter has now reported back. The Scottish Ministers will consider the Reporter's Report and decide whether or not to approve or modify the Proposed SDP. The exact weight to be given to matters contained in the Proposed SDP in relation to specific applications will depend on whether –

- these matters have been subject to comment by the Reporter; and
- the relevance of these matters to the application under consideration.

#### **Aberdeen Local Development Plan (ALDP) (2017)**

Policy D1 - Quality Placemaking by Design

Policy H1 - Residential Areas

Policy NE3 - Urban Green Space

Policy NE9 - Access and Informal Recreation

#### **Proposed Aberdeen Local Development Plan (2020)**

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be, and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- these matters have been subject to public consultation through the Main Issues Report; and,
- the level of objection raised in relation these matters as part of the Main Issues Report; and,
- the relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis. The following policies are of relevance in the assessment of this application:

Policy D1 - Quality Placemaking

Policy H1 - Residential Areas

Policy NE2 – Green and Blue Infrastructure

#### **Supplementary Guidance**

Householder Development Guide (HDG)

Green Space Network and Open Space

## **EVALUATION**

### **Aberdeen City and Shire Strategic Development Plan (SDP)**

In terms of assessment against the Strategic Development Plan, due to the small scale of this proposal the proposed development is not considered to be strategic or regionally significant, or require consideration of cross-boundary issues and, therefore, does not require detailed consideration against the SDP.

### **Principle of the Change of Use**

The application site is located within a residential area, under Policy H1 – Residential Areas of the adopted ALDP and relates to the change of use of the site as amenity land to domestic garden ground. For this proposal to comply with Policy H1 in principle, the change of use should not have an unacceptable impact on the character and amenity of the surrounding area, it should not result in the loss of valuable and valued open space, and it should comply with the Supplementary Guidance. In this instance, the Supplementary Guidance: 'The Householder Development Guide' and 'Green Space Network and Open Space' are relevant in the assessment of this application.

The application site itself serves as a soft landscaped buffer in a prominent public location between the residential boundary of 34 Seaview Place, the public footpath and the play area, just to its east, and the wider open space. It was included in the Open Space Audit 2010. The space has high biodiversity value, and this can be demonstrated by its high biodiversity score in this Open Space Audit. It is surrounded by and connects to the Green Space Network.

The site also has value in that it forms part of a larger area of publicly accessible open space within the Green Space Network which, just a few metres from the site, contains a play area, vegetation and grass. This connects to a very large network of open spaces in and around the residential areas of Seaview Place, Seaview Close, Seaview Crescent and the residential areas of Dubford to the north. Beyond their function for the purposes of access and irrespective of how often they are used as such, these green spaces and green corridors contain a variety of vegetation, trees and shrubs, which not only play an important role to the character and amenity of the surrounding area visually but also contribute to the natural environment in terms of the local habitat and biodiversity of the surrounding area. Both the site itself and the site as part of the larger network of open space are valued and valuable areas of open space which contribute to the character and amenity of the surrounding area, contribute to the natural environment, and have recreational and access value.

The change of use would therefore result in the loss of publicly accessible open space which makes a worthwhile contribution to the character and amenity of the area, in conflict with the HDG.

Policy NE3 states that permission will not be granted to redevelop areas of urban green space (including smaller spaces not identified on the Proposals Map) for any use other than recreation and sport. Whilst the size of the space likely limits the function of the space for formal recreation and sport purposes, it nevertheless could be used for informal recreational purposes, as part of the larger area of open space to the east of the site. The proposal would conflict with Policy NE3 – Urban Green Space of the ALDP in that it would result in the loss of an area of publicly accessible green space. The HDG states that proposals should not fragment or, if replicated, be likely to incrementally erode larger areas of public open space or landscaping. The change of use would fragment a large area of open space that contributes significantly to the character and amenity of the surrounding area.

In conflict with the HDG, the proposal would result in an irregular boundary layout whereby the northern boundary of the site would extend beyond the northern boundary line of the curtilage of the adjacent properties along Seaview Place. It would also result in the boundary of the residential boundary becoming irregularly close to the path and the play area to the east. The resulting boundary layout would not correspond with the established pattern of development in the

surrounding area and reflect local urban form, in conflict with the qualities of placemaking referred to in Policy D1 of the ALDP.

It is recognised that no physical development is proposed with this application. However, the change of use of the site to domestic garden ground could result in domestic development being erected on the site within the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.

This would have a negative impact on the adjacent public footpath for two reasons.

Firstly, the HDG states that the proposal '*should not result in the narrowing of footpath corridors*'. The residential boundary of 34 Seaview Place would become irregularly close to the play area; and would reduce the effective width of the public footpath between the resulting boundary and the play area. Development along the proposed boundary would result in the loss of the space as a buffer between the wider open space and the application property.

