

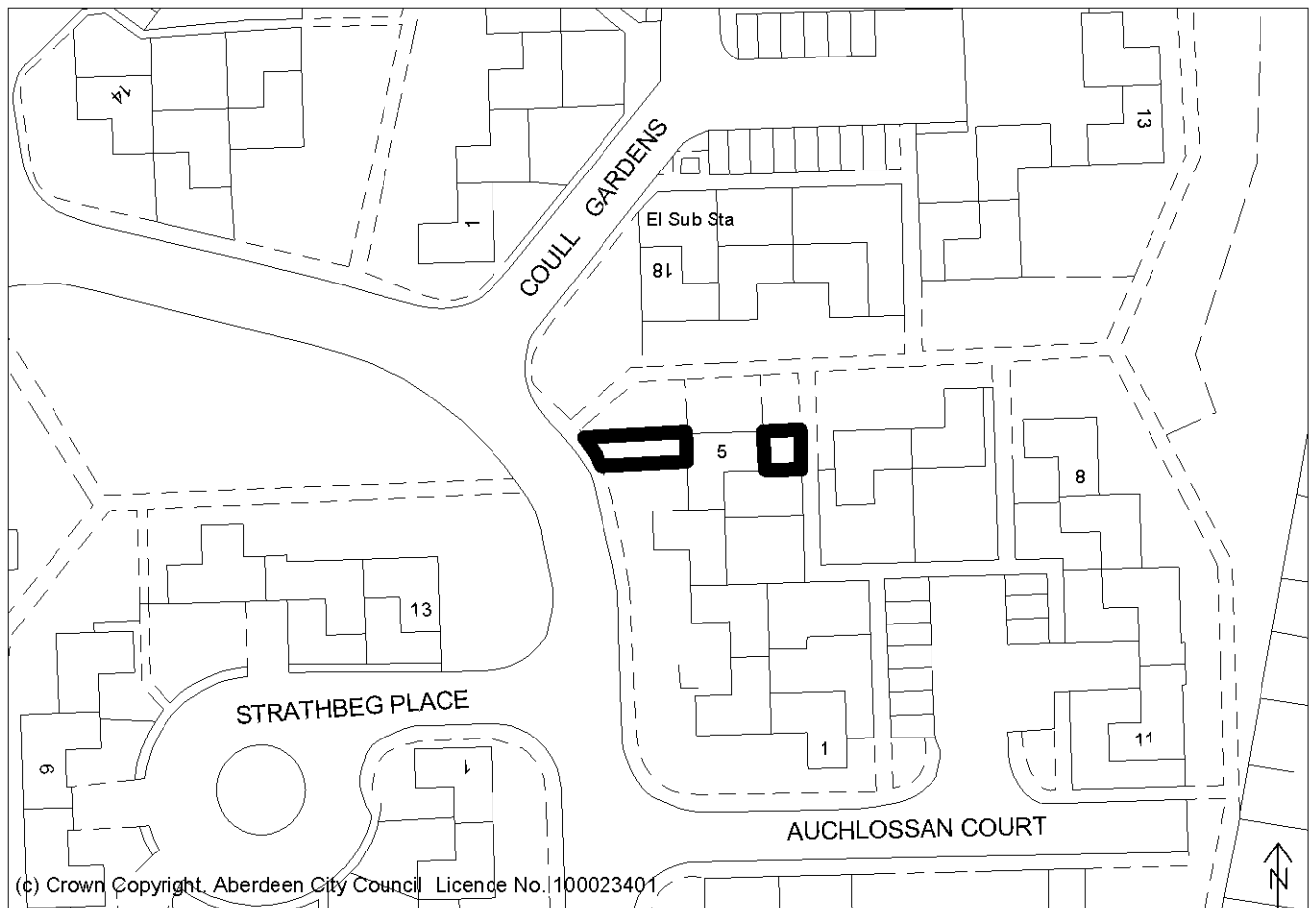
5 AUCHLOSSAN COURT, BRIDGE OF DON

CHANGE OF USE OF GRASSED AREA TO GARDEN GROUND

For: Mr S Opiola

Application Ref. : P121354
Application Date : 27/09/2012
Officer : Donna Laing
Ward: Bridge of Don (M Jaffrey/J Reynolds/S Stuart/W Young)

Advert :
Advertised on :
Committee Date : 15 February 2013
Community Council : Comments



RECOMMENDATION: Approve Unconditionally

DESCRIPTION

The application property is situated to the north-west of Auchlossan Court and is a single/2 storey dwelling on an L-shaped footprint with pitched roofs. To the north and west of the dwelling is a grassed area of public amenity space and beyond, to the north, is a path and to the west a road. To the east is a path. To the rear, to the south and east the plot is bounded by a timber fence approximately 1.73m in height. The frontage of the property is set back from the adjoining dwelling to the south. Within the vicinity there is a selection of house designs with a predominant feature of the dwellings being a variety of pitched and flat roofs of varying heights and styles. Most properties in the vicinity are situated within a staggered building layout. To the north of the site is a larger section of amenity ground with mature trees and a path leading to formal open space. This larger area of amenity ground measures approximately 185m², and extends both to the north and east.

