

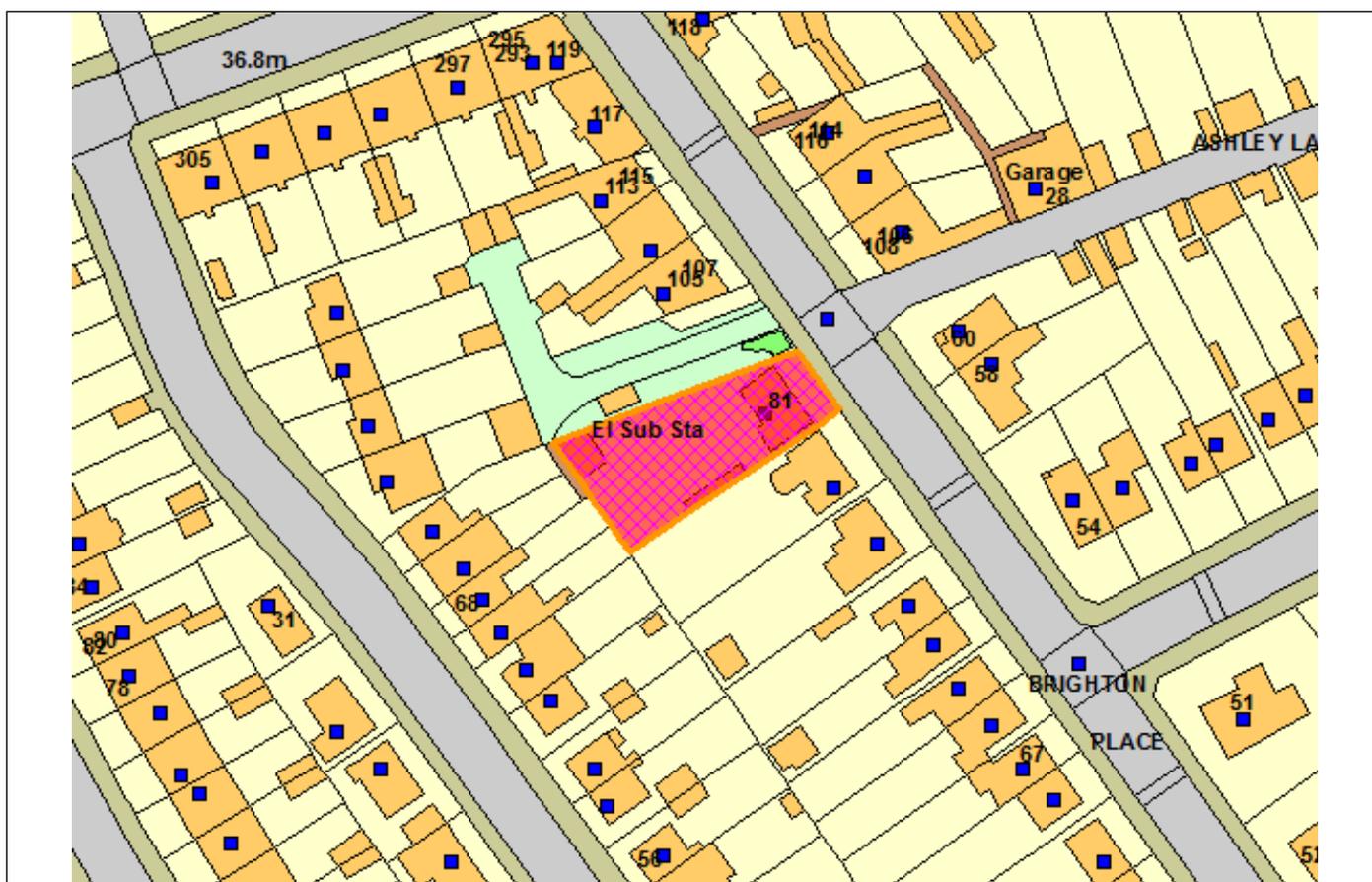


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 15 August 2019

Site Address:	81 Brighton Place, Ashley, Aberdeen, AB10 6RT
Application Description:	Change of use from amenity land to domestic garden ground to facilitate new access, driveway and erection of boundary wall to side
Application Ref:	190778/DPP
Application Type	Detailed Planning Permission
Application Date:	10 May 2019
Applicant:	Mr J Anderson
Ward:	Hazlehead/Ashley/Queens Cross
Community Council:	Ashley And Broomhill
Case Officer:	Dineke Brasier