Secondly, the HDG also states that these proposals should not '*lead to a loss of important views along such footpaths, making them less inviting or safe to use.*' Given the proposed site boundary would immediately bound the public footpath, any physical development on this boundary as a result of the grant of the change of use could result in the loss of the important view into the path from the south which would make it less inviting and safe to use, in conflict with the HDG. This path is currently informal in its appearance in that it is not formally hard surfaced. It is nevertheless visible as a route from Seaview Place to the north and directly connects into the path network in the Dubford development to the north. Development immediately adjacent to the path would make it appear unclear from the road and discourage its usage as a public way which connects with the Dubford development to the north.

The reduction in the effective width of the footpath corridor and impact to the adjacent footpath which could result as a direct consequence of the change of use would adversely affect the access and recreation value of the wider open space, in conflict with Policies D1 and H1 of the ALDP.

Notwithstanding every planning application is assessed on its own merits, the proposal could give rise to the setting of a precedent, which would make it difficult to resist similar proposals in the future given there are a significant number of residential properties which are bounded by areas of open space in the surrounding area. Unlike the three sites which were granted a change of use in the wider area in 2017 at 29 Seaview Avenue, 52 Seaview Drive and 9 Seaview Place, the application is in a significantly more prominent and usable position adjacent to both a public play area and footpath. Additionally, the proposal would extend beyond the established curtilage boundary at the north of the site. Whilst every planning application is assessed on its own merits, the grant of planning permission for the change of use of the path to extend beyond the existing north boundary would be highly likely to set a precedent for other properties along the north of the site to similarly extend to the north. Over time the cumulative impact of the loss of separate areas of ground could lead to the gradual erosion of open space, which would not be in the public interest and could have a significant adverse impact on the character and amenity of the surrounding area, in conflict with Policies H1 and D1 of the ALDP; and the HDG.

Scottish Planning Policy states that NPF3 aims to significantly enhance green infrastructure networks, particularly in and around our cities and towns and that green infrastructure and improved access to open space can help to build stronger, healthier communities. The Supplementary Guidance: Green Space Network and Open Space recognises that access to good quality green infrastructure will contribute to a greener, healthier, smarter, safer, stronger, wealthier and fairer city. The proposal would result in the loss of an area of valuable amenity open space which in itself and as part of the larger area of open space, makes a worthwhile contribution to the character and amenity of the area. The proposal could set a precedent for the loss of the wider open space. The

proposal would therefore conflict with the principles of Scottish Planning Policy, Policies H1 – Residential Areas, NE3 – Urban Green Space and D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan; the Supplementary Guidance: ‘The Householder Development Guide’ and ‘Green Space Network and Open Space’.

### **Proposed Aberdeen Local Development Plan**

In relation to this particular application, the relevant policies in the Proposed Aberdeen Local Development Plan 2020 (ALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is unacceptable in terms of both Plans for the reasons previously given.

### **Matters Raised in the Supporting Statement**

The supporting statement notes that the path at the rear of Seaview Place has fallen into dis-use and is overgrown. This is only true for the section of the path to the immediate north of properties 16-30 Seaview Place where there is junction between said path and the recently formed paths at Dubford. The path bounding the application site is not in a state of dis-use. It is used and connects directly to the formalised paths to the north. The connections of the existing path network into the recently constructed paths were approved as part of the Dubford development. As noted above, beyond the usage of the paths for access, the surrounding open spaces and green corridors also contribute to the surrounding area both visually and to the natural environment with respect to biodiversity and habitat.

The application site as an area of open space is not considered to be a health hazard. It is a publicly accessible area of open space which forms part of a much wider area of open space.

It is suggested in the supporting statement that the proposal should be considered on its own merits and not included within a broad-brush approach. The change of use of the application site both in itself, and in terms of the incremental erosion of a much larger area of public open space is considered on its own merits to have a detrimental impact to the character and amenity of the surrounding area, and to conflict with the relevant national and local planning policies and guidance.

### **RECOMMENDATION**

Refuse

### **REASON FOR RECOMMENDATION**

The proposed change of use from amenity land to garden ground would result in the loss of valued and valuable open space, which was included in the Open Space Audit 2010 and scored highly with respect to biodiversity. It would also result in the fragmentation of a large area of open space that contributes to the character, biodiversity and amenity of the surrounding area.

The proposal would adversely affect the wider open space in that it would result in an irregular residential boundary whereby the northern boundary of 34 Seaview Place would extend beyond the established northern boundary line of the adjacent residential properties; it would extend to the east so that it would be irregularly close to the public footpath and play area. Domestic development along the boundary could result in the footpath being less inviting to use, which would detract from the access and recreational value of the wider open space.

The proposal could give rise to the setting of a precedent would make it difficult to resist similar proposals in the future which cumulatively could result in the gradual erosion of the open space, which would have a significant adverse impact on the character and amenity of the surrounding area.

