



Strategic Place Planning

Report of Handling

Site Address:	Flat A, 13 Powis Crescent, Aberdeen, AB24 3YS
Application Description:	Erection of fence and gate to front (retrospective)
Application Ref:	221096/DPP
Application Type:	Detailed Planning Permission
Application Date:	7 September 2022
Applicant:	Ms Ruma Begum
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council:	Froghall, Powis and Sunnybank
Case Officer:	Jane Forbes

DECISION

Refuse

APPLICATION BACKGROUND

Site Description

The application site comprises a ground floor flatted property within a traditional 2 storey granite block of 4 flats where the front and side curtilage is grass with mature shrubs and trees and shared between the application property and neighbouring Flat C. The remaining shared curtilage of the block of flats is enclosed along the length of its boundary by 1m high metal fencing.

Timber fencing rising to a height of between 0.6m and 1.9m and incorporating 2 x 1.9m high gates has been erected along the front and side boundaries of the application site, fully enclosing the garden ground shared with Flat C. The fencing has been erected without planning permission and is therefore unauthorised in terms of the Town and Country Planning (Scotland) Act 1997, as amended.

Relevant Planning History

None.

APPLICATION DESCRIPTION

Description of Proposal

Planning permission is sought retrospectively for the erection of timber fencing along the front and side boundary of the application site.

The 1.9m high fencing and associated gates fully enclose the front garden area along the eastern boundary which fronts onto Powis Crescent and along the southern boundary which extends the

length of the shared path serving the main entrance to the property. Along the northern boundary of the site the fencing has been fixed to an existing boundary wall resulting in a combined height of between 1.9 to 2.25m as it extends east to west with the exception of a 1.8m long section where it drops to a height of some 0.8m then links with the 1.9m high fencing which has been erected along the front of the site. A rise in ground level from south to north between the application site and the neighbouring garden ground to the north is such that the metal fencing which delineates the southern boundary of the neighbouring site rises some 0.5 to 1m above the top of the boundary wall which relates to the northern boundary of the application site.

Amendments

None.

Supporting Documents

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

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RHQMSUBZJDW00>

CONSULTATIONS

Froghall, Powis and Sunnybank Community Council – No response received.

REPRESENTATIONS

Two objections have been received. The matters raised can be summarised as follows –

- The development is not consistent with Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan 2017; and the Supplementary Guidance: The Householder Development Guide due to the height and visual impact of the fence.
- The fence is unsafe as close to a corner of a road and blocks view to oncoming traffic and pedestrians.

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

National Planning Framework 4

National Planning Framework 4 (NPF4) was given final Parliamentary approval on 11th January 2023 and is anticipated to be adopted in February 2023. The weight to be given to NPF4 prior to its adoption is a matter for the decision maker. Although NPF4 has not yet been formally adopted it has now been approved by Parliament and is, therefore, now considered to be a significant material consideration in the assessment of planning applications. The relevant provisions of NPF4 that require consideration in terms of this application are Policy 16 (Quality Homes).

Development Plan

Aberdeen City and Shire Strategic Development Plan 2020

The current Strategic Development Plan for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan. No issues of strategic or cross boundary significance have been identified.

Aberdeen Local Development Plan (2017)

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within five years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this five-year period. Therefore, where relevant, weight should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: "Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

The following policies are relevant –

D1: Quality Placemaking by Design
H1: Residential Areas

Supplementary Guidance and Technical Advice Notes

- Householder Development Guide (SG)

Proposed Aberdeen Local Development Plan (2020)

The Report of Examination on the Proposed Aberdeen Local Development Plan 2020 (PALDP) was received by the Council on 20 September 2022. All the recommendations within the Report have been accepted and the modifications made to the PALDP were agreed by Full Council on 14 December 2022. The PALDP constitutes the Council's settled view as to the content of the final adopted ALDP and is now a material consideration in the determination of planning applications. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on the relevance of these matters to the application under consideration. The following policies are relevant –

D1: Quality Placemaking
D2: Amenity
H1: Residential Areas

EVALUATION

Principle of Development

The application site lies within an area zoned as residential within the Aberdeen Local Development Plan 2017 (ALDP). The proposal must therefore be considered against Policy H1 (Residential Development), which states that within existing residential areas, proposals for new development and householder development will be approved in principle if it:

1. Does not constitute over development;
2. Does not have an unacceptable impact on the character and amenity of the surrounding area;
3. Does not result in the loss of valuable and valued areas of open space; and
4. Complies with Supplementary Guidance.

The fencing has been erected within the residential curtilage of the application site and as such does not impact on open space, nor does it result in any increase in the intensity of use of the site and therefore does not constitute overdevelopment. The remaining issues are discussed in the evaluation below.