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site is a 1½ storey detached dwelling, its front and rear garden and a strip of amenity ground to the north of the residential curtilage measuring c.2.5m by c.20.5m, equating to a footprint of c.51.25m². The strip of amenity ground is covered in dense shrubs and bushes. The site itself is located on the corner of Brighton Place with an unnamed private lane providing vehicular access to c.13 properties on Brighton Place, Annfield Terrace and Union Grove, opposite the junction with Ashley Lane. There is a distinct rise in levels between Brighton Place and the entrance into the property, with a similar steep rise in levels at the start of the private lane, which then gradually levels out. The boundary with the Albyn Place/Rubislaw Conservation Area runs immediately to the north of the site – on the other side of the lane, and as such the site lies just outside this Conservation Area.

Relevant Planning History

- Planning application 180922/DPP for demolition of the existing dwelling and construction of 4 flats with car parking and landscaping was refused on 4th September 2018 as the proposal, due to its design, scale and massing, would result in an overdevelopment of the site; would result in a site layout dominated by hard surfacing; would have an adverse impact on the residential amenity of 79 Brighton Place; and would not comply with standards in relation to waste collection.
- Planning 110877 for the construction of a car port in the north west corner of the site was approved on 14th February 2012;
- Planning permission 081081 for the formation of wooden access gates to the rear garden was approved on 23rd June 2008; and
- Planning permission 011560 for a garage was approved on 20th December 2001.

APPLICATION DESCRIPTION

Description of Proposal

A change of use of the strip of amenity land to private garden, construction of a boundary wall along the proposed new boundary of the residential curtilage – reusing granite from the existing boundary wall, to facilitate the construction of a new vehicular access and two parking spaces immediately to the rear of the dwelling.

It should be noted that the construction of the parking spaces and the driveway would be considered permitted development under Part 1 Class 3C and Part 2 Class 8, respectively, of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) and are therefore not further assessed.

The application was re-notified as the initial description did not include the change of use of amenity ground to garden ground.

Supporting Documents

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

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PRAHGIBZFW000> .

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee as ten letters of objection were received during the first notification period. A further five letters of objection were received during the second notification period. However, these were submitted by people who had objected to the scheme during the first notification period, and thereby not raising the total number of objectors.

CONSULTATIONS

ACC - Roads Development Management Team – No objection, but notes that visibility from the driveway onto the lane is poor due to extensive foliage. The use of the lane by an additional two vehicles would not be a concern.

Ashley And Broomhill Community Council – None received

REPRESENTATIONS

Ten letters of objection were received during the first notification period, with a further five during the second. Matters raised can be summarised as follows:

1. Already overprovision of parking spaces at the property. This current proposal would exacerbate this situation, which would further promote private car use;
2. Application includes false and misleading information in relation to the amount of parking spaces currently available on the site;
3. Removal of the granite wall would have a negative impact on the look and character of the lane, and would be contrary to policies H1 and D2;
4. Siting of a blind entrance and exit onto an existing, narrow lane would create a hazard for other car users and pedestrians using this lane;
5. Removal of tree and shrubs will have an adverse impact on biodiversity;
6. Increasing amount of structures and hardstanding incrementally erodes the character of the existing garden, resulting in overdevelopment;
7. Change in levels makes accessing the driveway from the lane difficult;
8. Drainage could cause flooding of lane;
9. Proposal would have an adverse impact on the character and visual amenity of the surrounding area;
10. Proposal would have an adverse impact on the residential amenity of residents at 81 Brighton Place as removal of existing trees and shrubs would result in increased overlooking of their garden from 105 Brighton Place;
11. Need for significant earthworks to create the access. This would result in additional clearing of foliage. In addition, no replacement planting is proposed to mitigate for loss of these existing trees and shrubs;
12. No details submitted on how wall will be reconstructed;
13. Proposal could set a precedent for similar proposals to convert parts of rear gardens to parking areas;

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.