The proposal would therefore conflict with the principles of Scottish Planning Policy; Policies D1 –

Quality Placemaking by Design, H1 – Residential Areas and NE3 – Urban Green Space of the adopted Aberdeen Local Development Plan; the Supplementary Guidance: ‘The Householder Development Guide’ and ‘Green Space Network and Open Space’; and Policies D1- Quality Placemaking, H1 – Residential Areas and NE2 – Green and Blue Infrastructure of the proposed Aberdeen Local Development Plan. There are no material planning considerations that warrant the grant of planning permission in this instance.



Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100231915-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

change of use from amenity land to garden ground

Is this a temporary permission? \*  Yes  No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*  Yes  No

Has the work already been started and/or completed? \*

No  Yes – Started  Yes - Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Philip"/>	Building Number:	<input type="text" value="34"/>
Last Name: *	<input type="text" value="Nicol"/>	Address 1 (Street): *	<input type="text" value="Seaview Place"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB238rl"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="34 SEAVIEW PLACE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB23 8RL"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="812299"/>	Easting	<input type="text" value="394310"/>
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## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

### Site Area

Please state the site area:

0.10

Please state the measurement type used:

Hectares (ha)  Square Metres (sq.m)

### Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Not used

### Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

Yes  No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \*

Yes  No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

0

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

### Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \*

Yes  No

Do your proposals make provision for sustainable drainage of surface water?? \* (e.g. SUDS arrangements) \*

Yes  No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

- Yes  
 No, using a private water supply  
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

## Assessment of Flood Risk

Is the site within an area of known risk of flooding? \*

Yes  No  Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*

Yes  No  Don't Know

## Trees

Are there any trees on or adjacent to the application site? \*

Yes  No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*

Yes  No

If Yes or No, please provide further details: \* (Max 500 characters)

in garden

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

Yes  No

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

Yes  No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) \*

Yes  No  Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

Yes  No

Is any of the land part of an agricultural holding? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Mr Philip Nicol

On behalf of:

Date: 06/02/2020

Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

Yes  No  Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

Yes  No  Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

Yes  No  Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

Yes  No  Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

Site Layout Plan or Block plan.

Elevations.

Floor plans.

Cross sections.

Roof plan.

Master Plan/Framework Plan.

Landscape plan.

Photographs and/or photomontages.

Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. \*

Yes  N/A

A Design Statement or Design and Access Statement. \*

Yes  N/A

A Flood Risk Assessment. \*

Yes  N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). \*

Yes  N/A

Drainage/SUDS layout. \*

Yes  N/A

A Transport Assessment or Travel Plan

Yes  N/A

Contaminated Land Assessment. \*

Yes  N/A

Habitat Survey. \*

Yes  N/A

A Processing Agreement. \*

Yes  N/A

Other Statements (please specify). (Max 500 characters)

## **Declare – For Application to Planning Authority**

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Philip Nicol

Declaration Date: 06/02/2020

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## **DECISION NOTICE**

### **The Town and Country Planning (Scotland) Act 1997**

### **Detailed Planning Permission**

All Design ( Scotland ) Limited  
Unit 22, James Gregory Centre  
Campus 2, Aberdeen Innovation Park  
Balgownie Drive  
Aberdeen  
AB22 8GU

on behalf of **Mr Philip Nicol**

With reference to your application validly received on 12 February 2020 for the following development:-

**Change of use from amenity land to garden ground  
at 34 Seaview Place, Aberdeen**

Aberdeen City Council in exercise of their powers under the above mentioned Act hereby **REFUSE PLANNING PERMISSION** for the said development in accordance with the particulars given in the application form and the following plans and documents:

<u>Drawing Number</u>	<u>Drawing Type</u>
AD 1345 - 01	Location Plan
AD1345 - 02 REV A	Site Plan (Proposed)

#### **REASON FOR DECISION**

The reasons on which the Council has based this decision are as follows:-

The proposed change of use from amenity land to garden ground would result in the loss of valued and valuable open space, which was included in the Open Space Audit 2010 and scored highly with respect to biodiversity. It would also result in the

fragmentation of a large area of open space that contributes to the character, biodiversity and amenity of the surrounding area.

The proposal would adversely affect the wider open space in that it would result in an irregular residential boundary whereby the northern boundary of 34 Seaview Place would extend beyond the established northern boundary line of the adjacent residential properties; it would extend to the east so that it would be irregularly close to the public footpath and play area. Domestic development along the boundary could result in the footpath being less inviting to use, which would detract from the access and recreational value of the wider open space.

The proposal could give rise to the setting of a precedent would make it difficult to resist similar proposals in the future which cumulatively could result in the gradual erosion of the open space, which would have a significant adverse impact on the character and amenity of the surrounding area.

The proposal would therefore conflict with the principles of Scottish Planning Policy; Policies D1 - Quality Placemaking by Design, H1 - Residential Areas and NE3 - Urban Green Space of the adopted Aberdeen Local Development Plan; the Supplementary Guidance: 'The Householder Development Guide' and 'Green Space Network and Open Space'; and Policies D1- Quality Placemaking, H1 - Residential Areas and NE2 - Green and Blue Infrastructure of the proposed Aberdeen Local Development Plan. There are no material planning considerations that warrant the grant of planning permission in this instance.