HISTORY

P121424 - Rear extension, extension at first floor level and front porch - Approved unconditionally – 6/12/2012

PROPOSAL

The proposal is for change of use for two sections of amenity ground to be included as garden ground. The ground in question is situated to the front and rear of the property and sits on the same buildline as the gable of the premises. The area to the rear would be approximately 17m², while the area to the front would be approximately 20m². Initially, the application was for an area of ground measuring 185m².

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-Committee because the Council owns the land and, in addition, comments have been received from the Bridge of Don Community Council. Therefore, in terms of the Council's Scheme of Delegation, the planning application must be determined by the Development Management Sub Committee.

CONSULTATIONS

ROADS SECTION – Response received – no observations

ENVIRONMENTAL HEALTH – response received – no observations

COMMUNITY COUNCIL – Response received – One letter of representation has been received from the Bridge of Don Community Council.

The Community Council have not objected to the proposal but have submitted comments requesting that each application for change of use from amenity ground to garden ground be considered individually. Further to this they state the loss of all amenity space within the site would not be welcomed and the incorporation of the smaller areas of land is an improvement to the initial application.

REPRESENTATIONS

There are no further letters of representation.

PLANNING POLICY

Aberdeen Local Development Plan 2012

Policy H1: Residential

Householder Development Guide Supplementary Guidance

EVALUATION

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, so far as material to the application, unless material considerations indicate otherwise. Following a detailed assessment of the site and the submitted plans, the following conclusions have been reached.

Principle of Development

In this instance, the issue for consideration is the impact which the change of use of amenity ground to garden ground has on the residential character and amenity of the area. The area as a whole is characterised by large swathes of open amenity space. The two sections of ground that are proposed to be integrated into the garden sit in line with the gable of the house and are small when compared to the surrounding land.

In terms of Policy H1 of the Aberdeen Local Development Plan the proposed change of use from amenity to garden ground is not considered to have an adverse effect on the residential character and amenity of the area. Although the proposal undoubtedly leads to the loss of a small areas of open space, the loss of this ground does not impact on the existing use of the wider amenity area, with full access remaining to the path which lies to the north and east of the dwellinghouse, nor does the loss of this area of open space impact on the existing soft landscaping and mature trees to the north of the application site which remains intact.

The proposal would not have a detrimental impact on the character and amenity of the surrounding area, nor would it result in the loss of valuable and valued areas of open space. The proposed used therefore accords to policy H1 of the Aberdeen Local Development Plan.

Supplementary Guidance

The Householder Supplementary Guidance section on 'Change of use from amenity space to garden ground' outlines a number of criteria proposals of this nature are required to be assessed against. The proposal would not lead to a worsening or deficiency in recreation public open areas, as stated there are large areas of amenity space surrounding the site and the path to the north of the site leads to urban green space just over 100m from the site. There would be no loss of visual amenity nor would the proposal result in the narrowing of the footpath corridor or lead to the loss of important views along such a footpath, the footpath would still be inviting and safe to use. The incorporation of the ground would not prejudice road or pedestrian safety. The incorporation of open space would not set a precedent. The area is characterised by the irregular layout of house and large areas of open space, therefore due to the position of 5 Auchlossan Court

within its plot, the location of the footpaths in relation to the house and the existing garden ground, other premises within the area would be unable to replicate the proposal. The proposal accords with the Householder Supplementary Guidance.

Comments received

With regard to the comments received by the community council, each application is judged on its own merit, and in this instance the proposal is deemed to accord with policy and the supplementary guidance. The proposal would not set a precedent in the area, as outlined previously; the building occupies a unique siting within its plot, within the block of premises and within the areas as a whole.

Other Information

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend...Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application would be affected by the terms of Tesco's challenge. The recommendation would be the same if the application were to be considered in terms of the 2008 Aberdeen Local Plan.

Summary

Following collective consideration of the above, it is considered that the proposal would comply with the relevant policy of the Aberdeen Local Development Plan and the Council's supplementary guidance. The application is therefore recommended for approval.

RECOMMENDATION

Approve Unconditionally

REASONS FOR RECOMMENDATION

The proposed change of use from amenity ground into garden ground accord with Policy H1: Residential of the Aberdeen Local Development Plan 2012. The

proposal would not result in valuable and valued areas of open space nor have a detrimental impact on the character and amenity of the surrounding area. The proposal also complies with the Householder Supplementary Guidance and the criteria outlined within this regarding change of use of amenity space to garden ground.

Dr Margaret Bochel

Head of Planning and Sustainable Development.