

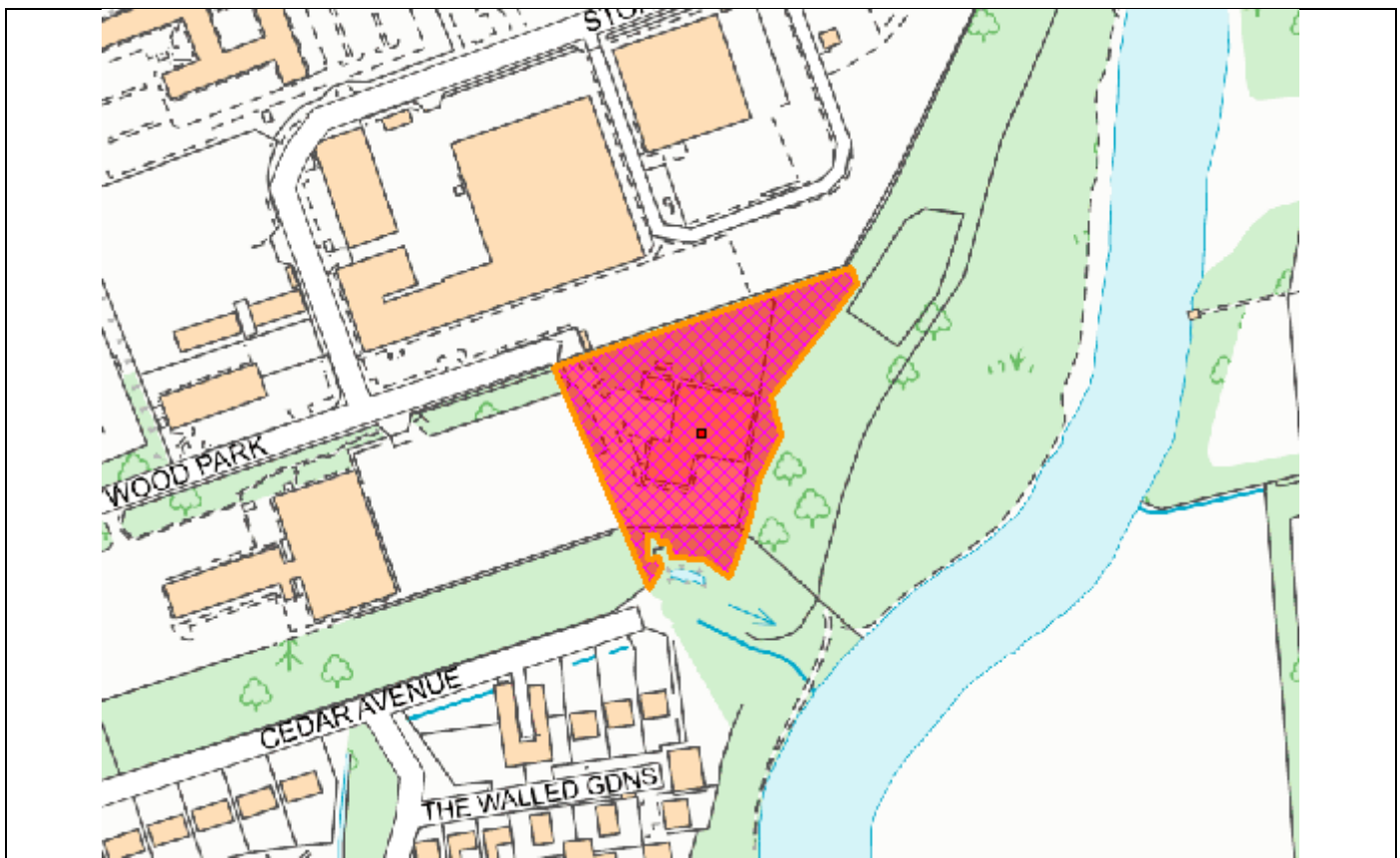


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 24 September 2020

<b>Site Address:</b>	Woollard And Henry, Stoneywood Park, Aberdeen, AB21 7DZ
<b>Application Description:</b>	Installation of security fence (retrospective)
<b>Application Ref:</b>	200656/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	15 June 2020
<b>Applicant:</b>	Woollard And Henry
<b>Ward:</b>	Dyce/Bucksburn/Danestone
<b>Community Council:</b>	Dyce And Stoneywood
<b>Case Officer:</b>	Robert Forbes



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### **RECOMMENDATION**

Refuse

## **APPLICATION BACKGROUND**

### **Site Description**

The site comprises existing industrial premises (approx. 5000 square metres comprising a workshop and yard) together with adjacent undeveloped woodland located to the north, east and south. It is accessed via Stoneywood Park within an industrial estate. The woodland forms part of a larger woodland area which was to be retained as public open space in association with the adjacent housing development but has subsequently been purchased by the applicant. Immediately to the east of the site is a recently constructed public path which runs along a wooded riverside embankment which functions as an important link in the recreational pathway network along the River Don. The south of the site is bounded by a SUDS pond developed as part of the adjacent housing development. To the south of this lies a suburban housing development (allocated as OP17 – Stoneywood in the Aberdeen Local Development Plan). Mature woodland / tree belt extending west from the site, parallel to Cedar Avenue and towards Stoneywood Road is protected by a Tree Preservation Order (No.257) and is understood to have been part of the woodland policies originally associated with Stoneywood Estate. A separate TPO has recently been served on the mature woodland within the site.