**Date of Signing** 11 May 2020



**Daniel Lewis**  
Development Management Manager

## **IMPORTANT INFORMATION RELATED TO THIS DECISION**

### **DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL, AS AGREED WITH APPLICANT (S32A of 1997 Act)**

None.

### **RIGHT OF APPEAL THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;



- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at [www.eplanning.scot](http://www.eplanning.scot).

Notices of review submitted by post should be sent to Strategic Place Planning (address at the top of this decision notice).

### **SERVICE OF PURCHASE NOTICE WHERE INTERESTS ARE AFFECTED BY A PLANNING DECISION**

If permission to develop land is refused 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 that would be permitted, the owners 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 5 of the Town and Country Planning (Scotland) Act 1997.

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## **Aberdeen Local Development Plan (ALDP)**

- Policy D1 - Quality Placemaking by Design
- Policy H1 - Residential Areas
- Policy NE3 - Urban Green Space
- Policy NE9 - Access and Informal Recreation

## **Supplementary Guidance**

Householder Development Guide

<https://www.aberdeencity.gov.uk/sites/default/files/2.1.PolicySG.HouseHoldDesignGuide.pdf>

Green Space Network and Open Space

<https://www.aberdeencity.gov.uk/sites/default/files/6.4.PolicySG.OpenSpace.pdf>

## **Other Material Considerations**

Aberdeen City and Shire Strategic Development Plan (2020) (SDP)

Proposed Aberdeen Local Development Plan (2020)

<https://www.aberdeencity.gov.uk/services/planning-and-building/local-development-plan/aberdeen-local-development-plan/aberdeen-local-development-plan-review#3678>

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE            100290012-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	All Design (Scotland) Limited		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	PAUL	Building Name:	James Gregory Centre,
Last Name: *	WALBER	Building Number:	<input type="text"/>
Telephone Number: *	01224 701576	Address 1 (Street): *	Campus 2
Extension Number:	<input type="text"/>	Address 2:	Bridge of Don
Mobile Number:	<input type="text"/>	Town/City: *	Aberdeen
Fax Number:	<input type="text"/>	Country: *	United Kingdom
		Postcode: *	AB22 8GU
Email Address: *	paul@all-design.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Phil and Tracy"/>	Building Number:	<input type="text" value="34"/>
Last Name: *	<input type="text" value="Nicol"/>	Address 1 (Street): *	<input type="text" value="Seaview Place"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="Bridge of Don"/>
Telephone Number: *	<input type="text" value="01224 701576"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Aberdeen City"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB23 8RL"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="paul@all-design.co.uk"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="34 SEAVIEW PLACE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB23 8RL"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="812299"/>	Easting	<input type="text" value="394310"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

The proposal was for the change of use of amenity land into garden space. Application was refused.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

We are seeking a review and we believe the Planning Officer failed in his duty to execute the application correctly. He stated that this application should not create a precedent, ignoring the fact that precedent had already been set. We have a letter that will be added as supplementary information advising all of the concerns that we have.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Letter of Review 34 Seaview Place Report to Support Planning Application Rev A Location Plan AD 1345 / 01 Block Plan AD 1345 / 02 Rev A

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

200162 / DPP

What date was the application submitted to the planning authority? \*

06/02/2020

What date was the decision issued by the planning authority? \*

11/05/2020

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

The Planning Officer over exaggerated the worth and value of the land when compared to the local open space. Only a site inspection can truly show how small the piece of land is, how the proposal will enhance the area by removing an unsightly patch of ground, and that the land is of no value to the local character, amenity, recreation and biodiversity.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No



## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr PAUL WALBER

Declaration Date: 05/08/2020

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4<sup>th</sup> August 2020

Strategic Place Planning,  
Aberdeen City Council,  
Business Hub 4  
Marischal College  
Broad Street,  
AB10 1AB

Dear Sirs,

**Project: Proposed Development at 34 Seaview Place, Bridge of Don, Aberdeen, AB23 8RL**

**Planning Application Reference: 200162/DPP**

**Our Reference: AD 1345**

**Review of Planning Refusal**

This letter forms additional supporting evidence relating to for the planning application 200162 / DPP validated on 12<sup>th</sup> February 2020, and the supplementary report submitted 22<sup>nd</sup> April 2020. Planning application refused the 11<sup>th</sup> May 2020.

This response to the points raised by the Planner is structured in the same order as the Decision Notice and the Report of Handling Document.

Note all text in italics are the points raised by the planner in the Decision Notice or the Report of Handling

#### **Decision Notice**

- *Not have an unacceptable impact on the character and amenity of the surrounding area*  
The applicant and the author do not believe that the proposal has any impact on the character and amenity of the surrounding area. The use of the area is limited due to its size and location and the far easier accessible welcoming rustic paths associated with the New Shielhill development.
- *It should not result in the loss of valuable and valued open space.*  
The site area is small and could not be considered as valued open space. In fact, due to its size and location it is debatable if the area could reasonable defined as open space, being that it is bounded by a residential wall lined with common shrubs and an under used rustic path.
- *Should comply with the supplementary guidance*  
The guidance clearly states that small incremental pieces of land can be changed from amenity land to garden space, and therefore, does comply with the aspirations of the Supplementary guidance.

