



## Strategic Place Planning

Report of Handling by Development Management Manager

<b>Site Address:</b>	43 Middleton Circle, Aberdeen, AB22 8LF
<b>Application Description:</b>	Change of use of amenity land to domestic garden ground and erection of fence, gate and steps (retrospective)
<b>Application Ref:</b>	241224/DPP
<b>Application Type:</b>	Detailed Planning Permission
<b>Application Date:</b>	22 October 2024
<b>Applicant:</b>	Mrs Pamela Horne
<b>Ward:</b>	Bridge Of Don
<b>Community Council:</b>	Bridge Of Don

### **DECISION**

Refuse

### **APPLICATION BACKGROUND**

#### **Site Description**

The application site comprises an c.63sqm area of open space to the southwest of 43 Middleton Circle. The site has been the subject of an unauthorised change of use to garden ground to be incorporated into the rear garden ground of 43 Middleton Circle. An unauthorised fence on a raised platform has been erected enclosing the area and an outbuilding has also been installed within the enclosed area.

Prior to the unauthorised change of use, the area formed part of a large band of woodland open space known as 'West Belt' which surrounds the site to the southeast, southwest and northwest. This open space is zoned as Policy NE2 (Green Space Network) in the Aberdeen Local Development Plan 2023 and is known as part of Grandhome Moss, providing links between the green spaces within Bridge of Don and Balgownie to the Grandhome Moss Local Nature Conservation Site to the north. It also forms part of an important woodland buffer between the Grandhome development to the southwest (allocated as OP9 in the Aberdeen Local Development Plan 2023) and the established Middleton residential area to its north and east. The open space has a well-used public footpath running through the site, which provides extensive links to the residential areas of Bridge of Don to the north, as well as to Core Path 26, which is c.50m to the southeast on Whitestripes Avenue.

The open space corresponds with the mapped layer of Ancient Woodland Inventory and is identified on historic maps dating from 1899 as being woodland. It is however noted that there are no trees within the application site boundary.

#### **Relevant Planning History**

None.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Planning permission is sought retrospectively for the change of use of the application site from amenity land to domestic garden ground and for the erection of a raised fence, gate and steps enclosing the space.

The ground level of the area gradually slopes away from the original garden boundary and is thus a maximum of 0.5m below that garden. The fence is 1.8m in height and is attached to a 0.5m high raised timber platform which levels the resultant garden ground and results in the development being a total of 2.3m in height. The northwest and southeast sections of the fencing are c.5.2m in length and the southwest section of fence is c.12.3m in length.

The outbuilding in the area is not included in the description, nor is it shown on all plans submitted with this application. It is therefore not included in this application.

### **Amendments**

None.

### **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=SLI6XKBZKNU00>

- Supporting Statement

## **CONSULTATIONS**

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

## **REPRESENTATIONS**

One objection has been received. The matters raised can be summarised as follows –

- The proposal is not consistent with (1) Policy NE2 (Green and Blue Infrastructure) and (2) D1 (Design and Quality Placemaking) of the Aberdeen Local Development Plan 2023.

## **MATERIAL CONSIDERATIONS**

### **Legislative Requirements**

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

## Development Plan

### National Planning Framework 4 (NPF4)

National Planning Framework 4 is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan.

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 4 (Natural Places)
- Policy 6 (Forestry, Woodland and Trees)
- Policy 16 (Quality Homes)
- Policy 14 (Design, Quality and Place)
- Policy 20 (Blue and Green Infrastructure)

### Aberdeen Local Development Plan 2023 (ALDP)

- OP9 - Grandhome
- Policy D1 (Quality Placemaking)
- Policy LR1 (Land Release Policy)
- Policy NE2 (Green and Blue Infrastructure)
- Policy NE3 (Our Natural Heritage)
- Policy NE5 (Trees and Woodland)