### **Relevant Planning History**

Application Number	Proposal	Decision Date
190152/DPP	Change of use from amenity land to industrial including installation of security fence; erection of workshop with offices and staff facilities with associated works and car parking (partly retrospective)	19.03.2019 Status: Withdrawn
191010/DPP	Change of use from amenity land to industrial including installation of security fence around enlarged site; formation of yardspace and car parking (partly retrospective)	31.10.2019 Status: Refused
110790	Residential Development (425 houses) with supporting facilities / open space (Stoneywood Estate)	02.05.2102 Approved with conditions / legal agreement

In November 2018 a planning enforcement case (ref. ENF180169) was opened relation to alleged tree works, unauthorised installation of security fencing and associated change of use of amenity land at the site. This confirmed that the fencing which is the subject of the current planning application was installed at that time and that some removal of trees within the site had taken place. The land where the fencing has been erected lies within an open space area which was required to be provided as part of the 2012 residential planning permission which has been implemented by Dandara. The above applications were submitted in 2019 in response to this investigation. An appeal (PPA-100-2105) against refusal of 191010 was dismissed in 2020. The decision is available below.

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=120882>

The following extracts of the Scottish Government Reporter's decision are relevant:

"there has been a significant impact on the character and amenity of the area. The unpainted finish of the unauthorised fence clearly makes it incongruous and more prominent a feature than the original black fence. The physical proximity of the fence to the footpath has a greater impact than the original fence and this would remain the case even if it were finished in a recessive

colour.

The relocated boundary fence significantly detracts from the amenity of path users, distinctly changing the character of the open space. The impression of walking through a woodland has diminished with the experience shifting more toward a path which skirts the edge of a woodland, beside an industrial area."

A TPO was served on the site in 2020 in order to provide protection of trees of amenity value.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

A 2.3m high chain-link metal security fence has been constructed immediately west of the existing public path (along the south and east boundaries of the application site). The mesh section of the fence is 1.9m high and is surmounted with 3 horizontal barbed wire strands. Retrospective permission is sought for this element of the works which were undertaken in November 2018.

### **Supporting Documents**

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QBTANDBZIA700>

Photos

### **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee because in excess of 6 objections have been received and thus falls outwith the Council's Scheme of Delegation.

## **CONSULTATIONS**

**Dyce And Stoneywood Community Council** – Object to the development. They consider that it has had a serious negative impact on the character and amenity of the area. The relocated boundary fence significantly detracts from the amenity of path users, distinctly changing the character of the open space. This is not consistent with policies H1 (residential areas), NE3 (urban green space) and NE9 (access and informal recreation) of the Aberdeen Local Development Plan, as analysed in detail by the Reporter.

## **REPRESENTATIONS**

14 representations have been received (13 objections, 1 in support). The matters raised can be summarised as follows –

- The retrospective nature of proposal is unacceptable
  - Conflict with ALDP policies H1, NE3, NE9 and Reporter appeal decision
  - Adverse visual impact / makes woodland walk feel industrial
  - The woodland path is an amenity much appreciated and well used by the local neighbourhood
  - Safety impact of fence on path users / fence too close to the path
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- The applicant's claims of anti-social behaviour in the woodland are unfounded / exaggerated
- Many objectors also request that enforcement action be taken to secure removal of the unauthorised security fence which currently runs along the edge of the path and now separates it from the woodland to the west.

The representation in support claims that the fence stops the grounds becoming unsightly with litter, dog waste etc.

In addition, the applicant has submitted an email setting out the justification for the fence, which he considers to be required from a security perspective and contains the following statement:

"The Board in Aberdeen had agreed a seven figure development of the site in Aberdeen to increase capacity and create good quality employment in what is a well establish local business, who have always been considerate to their surroundings.

Since the application has been refused we have secured the multi million pound order, but now will have to sub contract over €5m to our sister company in Germany. They are obviously delighted at obtaining the work and securing employment, but Aberdeen should have been obtaining these benefits, at a time when conditions for business are extremely difficult and likely to get worse. "

The agent has also indicated that the applicant wishes to address the Committee directly prior to determination of the application.