All Design (Scotland) Limited

Unit 22, James Gregory Centre, Campus 2, Aberdeen Innovation Park, Balgownie Drive, Bridge of Don, Aberdeen AB22 8GU

t: 01224 701576 e: info@all-design.co.uk

[www.all-design.co.uk](http://www.all-design.co.uk)

## Extracts from the Report of Handling

*“The application site itself serves as a soft landscaped buffer in a prominent public location between the residential boundary of 34 Seaview Place, the public footpath and the play area.”*

The application site (amenity land) does act as a buffer to the path. However, the Planner’s description of the site and adjacent area as boundary wall, buffer zone, path, park. This is a misleading statement. The actual area should be described boundary wall, buffer zone, path, buffer zone, park. It is important to note that there exists a buffer zone between the path and the park. This has been ignored by the planner, although it is essential as the buffer zone between the path and the park is maintained.

*“The space has high biodiversity value, and this can be demonstrated by its high biodiversity score in this Open Space Audit.”*

With respect to the Planner’s conclusion, the above statement is at best an over exaggeration of the proposal site area. The site has common shrubs (adjacent to the application site boundary) which are abundant within the Seaview Development area, and grass! In general, the whole of the Seaview area could well score high for biodiversity, however to state that this small patch of ground adds to the biodiversity of the whole area is simply not true. There are no unique features, animals or vegetation adding to the biodiversity of the habitat of the application site.

*“It is surrounded by and connects to the Green Space Network.”*

Again, this simply is an over exaggeration of the importance of the rustic path. Originally the path ran the whole length of the rear of Seaview Place. However, since the new development at Shielhill (Phase 1), the path has been superseded by the open green area and rustic path between Shielhill development and Seaview. The path at the rear of Seaview Place is overgrown and naturally blocked for approximately 80% of its length. More detail will be provided later in the letter.

*“The site also has value in that it forms part of a larger area of publicly accessible open space within the Green Space Network which, just a few metres from the site, contains a play area, vegetation and grass.”*

This is a generalised comment and could apply to any number of properties in the Seaview area, which bound the corridors, paths both rustic and formal, and the park areas. The site does form part of a publicly accessible open space, but just by its presence and position does not by definition make the site of value. There is no doubt that the green areas of the whole Seaview development add value to the wellbeing of the residents and those visiting the area, but there is serious doubt that anybody who is aware of the proposal site would state that the site has or adds value to the whole Seaview development. This is a serious overstatement by the planner of the value the site, and when seen in context to the Seaview Development area as a whole. The site is of no value whatsoever.

*“Beyond their function for the purposes of access and irrespective of how often they are used as such, these green spaces and green corridors contain a variety of vegetation, trees and shrubs, which not only play an important role to the character and amenity of the surrounding area visually but also contribute to the natural environment in terms of the local habitat and biodiversity of the surrounding area.”*

As stated previously the site contains common shrubs and grass, and does not add to the biodiversity of the wider Seaview Development. The site itself has no character, and does not add to the amenity or the visual aspects of the surrounding area. Again, this is an overstatement by the planner of the value, worth and impact the site has in the area.

*“Both the site itself and the site as part of the larger network of open space are valued and valuable areas of open space which contribute to the character and amenity of the surrounding area, contribute to the natural environment, and have recreational and access value.”*

The first sentence above, is a reiteration of the previous statements, and has therefore been responded to above. The site area does not add to the natural environment in any shape whatsoever, and is an embroidery of the true worth of the site. The true worth being, the site provides no diversity in terms of habitat, vegetation or diverse animal species.

The site is so small, and is “L” shaped that no recreational activities are carried out, or could be carried out on the land. It is a false statement by the planner, to say that the site has recreational value. No recreation can or has ever been carried out on the site.

The proposal in no way effects the access around the Seaview Development site. The path itself has started to green over due to the of lack of use.

*“The change of use would therefore result in the loss of publicly accessible open space which makes a worthwhile contribution to the character and amenity of the area, in conflict with the HDG.”*

The space does not in any way provide a worthwhile contribution to the character and amenity of the area. This statement by the Planner is severely compromised. The site simply does not add to the character or amenity of the area due to its extremely small size, position within the Seaview development, the path itself has fallen in to dis-repair as other more accessible attractive recreational paths have predominantly replaced the path behind and adjacent to Seaview Place, and the sites unkempt appearance. A site visit would clearly show that the value of the site has been drastically overinflated and does not provide a worthwhile contribution to the area, and therefore it would be a reasonable conclusion that the statement by the Planner *“the change of use is in conflict with the HDG”* is in fact incorrect. There is no possible conclusion that the site adds value in character and amenity, and therefore by definition the proposal is, and therefore **cannot** be in conflict with HDG. The proposal would in fact enhance the immediate area, removing an overgrown, and poorly maintained grass.