## Aberdeen Planning Guidance

- Householder Development Guide

## EVALUATION

### Principle of Development

One of the overarching spatial principles of NPF4, 'Local Living', sets out that improving community health and wellbeing can be achieved by ensuring people can easily access greenspace. The Qualities of Successful Places referred to in Policy 14 (Design, Quality and Place) of NPF4 seeks development to be designed for healthy and active lifestyles, through access to nature and greenspace. Paragraph 6.21 of the ALDP states:

*'Access to the outdoors for informal recreation contributes to everyday quality of life. Increased levels of physical activity outdoors can contribute to improved health and wellbeing, while access to high quality areas for outdoor recreation can make the city a more attractive place to live and work. Well managed access can also assist land management and contribute to an appreciation of the environment and natural heritage.'*

As such, there is a presumption in both national and local planning policy in retaining and improving open space and therefore the proposal to remove the area from the public is contrary to these aims.

The Householder Development Guide Aberdeen Planning Guidance has specific guidance for proposals for the change of use from amenity space to garden ground. It states that that in most

circumstances amenity ground will make a contribution towards the character and sense of place of an area. It does, however, allow some circumstances where changes of use from amenity space to garden space may be acceptable, where the space is a small incidental area of ground that makes little contribution to the appearance of the neighbourhood or where they are small corners of space that can be logically incorporated into garden ground by continuing existing fence lines.

### Green Space Network

The application site forms part of the allocated site OP9 – Grandhome on the Proposals Map of the ALDP in terms of Policy LR1 (Land Release Policy) and as Green Space Network.

Policy NE2 (Green and Blue Infrastructure) of the ALDP states that development proposals will seek to protect, support and enhance the Green Space Network (identified on the Proposals Map). It states that this broadly encompasses the wildlife, biodiversity, ecosystem services and functions, access, recreation, landscape and townscape value of the Green Space Network and that development that does not achieve this will not be supported. It furthermore states that masterplans will determine the location, extent and configuration of the Green Space Network within the area, and its connectivity with the wider network. Whilst neither the site, nor the wider band of open space is included within the Grandhome Development Framework site development boundary nor within the application site boundary of the relevant Planning Permission in Principle of the Grandhome Development (Ref: P131535), the Grandhome Development Framework recognises the area as an woodland buffer area of open space (as well as it being ancient woodland) that contributes to the setting of development within OP9. The site is also included on the Open Space Audit 2010.

The change of use results in the loss of an area of open space and part of the Green Space Network which forms part of an important woodland buffer between the Middleton residential area and the emerging Grandhome development and contributes significantly to the landscape character of the area. The wider space has path links and the location of the fence near the public footpath detracts from the woodland character of the space itself. The proposal thus conflicts with Policies 20 of NPF4 and Policy NE2 of the ALDP (Representation (1)), and the Householder Development Guide Aberdeen Planning Guidance.

### Ancient Woodland

Policy 6 (Forestry, Woodland and Trees) of NPF4 states that development proposals will not be supported where they will result in any loss of ancient woodlands or adverse impact on their ecological condition. Policy NE5 (Trees and Woodland) of the ALDP states that development proposals *'will seek to increase tree and woodland cover and achieve the long-term retention of existing trees and woodlands that the planning authority consider worthy of retention. Particular emphasis is placed on the protection and ongoing management of Ancient Woodlands.'*

Whilst it is unclear if the development has resulted in the loss of any specific trees, given the retrospective nature of the application, the proposal has resulted in the reduction of an area of ancient woodland. The proposal therefore conflicts with Policy 6 of NPF4 and Policy NE5 of the ALDP.

### **Landscape Character and Amenity**

In determining whether the proposed development would adversely affect the character and appearance of the area, Policy 14 (Design, Quality and Place) of NPF4 is relevant. Policy 14 encourages and promotes well-designed development that makes successful places by taking a design-led approach. Policy D1 (Quality Placemaking) of the ALDP substantively reiterates the aims and requirements of Policy 14.