Design, Scale and Impact on Amenity

To determine the effect of the proposal on the character of the area it is necessary to assess it in the context of Policy D1 (Quality Placemaking by Design) of the ALDP. This policy recognises that not all development will be of a scale that makes a significant placemaking impact but recognises that good design and detail adds to the attractiveness of the built environment. It states that quality development will be informed by existing features such as existing boundary walls and other types of boundary enclosures.

The Householder Development Guide (SG) states that *'In all instances, the scale and form of boundary enclosures should be appropriate to their context and should not detract from the street scene as a result of inappropriate visual impact.'* The SG continues by stating that *'Proposals for boundary enclosures will not be permitted where they would result in an unacceptable impact upon the amenity of neighbouring dwellings.'*

A statement has been submitted in support of the application outlining that the fence has been installed with a view to providing the applicants with an area of private and secure garden space. The application site comprising an area of front and side garden ground is jointly owned by the applicant and the owners of one other property within the block of 4 and does not form part of the wider communal garden ground. The statement highlights that prior to the 1.9m high fence being erected, the 1m high metal fence which served to enclose the front garden and the wider area of garden ground surrounding the block of flats did not provide sufficient security and was not suitable in terms of restricting open access to the applicants garden ground. This had resulted in vandalism and damage to their property and in the inability to provide a suitably enclosed and private space for the family to use including for relaxation and for children to play, as well as an external area for home working.

Taking the above into account, whilst it is perhaps accepted that the 1m high metal fence which previously enclosed the entire garden may not have provided a particularly high level of screening or security for the front garden area, it replicated the boundary treatment in place within the surrounding residential area including along the length of Powis Crescent and contributed to the visual amenity of the streetscape.

Whilst the garden layout is such that there may be the potential for a more enclosed area of garden ground to be secured to the rear of the front building line of the property, it is apparent that the fencing as erected, which extends at a height of 1.9m along the full length of the front (public) boundary of the site where it lies immediately adjacent to the public footpath, has a significant adverse visual impact on the existing streetscape and on the residential character of the area. It is considered that the design and scale of the proposed fencing is incongruous and visually intrusive with its residential setting and particularly so within such a prominent location. The proposal has clearly not been designed with due consideration for its context which is generally open front gardens, soft landscaping with tree and shrub planting, low level metal fencing and open areas of green space.

Taking all of the above into account it is considered that the proposal does not accord with the requirements of Policy 16 (Quality Homes) of National Planning Framework 4 and is deemed contrary to the requirements of Policy H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the ALDP as well as the associated Householder Development Guide Supplementary Guidance.

Precedent

Precedent is considered to be a legitimate planning consideration in circumstances where there is the potential for cumulative impacts to arise. In this instance there are no examples of planning permission having been granted in the surrounding area for boundary treatment of a similar height to the front of a property under current policies and guidance. If granted planning permission, this proposal could set an unwelcome precedent for similar boundary treatment to the front of residential curtilages within the surrounding area and cumulatively this would have a significant adverse impact on its character and visual amenity.

Matters Raised in Representations

With regards the matters raised via representations, those matters relating to height and visual impact have been addressed above. Whilst concerns were raised in relation to the impact of the fence on both road and pedestrian safety, a site visit was undertaken by the case officer which established that the fence did not impede on visibility for vehicle/pedestrian travel along Powis Crescent.

Proposed Aberdeen Local Development Plan

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 substantively reiterate those in the adopted Local Development Plan. It is noted that Policy D2 (Amenity) is a new policy, however it is considered that this matter has been suitably addressed above and the proposal is deemed unacceptable in terms of both Plans for the reasons previously given.

DECISION

Refuse

REASON FOR DECISION

The proposed development which is retrospective is considered inappropriate in terms of the material finish, scale and siting of the fence and associated gates in the context of the residential curtilage and the surrounding area. Taking into account the height and location of the fence where it extends forward of the principal elevation of the flatted property and along the length of the site boundary with Powis Crescent, it is considered particularly intrusive within the streetscene, resulting in a significant adverse visual impact on the character and amenity of the residential area. Furthermore, its approval would set an undesirable precedent for similar applications being granted under current policy and guidance which would further erode the visual amenity of the surrounding area.

The proposal does not accord with the requirements of sub-section (g) of Policy 16 (Quality Homes) of National Planning Framework 4. It is deemed to be contrary to the requirements of Policy D1 (Quality Placemaking by Design) and Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2017 and fails to address the expectations of the Council's Supplementary Guidance on Householder Development. There are no material planning considerations of sufficient weight, including evaluation under the Proposed Aberdeen Local Development Plan 2020, that would warrant approval of the application in this instance.