*“Policy NE3 states that permission will not be granted to redevelop areas of urban green space (including smaller spaces not identified on the Proposals Map) for any use other than recreation and*

*sport. Whilst the size of the space likely limits the function of the space for formal recreation and sport purposes, it nevertheless could be used for informal recreational purposes, as part of the larger area of open space to the east of the site. The proposal would conflict with Policy NE3 – Urban Green Space of the ALDP in that it would result in the loss of an area of publicly accessible green space. The HDG states that proposals should not fragment or, if replicated, be likely to incrementally erode larger areas of public open space or landscaping. The change of use would fragment a large area of open space that contributes significantly to the character and amenity of the surrounding area.”*

This statement regarding the use of the site for recreational purposes is simply inexcusable.

The planner states that *“the space likely limits the function of the space for formal recreation”*, and then goes on to state *“...could be used for informal recreational purposes”*

The use of the words *“likely”* and *“could”* are a weak assertion that recreation could be carried out on the site. There are no possible recreational uses for the site area. The applicant who has lived at the site address since the house was built, and the author of this report who has lived in the Seaview Development for 15 Years, can both categorically confirm that no recreational activities have ever been carried out on the site, and the likelihood that recreational activities will ever be carried out on the site is zero. The use of the unambiguous words, are clearly aimed to add weight to the argument that the proposal is out of step with Policy NE3. This is just not the case. The land is small, *“L”* shaped and has never been or will ever be used for recreation, and therefore the proposal is **not** in conflict with Policy NE3.

The proposal in no way fragments the existing open space. The proposal site is adjacent to the boundary of 34 Seaview Place would be incorporated within the garden space of the house. The rustic path will be retained and the open space of the Seaview Development area will not be fragmented by this proposal.

*“In conflict with the HDG, the proposal would result in an irregular boundary layout whereby the northern boundary of the site would extend beyond the northern boundary line of the curtilage of the adjacent properties along Seaview Place. It would also result in the boundary of the residential boundary becoming irregularly close to the path and the play area to the east. The resulting boundary layout would not correspond with the established pattern of development in the surrounding area and reflect local urban form, in conflict with the qualities of placemaking referred to in Policy D1 of the ALDP.”*

Again, the above statements are not entirely correct. It is a fact that by incorporating the amenity space at the rear of 34 Seaview Place the boundary wall with 33 Seaview Place will be irregular. However, the rear boundary of Seaview Place is not regular as the Planner implies.

*“The proposal would push the line of the boundary past the line of the properties at the north of Seaview Place”.*

The Planner has been conservative with his words implying that the existing boundary line at the rear of Seaview Place is straight and regular. This is not the case. The boundary line changes at 27 Seaview Place, then again at 21 Seaview Place, and then again at 18/19 Seaview Place. It is not the case that the existing boundary walls to the rear of Seaview Place are regular. In fact the existing boundary walls are irregular along the walls length.

Irregular boundaries are not uncommon in the Seaview Development:

- 39 Seaview Place (15 seconds walk from the application site)
- 24 Seaview Avenue (20 seconds walk from the application site)
- 3 Seaview Close (25 seconds walk from the application site)
- 7 Seaview Close (30 seconds walk from the application site)

29 Seaview Close originally had an irregular boundary, however this was straightened up, after review and planning permission was granted.

The existing boundary wall of the application site is almost parallel with the rustic path at the side (East), and therefore the proposal at to the East of the site would be almost identical in form as the existing boundary.

The Planner's statement "*The resulting boundary layout would not correspond with the established pattern of development in the surrounding area*" is simply not correct. There are numerous examples within the Seaview Development where the boundary lines are not regular, and therefore not in conflict with the established pattern of the development, due to the fact that there are no defined patterns within the development. The proposal therefore **cannot** be in conflict with the qualities of Policy D1 of the ALDP, due to the numerous examples of irregular boundaries, stated above, within the Seaview Development area.

*"It is recognised that no physical development is proposed with this application. However, the change of use of the site to domestic garden ground could result in domestic development being erected on the site within the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended."*

The Planner clearly states that no physical development is proposed within the application, yet then produces three paragraphs of statements which incorporates two reasons why in relation to General Permitted Development rights, that the applicant may construct boundary walls. The two paragraphs do not relate to or have any bearing on this this application as boundary walls do not form part of this application as clearly stated by the planner, and therefore should not be considered as part of this review.