Policy 16 (Quality Homes), paragraph (g) of National Planning Framework 4 (NPF4) states that householder development proposals will be supported where they:

- i. *do not have a detrimental impact on the character or environmental quality of the home and the surrounding area, in terms of size, design and materials; and*
- ii. *do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.*

Given the proposal is for the change of use of open space to expand an area of existing residential curtilage and for the erection of a fence to enclose the garden, these policy criteria are also applicable to the assessment of the development proposed.

Whilst the design and materials of the structures appear domestic in character, including both the raised platform and the fence, the 2.3m height of the boundary treatment exceeds that of the adjacent properties and boundary fence line projects over 5m beyond the established boundary line of the residential curtilages of the adjacent dwellings. In terms of i), the fence line extends irregularly beyond the established southwest boundary line of the curtilage of the adjacent properties into the open space towards the footpath around the site, narrowing the width of the open space, having an adverse impact on the visual amenity of the area from the public footpath, and being inconsistent with the pattern of development in the area. Given the proximity to the footpath and limited space for vegetation between the path and the fence, the fence has a particularly visually obtrusive appearance in the space compared to the established boundary fence lines. The proposal conflicts with the Householder Development Guide Aberdeen Planning Guidance in that it results in an *'irregular boundary layout that would be out of keeping with the otherwise uniform character of the area'*.

It is recognised that the development does not have an adverse impact on the amenity of the neighbouring properties by way of physical impact, overshadowing or overlooking and the loss of the space individually would not necessarily create a 'deficiency' in recreational open space whereby there would be a significant adverse impact on public amenity, even if the space could previously be used as a local amenity for an informal recreational purpose. However, the irregular boundary layout and projection into the open space has an adverse impact on the character and appearance of the area, in conflict with Paragraph (g) i. of Policy 16. The proposal thus conflicts with Policies 14 and 16 of NPF4, and Policy D1 of the ALDP (Representation (2)).

### **Biodiversity and Tackling the Climate and Nature Crises**

Policy 1 (Tackling the Climate and Nature Crises) of NPF4 requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals. Policy 2 (Climate Mitigation and Adaptation) of NPF4 requires development proposals to be designed and sited to minimise life-cycle greenhouse gas emissions as far as possible, and to adapt to current and future risks from climate change.

Policy 3 (Biodiversity) of NPF4 states that development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Policy 4 (Natural Places) of NPF4 states that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.

Whilst an ecological appraisal or arboricultural assessment has not been submitted with the application, and it is not known whether there were any mature trees or vegetation within the

application site boundary itself, the area is identified as both Green Space Network and ancient woodland.

In this instance, a grant of planning permission would provide the residential curtilage with 'Permitted Development Rights' by way of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, which could result in further built development in what is Green Space Network and ancient woodland. A shed has also been erected on the land without planning permission. The formalisation of the space as garden ground and possibility of permitted development within the curtilage is at the expense of undeveloped woodland, which is to the detriment of biodiversity. This band of open space forms an important link to Grandhome Moss to the north of the site. Whilst the area remains 31m in width, the narrowing of this space could undermine its functionality as a habitat link. The fencing off of the area is likely to reduce the benefit to wildlife due to a barrier to movement. This includes flying (bats/birds) wildlife, which can be impacted by vertical structures. If the breach of planning control were to be rectified and the site were to return to being public open space, the adverse impact on biodiversity from the unauthorised works could be reversed.

It has been raised in the Supporting Statement that the bat boxes and birdhouses have been installed as part of efforts to support local biodiversity. From the site visit, there are at least two bird boxes and two bat boxes attached to the fence. Whilst welcomed and these are means of enhancing biodiversity, these features alone do not offset, nor sufficiently enhance, the adverse impact on biodiversity from the loss of ancient woodland and the open space itself.