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 2020 may also be a material consideration.

Aberdeen Local Development Plan (2017)

H1: Residential Areas

D1: Quality Placemaking by Design

D4: Historic Environment

D5: Our Granite Heritage

NE5: Trees and Woodlands

Supplementary Guidance

Householder Development Guide

EVALUATION

Principle of Development

The site is located in an existing residential area and policy H1 applies. This policy sets out that householder development is accepted in principle subject to the following:

1. It would not constitute overdevelopment;
2. It would not have an adverse impact on the character and amenity of the surrounding area;
3. It would not result in the loss of valuable and valued areas of open space;
4. It would comply with relevant Supplementary Guidance.

Further guidance is provided in the Householder Development Guide (HDG) in relation to criteria to be taken into account in the assessment of proposals for a change of use of amenity ground to garden ground. These include:

1. The proposal should not adversely affect amenity space which makes a worthwhile contribution to the character and amenity of the area;
2. The proposal should not fragment, or if replicated, be likely to incrementally erode larger areas of public open space or landscaping;
3. The proposal should not worsen or create a deficiency in recreational public open space in the area;
4. The proposal should not result in any loss of visual amenity including incorporating established landscaping features such as mature trees or trees that make a significant contribution to the area;
5. The proposal should not result in an irregular boundary layout that would be out of keeping with the other uniform character of the area;
6. The proposal should not result in the narrowing of footpath corridors;

7. The proposal should not prejudice road or pedestrian safety; and
8. The proposal should not give rise to the setting of a precedent that would make it difficult to resist similar proposals in the future;

In this case, the piece of ground measures c.2.5m by c.20.5m, equating to a footprint of c.51.25m², and located adjacent to a private lane running from Brighton Place in a westerly direction and serving the rear of properties on Annfield Terrace, Brighton Place and Union Grove. The strip of amenity land is covered in mature vegetation, mainly consisting of dense shrubs, interspersed with some small trees. The site is located just outside the Albyn Place/ Rubislaw Conservation Area, the boundary of which runs along the northern side of the lane, and therefore still has an impact on the character and appearance of the conservation area. The main contribution of the strip of land is contained in the small trees, shrubs and mature vegetation that are located on it. It is acknowledged that this vegetation contributes to both the visual amenity and character of the surrounding area.

Brighton Place is characterised by detached and semi-detached dwellings set back and separated from the road by mature front gardens to the south, often with hedges and walls, and two and a half storey tenement style buildings nearer the pavement to the north in the conservation area. Semi-mature street trees run along the length of the street at regular intervals. The overall surrounding area has a relatively soft, green appearance taking consideration of its location within an urban setting in the West End. The planting in this strip of amenity ground further contributes to this established soft character of the wider street. However, as the site is located outside the conservation area, the area could be cleared by its owner without the need for any further consents or permissions. Neither is it considered that the small trees within this strip of amenity ground in themselves would be worthy of special protection through means of a Tree Preservation Order. In that respect, their contribution to the visual amenity of the wider surrounding area is limited. It is acknowledged that even though the planting contributes to the softening of the wider area, due to the overall green character of the street, its wider impact is relatively modest and localised, and removal of the planting in this location, whilst changing the appearance of the site, would not have an unacceptable adverse impact on the visual amenity of the wider surrounding area. As such, the proposal is considered to comply with the first criterion set out in the HDG.

