



Strategic Place Planning

Report of Handling

Site Address:	Woollard And Henry site, Stoneywood Park, Aberdeen, AB21 7DZ
Application Description:	Installation of security fence
Application Ref:	210657/DPP
Application Type:	Detailed Planning Permission
Application Date:	12 May 2021
Applicant:	Woollard & Henry Ltd
Ward:	Dyce/Bucksburn/Danestone
Community Council:	Dyce And Stoneywood
Case Officer:	Robert Forbes

RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The site comprises existing industrial premises (workshop, yard, parking) together with adjacent undeveloped woodland areas. The industrial premises is accessed via Stoneywood Park within an industrial estate. The woodland forms part of a larger woodland area which is required to be retained as public open space in association with the adjacent housing development but has been purchased by the applicant. To the east of the site is a public path within a wooded area which functions as an important link in the recreational pathway network along the River Don. The site is bounded to the south 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). A mature woodland / tree belt extends west from the site, parallel to Cedar Avenue and towards Stoneywood Road. This 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 (No. 259) was served on the mature woodland within the site in 2020.

Relevant Planning History

<u>Application Number</u>	<u>Proposal</u>	<u>Decision Date</u>
110790	Residential Development (425 houses) with supporting facilities / open space (Stoneywood Estate)	02.05.2102 Approved with conditions / legal agreement
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with offices and staff facilities with associated works and car parking (partly retrospective)	19.03.2019 Status: Withdrawn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
200656/DPP	Installation of security fence (retrospective)	24.09.2020 Status: Refused

The site forms part of the riverside park (area L1) as required to be delivered as part of the above approved Stonewood housing development (110790). The land where the existing fencing has been erected also lies within the open space area which is required to be provided as part of the 2012 residential planning permission which has been implemented by Dandara.

In November 2018 a planning enforcement case (ref. ENF180169) was opened in 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 was the subject of the previous planning applications was installed at that time and that some removal of trees within the site had taken place.

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."

An enforcement notice (EN) requiring removal of the unauthorised fence was served on the applicant in 2020 and remains to be complied with. The deadline for compliance with the EN was 01/06/21.

APPLICATION DESCRIPTION

Description of Proposal

Erection of a metal chain-link mesh security fence within the woodland area, approximately 3m to the east of the boundary of the industrial site (i.e. the original fence line), running parallel to the original eastern boundary. The fence would be topped with 3 horizontal strands of barbed wire and would have a maximum height of 2.32m. The southern end of the proposed fence line would taper to join the existing south boundary. The area of open space that would be enclosed / encroached on would be around 180 square metres. A blackthorn hedge is proposed to be planted along the outer (eastern) boundary of the fence, adjacent / to the west of the footpath within the woodland area.

Amendments

Position / extent of fence line adjusted / reduced.

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=QSZFFPBZJIT00>

- Tree Survey / Report
- Planning Statement
- Site Photographs

CONSULTATIONS

Dyce And Stoneywood Community Council – No response received.

REPRESENTATIONS

4 written representations have been received (4 objections, 0 in support and 0 neutral). The matters raised can be summarised as follows –

- Confusion / concern regarding purpose of application and delay in undertaking enforcement action;
- Conflict with ALDP polices NE1, NE5, NE9 and H1;
- Contrary to outcome of previous planning appeal against refusal of the unauthorised fence;
- Claims of unsocial behaviour at the site are not supported by evidence;
- Contrary to Stoneywood masterplan objective to deliver open space (L1 – “Northern River Park”);
- Adverse visual impact / fence not suitable for a residential area;
- Adverse impact on setting / enjoyment of adjacent core path;
- Hedging unlikely to mitigate adverse landscape impact of fence;
- Prevention of public access to open space;
- Detrimental wildlife impact;
- Detrimental impact on trees / woodland;
- Proposed fencing not required as alternative security arrangements for the industrial site are feasible.

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.

PAN 60 (Natural Heritage) - 2000

PAN 65 (Planning and Open Space) 2008

Draft Scottish Government 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.

Aberdeen Local Development Plan 2017 (ALDP)

H1: Residential Areas

D1: Quality Placemaking by Design

D2: Landscape

NE1: Green Space Network

NE3: Urban Green Space

NE5: Trees and Woodland

NE8: Natural Heritage

NE9: Access and Informal Recreation

OP17: Stoneywood

ALDP Supplementary Guidance (SG)

Stoneywood Estate Development Framework and Masterplan 2011 (SDM):

Landscape Structure:

- L1 'The Northern River Park' should be completed during this phase providing a major area of public open space for the existing and proposed communities in the area."

Green Space Network and Open Space SG

Landscape SG

Trees and Woodlands SG

Proposed Aberdeen Local Development Plan 2020 (PALDP)

The PALDP was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and it has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The PALDP 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 –

- such matters have or have not received representations as a result of the period of representations in public for the PALDP;
- the level of representations received in relation to relevant components of the PALDP and their 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.