*"Notwithstanding every planning application is assessed on its own merits, the proposal could give rise to the setting of a precedent, which would make it difficult to resist similar proposals in the future.."*

The supplementary guidance is clear on this. All applications should be considered on their own merits, and that past and future applications should have no bearing on an application being considered. During the planning process, as agent and author of this letter, we specifically refused to enter into the debate with the planner regarding the precedent of providing examples of other sites within the Seaview Development. It is our belief as stated within the Supplementary Guidance, all applications should be considered on its own merits. However, the planner has chosen to use precedent, and in particular its use defending 3 previous planning approvals and 2 refusal (all identified on pages 2 and 3 on the Report of Handling), we would comment as follows:

*9 Seaview Place – Approval. No impact on the established landscape or features of the corridor. Negligible impact to the landscape setting and character. Regular boundary formed. The site did not have significant biodiversity. Would not set precedent for future developments.*

34 Seaview Place – There is no impact on the established landscape, features or setting. The planner states the loss of the buffer between the residential boundary and the path, but fails repeated to identify that a buffer exists between the path and the park. The proposal site is only 1-minute walk from 9

Seaview Place, yet biodiversity is considered not significant. The area around 9 Seaview Place is bounded by trees, several variations of shrubs and grass, significantly more than 34 Seaview Place, where the biodiversity is considered as significant. There seems no logic to the conclusion of the biodiversity around and relating to 34 Seaview Place when compared to 9 Seaview Place.

*12 Seaview Place – refused and upheld by LRB. Removal of established trees and shrubs. Adverse impact on road safety at road junction.*

34 Seaview Place – The site area does not contain any trees, and is only bounded by common shrubs and unkempt grass. There are no road safety issues due to the site not bounding a road.

*52 Seaview Drive – Approved. No significant loss of landscape character and amenity. Not considered to have significant wildlife or heritage values. No impact to flood or drainage. No precedent set.*

It should be noted that 52 Seaview Drive bounds the major open space of the Seaview Development site and the Seaview Play Park. The play park is significantly further away from 52 Seaview Drive, than 34 Seaview Place is from the park it is adjacent to.

34 Seaview Place – Again no significant loss of character/amenity as above. No loss of wildlife or heritage values. No drainage issues.

*29 Seaview Avenue – Refused overturned by LRB.* The planner states on page 6, paragraph 6 of The Report of Handling that the change of use was approved for this site, giving the impression that the application was approved. As stated earlier, the application was initially refused by the planners, with the refusal being overturned by the LRB. The reasons for approval.



*Application not in conflict with Policy NE3 resulting in no significant loss of character and amenity. The development would enhance the amenity by tidying up an unkempt piece of amenity land. No significant erosion of amenity provision.*

34 Seaview Place – Both sites are very similar in appearance. Both bound a rustic path at the side. The site areas are not used for any form of recreation, and both have no significant impact on the landscape or character of the area. As with 29 Seaview Avenue, the area at the side of 34 Seaview Place is unkempt, overgrown and is used by dogs who foul the area. The result of bringing the area into garden space will remove the unsightly unkempt area that is currently at the side of the rustic path.

*“Whilst every planning application is assessed on its own merits, the grant of planning permission for the change of use of the path to extend beyond the existing north boundary would be highly likely to set a precedent for other properties along the north of the site to similarly extend to the north”.*

No change of use has been requested for the path. The path will remain un-altered.

*“Scottish Planning Policy states that NPF3 aims to significantly enhance green infrastructure networks, particularly in and around our cities and towns and that green infrastructure and improved access to open space can help to build stronger, healthier communities. The Supplementary Guidance: Green Space Network and Open Space recognises that access to good quality green infrastructure will contribute to a greener, healthier, smarter, safer, stronger, wealthier and fairer city. The proposal would result in the loss of an area of valuable amenity open space which in itself and as part of the larger area of open space, makes a worthwhile contribution to the character and amenity of the area. The proposal could set a precedent for the loss of the wider open space. The proposal would therefore conflict with the principles of Scottish Planning Policy, Policies H1 – Residential Areas, NE3 – Urban Green Space and D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan; the Supplementary Guidance: ‘The Householder Development Guide’ and ‘Green Space Network and Open Space’.”*

The section of land in question is small and in no way could it help to build a stronger, healthier community. We fully support the aspirations of the Scottish Government and the Local Council in providing good quality open spaces, but there is no way that this small inconsequently piece of land could ever hope to meet these aspirations. The land is small, unkempt, and offers no possibility for any form of recreation, or adds to the character or heritage of the Seaview Development. As stated for 52 Seaview Avenue, this site is unique and due to this could not set a precedent for future developments. 34 Seaview Place, is almost identical to 29 Seaview Avenue, and if precedent is being used for not allowing the application, then by definition, 29 Seaview Avenue already sets the precedent and as such, the reason for accepting the later should be applied to the former.