Furthermore, due to its location between a private lane and the dwelling, where the side boundary of the plot runs along the near full-length of this boundary, the proposal would not fragment nor is likely to result in incremental erosion of a larger area of public open space;

Similarly, as the area of affected amenity ground would not contribute to recreational public open space in the surrounding area, it would not result in a worsening or create a deficiency in recreational public open space in the immediate surrounding area;

As set out above, the vegetation on the strip of land subject of this application is mainly characterised by mature shrubs and bushes, with some smaller trees located through this wider area. Due to their size and age, these are not considered mature trees, nor would their loss have a significant detrimental impact on the character and visual amenity of the surrounding area. Their contribution to the amenity of the wider area is not considered to be so significant that they would be worthy of protection through a Tree Preservation Order;

The area subject of this application is located to the side of the dwelling, and would not have a detrimental impact on the relatively rigid building line of the front boundaries of the dwellings along Brighton Place, nor would it result in an unacceptable irregular boundary layout along the side of the plot that would be out of keeping in this general area;

The proposal would not have an impact on the width of the lane, and as such would not result in the narrowing of any footpaths;

As the proposal would not have an impact on the width of the lane, the proposed change of use is not considered to have an adverse impact on pedestrian safety, and indeed through removal of some of the planting on the corner could result in an improvement to the visibility splay at the junction of the lane with Brighton Place as discussed in more detail below;

Finally, again taking account of the unique position of the dwelling and the location of the affected piece of amenity ground along the southern edge of the lane, it is unlikely that the proposal would set a precedent, or would be replicated by other dwellings in the immediate surrounding area.

Therefore, taking account of the above, the proposal is considered to meet all criteria as set out in the HDG, and would not have an adverse impact on the visual amenity and character of the surrounding area, thereby meeting the criteria of policy H1, and the principle of the change of use of public amenity space to residential curtilage would be accepted.

Impact on trees

Policy NE5 sets out that there is a presumption against development that would result in the loss of trees and woodlands that contribute to nature conservation, landscape character, local amenity or climate change adaptation. As set out above, the strip of land affected is predominantly characterised by mature shrubs and bushes with some relatively small trees. Even though these trees carry some value with regards to their impact on the overall character of the surrounding area, it is considered that in this case, this character is mainly determined by the overall mix of vegetation, and that the impact of the individual trees is not so significant, that their loss could not be accepted. As such, the proposal is considered to comply with policy NE5.

Impact on local highway conditions and parking

As set out in above, the construction of the driveway and the parking spaces to the rear of the dwelling would be considered permitted development under the terms of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) and their construction is therefore not further assessed in this application.

Removal and reinstatement of the boundary wall

Policy D5 sets out that the retention and appropriate re-use of granite features is promoted throughout the city. Therefore, even though the site is outwith the conservation area, the reuse of the existing granite in the boundary wall for a new wall is encouraged and considered to comply with this policy. In addition, due to its position adjacent to the Rubislaw/Albyn Place Conservation Area, the reinstatement of the wall would ensure the proposal would not have a negative impact on the character and appearance of the conservation area. However, even though drawings reference that the existing granite would be reused, no details have been submitted as to the method of construction. These details can be secured through a suitably worded condition. It is therefore considered that, subject to this condition, the proposal would comply with policies D4 and D5.

Other matters raised in letters of objection

Ten letters of objection were received during the first notification period, with an additional further five letters of objections submitted by people who objected during the first notification period. Matters raised can be summarised as follows:

1. Already overprovision of parking spaces at the property. This current proposal would exacerbate this situation, which would further promote private car use – *The provision of the parking spaces would be considered permitted development as discussed above and is therefore not further considered in this assessment.*
2. Application includes false and misleading information in relation to the amount of parking spaces currently available on the site – *As stated above, the construction of the parking spaces would be considered permitted development.*
3. Removal of the granite wall would have a negative impact on the look and character of the lane, and would be contrary to policies H1 and D2 – *The reuse of the existing granite blocks for the construction of the relocated boundary wall would replicate, as far as possible, the existing look and character, albeit is in a different position and would therefore not have an*

unacceptable adverse impact on the character and appearance of the surrounding area, in compliance with policy D5