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

EVALUATION**Principle of Development**

The proposed 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 SDM. Due to the industrial character and appearance of the development, it is considered to have an adverse impact on the amenity of the area and therefore conflict with ALDP policy H1. By preventing / obstructing public access to existing open space which was required to be delivered as part of the Stonewood housing development and is a valued open space resource for the wider community, the proposal would not accord with the objectives of the SDM. Given these conflicts, the presumption in favour of sustainable development expressed in SPP is not considered to justify approval of the fence. In terms of assessment against the SDP, 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.

Open Space / Access Impacts

The position / nature of the fence would result in severance of public access to existing open space within the site in conflict with the objectives of policy NE1, NE3 and NE9 and related guidance. Although the area of open space affected would be limited in extent, it is of amenity value as recognised by its inclusion within the OSA. Acceptance of reduction of the extent of the wider open space area would be contrary to the objectives of the SDM and may create an undesirable precedent for similar proposals. 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.

Visual Impact / Design

The fence would be located further from the public path than the existing unauthorised fence and its visual impact would be softened to an extent by proposed landscaping (hedging). However, it would have a similar industrial appearance to the existing unauthorised fence which was considered to be visually detrimental to the area. It is recognised that the proposed native hedging would provide some benefit to wildlife and would be of amenity / screening value. However, this is not considered to justify the proposed encroachment into public open space. Notwithstanding the proposed hedge, it is considered that, on balance, the appearance and presence of the revised fence will have a marginal negative / neutral impact on landscape quality and character. Thus, any conflict with policy D1 (Quality Placemaking by Design) and policy D2 (Landscape) would not in itself warrant refusal.

Tree Impact

It is accepted that the fence would not result in direct tree loss or significant adverse impact on existing trees 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 result in some localised ground compaction / disturbance to tree roots.

Commented [GP1]: What is SFS?

Wildlife Impact

It is considered that the wildlife impact of the revised fence would not be significant given that no trees would be removed and it relates to a relatively small area of open space immediately adjacent to an existing industrial premises and given the mitigatory planting is proposed. Thus, it is considered that any impact would be marginal and compliance with ALDP policy NE8 could be addressed by condition.

Economic Benefits

The applicant has previously claimed that the proposed fence is required in order to protect the industrial premises. Notwithstanding the draft Scottish Government guidance on Net Economic Benefit and Planning issued in 2016 and the planning statement provided, 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 economic 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.

Precedent

As no exceptional case for approval has been demonstrated and there are other adjacent industrial premises which abut the woodland strip to the west of the site, approval of this application would establish an undesirable precedent for further / similar proposals that would be likely to erode the extent and purpose of established public open space / woodland areas within housing and industrial areas.

Proposed Aberdeen Local Development Plan

In relation to this particular application, the policies in the PALDP substantively reiterate those in the ALDP and the proposal is not acceptable in terms of both Plans for the reasons previously given.

Other Considerations

It is noted that there has been no material change in circumstances (e.g. planning policy or the physical context of the site) since the planning appeal decision in 2020 whereby the existing

fencing was found to be unacceptable. Although the open space area within the site is now owned by the applicant, having been sold by the housing developer, land ownership is not in itself a material planning consideration. The supporting planning statement claims that the unauthorised fence has been erected in response to the construction of the tarmac core path in a different position from that shown on the approved Stoneywood masterplan. However, the current application is not a retrospective application and cannot seek to review the previous appeal decision / enforcement notice. In any event the public previously had unrestricted access to the entire area shown as area L1 – Northern River Park in the SDM, such that no substantive security justification to allow a revised boundary position is considered to exist.

Enforcement Action

It is noted that the enforcement notice requiring removal of the existing unauthorised fence within the open space area remains to be complied with. The deadline for compliance with the EN was 01/06/21. The agent provided the following response regarding intentions for compliance in June 2021 :

“Following confirmation that an extension for compliance with the notice will not be granted to for the period of the application I can confirm that the owner is arranging for the fence to be removed. We will provide details to you to confirm that works have commenced to remove. As such I trust that there is no requirement to refer this to Procurator Fiscal for consideration.”

Determination of the current application has no direct bearing on the requirement to comply with the notice as the boundary fence could be reinstated in its original position at the east and south edges of the industrial site. It is considered that the failure to comply with the notice and the continued presence of the unauthorised fence is not a material consideration that warrants approval of the current proposal.

Matters Raised in Representation

It is recognised that the representations raise relevant material considerations, and these are addressed in the relevant topic themes above.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

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 proposed fence would result in loss / 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. Although some mitigatory planting is proposed, it is considered that this is not sufficient to warrant approval of the proposal or justify the loss of access to the open space. 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 Stonewood housing development, which is a valued open space resource for the wider community, the proposal would conflict with the Stonewood Development Framework and Masterplan approved by the Council in 2011.

3. Precedent

Approval of this application would establish an undesirable precedent for further / similar proposals that would be likely to erode the extent and purpose of established public open space / woodland areas within housing and industrial areas.