***“Proposed Aberdeen Local Development Plan***

*In relation to this particular application, the relevant policies in the Proposed Aberdeen Local Development Plan 2020 (ALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is unacceptable in terms of both Plans for the reasons previously given.”*

The Planner states that in his opinion the proposal does not comply with the Aberdeen Local Development Plan. However, the Planner fails to advise that within the Supplementary Guidance: The Sub-division and re-development of Residential Curtilage states in 3.1.11 that *"In most circumstances the amenity ground will make a contribution, however sometimes small incidental areas of ground make little contribution to the appearance of the neighbourhood"*. These areas can be considered as acceptable to be incorporated into a garden space. There are few qualifications to this, however these would be identical to those relating to 29 Seaview Avenue ie not visible from a road or footpath. The proposal is identical to both these applications and it would therefore follow, that the Planner is adamant the application for 34 Seaview Place should not set a precedent, unfortunately the precedent has already been set at 29 Seaview Avenue, and therefore as such, because the application sites are so similar the same considerations should be applied to 34 Seaview Place as well as being applied to 29 Seaview Avenue.

#### ***"Matters Raised in the Supporting Statement***

*The supporting statement notes that the path at the rear of Seaview Place has fallen into dis-use and is overgrown. This is only true for the section of the path to the immediate north of properties 16-30 Seaview Place where there is junction between said path and the recently formed paths at Shielhill."*

This statement by the Planner trivialises the dis-repair that the path has fallen into. The house numbers that back on to the path relate to number 16 to number 34 Seaview Place inclusive. This relates to 19 properties, of which the path is now **inaccessible** behind 14 properties. Approximately 80% of the path is now inaccessible and it is not an unrealistic assumption that the path will become totally overgrown in the next few years.

*"The path bounding the application site is not in a state of dis-use."*

The statement above by the planner is incorrect. The start of the path at the front of Seaview place has already begun to green over due to its lack of use. Please see photographs 1, 2, 3 and 4 at the end of this letter. This is due to the lack of use, and the newer paths of the Shielhill development being used for recreation. The section of the path to the rear of Seaview Place that is still passable, is muddy and is un-passable during wet periods.

*"The application site as an area of open space is not considered to be a health hazard. It is a publicly accessible area of open space which forms part of a much wider area of open space."*

The only activity that the land is being used for, is dog fouling, and due to some irresponsible owners, the dog waste is not being removed. The applicant is happy to verify this. Dog waste is a health hazard and is adjacent to the play park. As stated earlier, by bringing the ground into the garden, the unkempt area will be tidied up as part of the proposal.

*"It is suggested in the supporting statement that the proposal should be considered on its own merits and not included within a broad-brush approach. The change of use of the application site both in itself, and in terms of the incremental erosion of a much larger area of public open space is considered on its own merits to have a detrimental impact to the character and amenity of the surrounding area, and*

*to conflict with the relevant national and local planning policies and guidance.”*

During the planning process the Planner stated in the “Report of Handling” document that “...the land has value.” Representation was requested from the Planner as to how he valued the land. (Note, we specifically asked him not to respond in broad strokes but with specific reference to the site.) The Planner’s stated responses includes:

- *“It is open space connected to the wider open space”* – no explanation has been offered from the Planner as to how this is achieved.
- *“It has character and amenity for the surrounding area”* – no explanation has been offered from the Planner as to how the amenity and the surrounding area is affected, and how the proposal site adds to the character and amenity of the surrounding area
- *“It has recreational use”* – no explanation has been offered from the Planner how the land could be used for recreational purposes.

The above three points are broad stroke responses and could be applied to almost all planning applications relating to Change of Use. They are not as requested – site specific. The Supplementary Report submitted as part of the planning submission went in part to answer the Planner’s concerns however, we have never received specific examples, as requested, as to why the application does not meet the guidance.

No explanation has been given with regard to the statement regarding biodiversity, and how this small insignificant piece of land is so diverse that it has significant impact on the surrounding habitat, especially when other proposal sites have been determined to offer no significant biodiversity to the whole Seaview Development area.

The Planner has failed to explain how the character and amenity will be affected by the proposal.

To fully assess the proposal, we would recommend that a site visit be carried out as part of the review process. It is believed that the proposal does not fail to comply with Policy as stated by the Planner. We have where appropriate provided evidence supporting the application detailing where the proposal aims to comply with, not just the actual policy statements but the aspirations of both national and local policies.

Photographs to provide additional support.



Photograph Number 1



Photograph Number 2



Photograph Number 3



Photograph Number 4

The photographs clearly show that the path is beginning to green over due to lack of use. It is almost impossible to determine where the edges of the path are. Photographs 2, 3 and 4 also show the buffer zone between the path and the park. (Right hand side of the path).

## Summary

The application relates to a small, inconsequential piece of land at the side of 34 Seaview Place.

- The land is small, unused and unkempt.
- The proposal from the applicant will improve and enhance the area, and there will be no fragmentation of the wider area.
- The site does not have any special or diverse biodiversity, character or amenity.
- The site cannot be used for any form of recreation.
- The existing rustic path has started to green over due to the lack of use.
- The existing path / Boundary wall at the rear of Seaview Place, is neither regular along its length, and the path has become impassable along 80% of its length.
- A buffer zone exists between the rustic path and the park.

If you have any queries regarding the above please do not hesitate to contact me on Tel 01224 701576.

Yours sincerely,  
For All Design (Scotland) Limited



Paul Walber  
Director

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