4. Siting of a blind entrance and exit onto an existing, narrow lane would create a hazard for other car users and pedestrians using this lane – *As discussed above, the construction of the driveway and the creation of an additional vehicular entrance onto the private lane is considered permitted development and therefore not further discussed in this assessment;*
5. Removal of tree and shrubs will have an adverse impact on biodiversity – *It is accepted that the existing vegetation has a beneficial impact on the biodiversity of the surrounding area. However, as discussed above, these shrubs and small trees could be cleared by the owner without consent, nor do they make such a significant contribution to the visual amenity and character of the surrounding area to warrant special protection. As such, their removal is accepted.*
6. Increasing amount of structures and hardstanding incrementally erodes the character of the existing garden, resulting in overdevelopment - *As discussed above, the construction of the driveway and the creation of an additional vehicular entrance onto the private lane is considered permitted development and therefore not further discussed in this assessment;*
7. Change in levels makes accessing the driveway from the lane difficult – *The main change in levels lies between Brighton Place and the first section of the lane. Sections have been submitted demonstrating that there is no significant change in levels between the lane and the proposed driveway. Based on these sections, it has been concluded that the construction of the driveway would be considered permitted development;*
8. Drainage could cause flooding of lane – *Drawings indicate that permeable surfacing materials will be used for the proposed driveway;*
9. Proposal would have an adverse impact on the character and visual amenity of the surrounding area – *This has been discussed above, and it was concluded that the proposal would not have a significant adverse impact on the character and visual amenity of the surrounding area.*
10. Proposal would have an adverse impact on the residential amenity of residents at 81 Brighton Place as removal of existing trees and shrubs would result in increased overlooking of their garden from 105 Brighton Place – *The distance between the side windows serving 105 Brighton Place and the application property is more than 15m. There would be some oblique views from these windows towards the rear garden of this dwelling. However, these are partially screened by trees and planting on the north side of the lane, and it is considered that this would not result in an unacceptable loss of privacy to occupants of the dwelling.*
11. No details submitted on how wall will be reconstructed – *These details can be conditioned.*
12. Proposal could set a precedent for similar proposals to convert parts of rear gardens to parking areas – *As discussed above, the construction of the parking spaces in the rear garden is considered permitted development and therefore not further discussed in this assessment*

Aberdeen City and Shire Strategic Development Plan (2014)

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

Time Limit Direction

The determination date for the application has been extended to 25th August to allow for determination of the application at Planning Development Management Committee.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The proposed change of use of a strip of amenity ground to residential curtilage to facilitate a new vehicular access serving the existing dwelling and demolition and rebuilding of the granite boundary wall is considered to have an acceptable impact on the character and visual amenity of the surrounding residential area, including the setting of the adjacent Rubislaw/Albyn Place Conservation Area. Even though the proposal would result in the loss of some relatively small trees, these are not considered to have such a beneficial impact on the character and amenity of the surrounding residential area, and their loss is therefore accepted. As such, the proposal is considered to comply with policies H1 (Residential Areas), D1 (Quality Placemaking by Design), D4 (Historic Environment) and NE5 (Trees and Woodlands) of the 2017 Aberdeen Local Development Plan (ALDP) and Supplementary Guidance: Householder Development Guide. Subject to the submission of additional details on reuse of granite and method of rebuilding the boundary wall, the proposal would comply with policy D5 (Our Granite Heritage) of the ALDP.

CONDITIONS

1. Prior to development detailed plans shall be submitted for the construction of the replacement boundary wall, including, without prejudice to the foregoing generality, the materials to be used in that construction. All of which is to be submitted to and agreed by the Planning Authority in writing. The replacement boundary wall shall subsequently only be constructed in accordance with the agreed plans.

ADVISORY NOTES FOR APPLICANT

None