Whilst the development is of a relatively small scale, the removal of an area of Green Space Network and ancient woodland would have an adverse impact on biodiversity. There are furthermore no material considerations in assessing this development proposal whereby it could be considered that the development is placing significant weight on the global climate and nature crises. As such, proportionate to the scale of the development, the proposal conflicts with the aims of policies 1, 2, 3 and 4 of NPF4, as well as NE2 (Green and Blue Infrastructure) and NE3 (Our Natural Heritage) of the ALDP.

## **Precedent**

The proposal conflicts with the Householder Development Guide Aberdeen Planning Guidance in that it comprises a proposal that would *'fragment or, if replicated, be likely to incrementally erode larger areas of public open space or landscaping'*. Given there are an abundance (over 100) of residential curtilages bounding this open space for its entire length, and there are no examples of any similar proposals having been granted in the area, approval of this planning application could set a precedent for the incremental erosion of this open space as a result of similar proposals in the area. Over time the cumulative impact of the loss of areas of ground could lead to the gradual erosion of the open space, ancient woodland, biodiversity and the character and amenity of the surrounding area, which would not be in the public interest, and exacerbating the matters set out above.

Whilst the change of use of this individual space does not necessarily create a 'deficiency' in recreational public open space in the area, as set out under the 'Landscape Character and Amenity' heading. The precedent for similar proposals and possibility of piecemeal reduction of the open space would worsen the overall provision of informal recreational open space in the area, which would be to the detriment of public amenity.

## **DECISION**

Refuse

## **REASON FOR DECISION**

The change of use of this land to domestic garden ground and the erection of the fence, gate and steps results in the enclosure and loss of a valued area of open space, part of the Green Space Network and an area of ancient woodland. The site forms part of an important natural woodland buffer between the Middleton area of Bridge of Don and the Grandhome development and is shown as such on the agreed Grandhome Development Framework. The proposal thus conflicts with Policies 6 (Forestry, Woodland and Trees) and 20 (Blue and Green Infrastructure) of NPF4 and NE2 (Green and Blue Infrastructure) of National Planning Framework 4 (NPF4) and Policy NE2 (Green and Blue Infrastructure) of the Aberdeen Local Development Plan 2023.

Whilst it is unclear if the development has resulted in the loss of any specific trees given the retrospective nature of the application, the proposal results in the loss of an area of ancient woodland. The proposal therefore conflicts with Policy 6 (Forestry, Woodland and Trees) of NPF4 and Policy NE5 (Trees and Woodland) of the ALDP.

The resultant irregular boundary layout adversely affects the character and appearance of the area, in conflict with Policies 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4, and Policy D1 (Quality Placemaking) of the ALDP and the Householder Development Guide Aberdeen Planning Guidance.

If the proposal were to be granted planning permission, it would result in the permanent loss of an area of ancient woodland, as well as result in the area being afforded domestic Permitted Development Rights whereby development could occur without the need for express planning permission. This would be to the detriment of, rather than an enhancement to, biodiversity. Whilst the development is of a small scale, the removal of an area of Green Space Network would have an adverse impact on biodiversity, no mitigation is proposed and there are furthermore no material considerations in assessing this development proposal whereby it could be considered that the development is placing significant weight in positively addressing the global climate and nature crises. As such, proportionate to the scale of the development, the proposal conflicts with the aims of policies 1 (Tackling the Climate and Nature Crises), 2 (Climate Mitigation, and Adaptation), 3 (Biodiversity) and 4 (Natural Places) of NPF4.

Noting the abundance of similar residential properties which bound this band of open space in the wider area and, notwithstanding every application is assessed on its merits, the proposal could give rise to the setting of a precedent that would make it difficult to resist similar proposals in the future which cumulatively could result in the gradual erosion of and fragmentation of open space, the defined Green Space Network and ancient woodland. Such an approach would exacerbate the adverse impacts cumulatively be significantly detrimental to the character and amenity the area, as well as biodiversity.