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## **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 and Guidance**

Scottish Planning Policy 2014 (SPP) expresses a presumption in favour of development that contributes to sustainable development. The following specific paragraphs are of relevance:

- Para 194 (A Natural, Resilient Place – Policy Principles)
- Para 216 - 218 (A Natural, Resilient Place – Woodland)

The Scottish Government's Policy on Control of Woodland Removal 2009 – This expresses a strong presumption in favour of protecting Scotland's woodland resources and provides policy direction for decisions on appropriate woodland removal in Scotland.

PAN60 (Natural Heritage) - 2000

PAN 65 (Planning and Open Space) 2008

The Scottish Government's Draft Guidance on Net Economic Benefit and Planning - 2016

### **Aberdeen City and Shire Strategic Development Plan 2020 (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.

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.

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

The fence lies within the OP17: Stoneywood housing designation. The following policies are relevant:

H1: Residential Areas

D1: Quality Placemaking by Design

D2: Landscape

NE1: Green Space Network

NE3: Urban Green Space

NE5: Trees and Woodland

NE9: Access and Informal Recreation

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

The PALDP was approved at the Council meeting of 2 March 2020. It 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 ALDP will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the PALDP (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. In this case similar zoning and topic policies apply to those in the ALDP. In this case the policies in the PALDP substantively reiterate those in the adopted ALDP.

### **Supplementary Guidance and Technical Advice Notes**

Stoneywood Development Framework and Masterplan 2011 (SDFM)

Landscape

Natural Heritage

Trees and Woodlands

Green Space Network and Open Space

### **Other Material Considerations**

The recent appeal decision (PPA-100-2105) regarding the previous planning application at the site is a significant material consideration.

ACC Open Space Audit 2010 (n.b. the mature woodland at the southern and eastern extremities of the site, which has been purchased by the applicant, is identified as open space /woodland in this audit).

ACC River Don Corridor Framework 2012

Scotland's Forestry Strategy 2019 – 2029 (SFS), published by the Scottish Government (Scottish Forestry) in 2019. This has an objective to increase the contribution of woodland to a healthy and high quality environment. It also recognises the important contribution that individual trees outside of forests and woodlands make to enhancing Scotland's rural and urban landscapes, their role in addressing air pollution, and their biodiversity and cultural value.

## **EVALUATION**

### **Principle of Development**

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. The fence does not lie within an established or zoned industrial area and requires to be considered in the context of the authorised use of this part of the site as open space associated with a housing development as set out in the Stoneywood Development Framework and Masterplan 2011 (SDFM). Due to the industrial character and appearance of the development, it is considered to have an adverse impact on the residential amenity of the area and therefore conflict with ALDP policy H1. By preventing public access to existing open space which was required to be delivered as part of the Stoneywood housing development and is a valued open space resource for the wider community, the proposal would not accord with the objectives of the SDFM. Given these conflicts, the presumption in favour of sustainable development expressed in Scottish Planning Policy is not considered to justify approval of the fence.

### **Landscape / Design Impact**

The fence which has been installed is considered to have a significant adverse impact on an important local natural landscape feature (i.e. mature open woodland) and the setting of the public path. Given that it is positioned immediately adjacent to the public path, there is no space for intervening soft landscaping to screen it from that sensitive receptor. The industrial appearance of the fence is particularly visually incongruous in such a sensitive woodland setting, and results in significant detriment to the amenity and enjoyment of the open space area. The fence is therefore considered to conflict with ALDP policies D1 and D2 and related guidance.

### **Open Space / Access Impacts**

The position / nature of the fence results in unacceptable severance of public access to the woodland area within the site in conflict with the objectives of policy NE1, NE3 and NE9 and related guidance. The fact that the site has been purchased by the applicant is not a material planning consideration that can be given any weight in assessing this planning application.

### **Tree Impact**

It is accepted that the fence does not result in direct tree loss such that there is no conflict with Scottish Government's Policy on Control of Woodland Removal 2009 or the SFS and no significant conflict with ALDP policy NE5 and related guidance, notwithstanding that its construction may have resulted in localised damage to tree roots.

### **Social Impacts**

Notwithstanding claims made in the letter of support regarding prevention of littering / dog fouling it is considered that the proposal does not result in any significant positive social impact that would potentially outweigh the adverse environmental impacts of the development and the conflicts with planning policy identified above. Conversely, the removal of public access to the existing wooded area resulting from the existing fence is considered to have resulted in a negative social impact by preventing local residents access to valued open space that was required to be and integral part of the amenity space provided for the adjacent residential development to the south.

### **Economic Benefits**

Notwithstanding the draft Scottish Government guidance on Net Economic Benefit and Planning issued in 2016 and the statement provided economic claims made in the applicant's email referred to above, no evidence has been presented that the development ( i.e. a fence) would result in any net economic benefit that would potentially outweigh the adverse environmental and social impacts of the development and conflicts with planning policy identified above. Given that no new industrial floorspace or yard is proposed, no such potential benefit is considered to exist, notwithstanding that the industrial activity within the developed part of the site is of iseconomic benefit. As the fence could be reinstated within its pre-existing position, adequate alternative arrangements for ensuring security of the yard-space would appear to exist, thereby allowing continuation of the existing industrial use within the developed parts of the site.

### **Road / Public Safety**

Although some of the objectors identify a concern that the fence creates a safety hazard due to its proximity to the path and effective narrowing of the usable width of this recreational pedestrian / cycle through route, the Council Roads officers have not identified this as a concern. The potential planting of a screen hedge immediately adjacent to the path may however conflict with user perceptions of public safety, reduce the open nature of its setting and may therefore reduce the attractiveness of the path to users.

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

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 (ALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is not acceptable in terms of both Plans for the reasons previously given.

### **Enforcement Action**

The fence which has been installed is considered to have a significant adverse impact on an important local natural landscape feature (i.e. mature open woodland) and the setting of the public path. Given that it is positioned immediately adjacent to the public path, there is no space for intervening soft landscaping to screen it from that sensitive receptor. The industrial appearance of the fence is particularly visually incongruous in such a sensitive woodland setting, and results in significant detriment to the amenity and enjoyment of the open space area. The fence is therefore considered to conflict with local development plan policies D1 and D2. Notwithstanding that the site has been purchased by the applicant, the position of the fence results in unacceptable severance of public access to the woodland area within the site in conflict with the objectives of policies NE1, NE3 and NE9. It is considered that a relocated fence / boundary treatment on the edge of the existing authorised industrial site would provide adequate security for that operator. The PDMC instruction from 2019 in relation to removal of the unauthorised fence remains to be complied with. It is considered that there has been no significant or material change in circumstances (e.g. planning policy and the physical context of the site) since the Reporter's planning appeal decision in 2020 whereby the fencing was found to be unacceptable. It is therefore considered that enforcement action should still be sought in order to remove the existing fence and enable public access to the woodland.

### **Other Matters Raised in Representation**

Although the application is of a retrospective nature, there remains a statutory duty to determine the proposal on its merits and this cannot be used in itself as a justification for refusal. Notwithstanding that the applicant has requested to directly address the Committee, in this instance, there is no requirement for a public hearing prior to determination of the application. The economic considerations raised by the applicant are considered above.

### **Potential Conditions**

In the event that members do not agree with the recommendation of refusal, it is recommended

that a condition is imposed requiring that the mesh fencing and associated support posts are finished in a colour to be agreed in writing by the planning authority.

## **RECOMMENDATION**

Refuse

## **REASON FOR RECOMMENDATION**

It is noted that there has been no material change in circumstances since the planning appeal decision whereby the fencing was found to be unacceptable.

### 1. Impact on Residential Amenity

Due to the industrial character and appearance of the development and its proximity to a well-used recreational path forming an integral amenity within a designated open space associated to a residential area, the fence is considered to have an adverse impact on the residential amenity of the area and therefore conflict with policy H1 ( Residential Areas) of the Aberdeen Local Development Plan 2017.

### 2. Loss of Access to Greenspace / Open Space

Notwithstanding that the site has been purchased by the applicant, the position of the existing fence results in unacceptable loss of / severance of public access to the woodland area within the site, which forms part of a consented housing development, in conflict with the objectives of policies NE1 (Green Space Network), NE3 (Urban Green Space) and NE9 (Access and Informal Recreation) of the Aberdeen Local Development Plan 2017 and PAN 65. It is noted that no replacement public open space is proposed.

By preventing public access to existing open space which was required to be delivered as part of the Stoneywood housing development and is a valued open space resource for the wider community, the proposal would conflict with the Stoneywood Development Framework and Masterplan approved by the Council in 2011.

### 3. Adverse Landscape Impact

The fence which has been installed is considered to have a significant adverse impact on an important local natural landscape feature (i.e. mature open woodland) and the setting of the adjacent public path. The industrial appearance of the fence is particularly visually incongruous in such a sensitive woodland setting, and results in significant detriment to the amenity and enjoyment of the open space area. Given that it is positioned immediately adjacent to the public path, there is no space for intervening soft landscaping to screen it from that visual receptor. Use of conditions would not offset / mitigate the adverse environmental impact of the development given the sensitivity of the location of the site adjacent to a popular public recreational path. The fence is therefore considered to conflict with ALDP policies D1 (Quality Placemaking by Design) and D2 (Landscape).

## **ADVISORY NOTES FOR APPLICANT**

The applicant is advised that removal of the unauthorised fencing ( as highlighted in green in the submitted amended site plan – ref. A.01.02 rev.B) is required in order to prevent formal enforcement action by the Planning Authority to secure resolution of the breach of planning control which has taken place.