

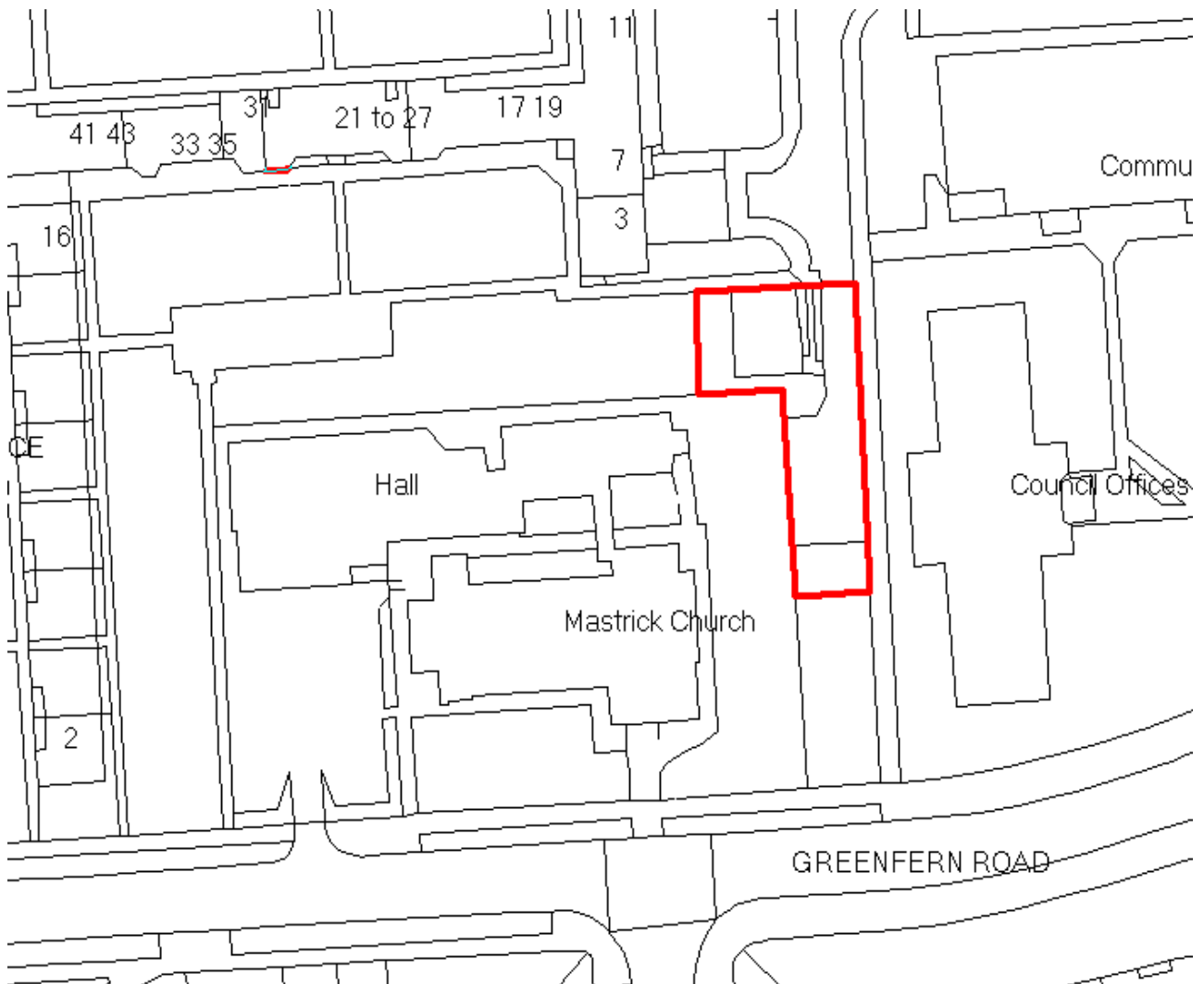
THE BOX, SPEY TERRACE

CHANGE OF USE OF AMENITY GROUND TO A PRIVATE GARDEN AND THE BUILDING FROM YOUTH COMMUNITY CENTRE TO RESIDENTIAL PROPERTY

For: Mr Edward McDonald

Application Type : Detailed Planning Permission
Application Ref. : P130143
Application Date: 05/02/2013
Officer: Lucy Greene
Ward : Northfield (J Dunbar/S Carle/G Graham)

Advert :
Advertised on:
Committee Date: 18 April 2013
Community Council : No comments received



RECOMMENDATION: Approve subject to conditions

DESCRIPTION

The application site consists of a former police 'box', or sub-station, most recently used as a community youth café, together with an area of grassed ground to the west and a stretch of road with associated parking area. The building is single storey in height, of relatively recent construction and of no particular architectural merit. The area of grassed open space to the rear of the former police box is bounded by a paved footpath, beyond this is an expansive area of grassed amenity space, which contains a number of trees. This area is enclosed by an approximately 1.5m high metal fence, so that the area within the fence is semi-private for the communal use of the residents of the nearby flats.

To the north of the application site is a two storey building containing flats, together with associated grassed open space to the front. To the south east are Council offices; to the south west is Mastrick Church and associated hall; and, to the north east is Mastrick Community Centre. The wider area is residential in nature, with a mixture of flats and houses and facilities that are complementary to residential use.

RELEVANT HISTORY

In 2000, planning permission was granted (ref. A0/1174) for conversion of disused police box into community youth café. This was subject to conditions relating to noise and hours of opening.

PROPOSAL

The application proposal is for a change of use to residential use of the building, the existing area of amenity ground to the rear (west) and the associated parking area and access road. There are no physical works requiring planning permission proposed in terms of this current application. The hard surfaced area, previously used for parking, is approximately 13m in length and approximately 8m in width.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref=130143>

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-committee because the Council owns part of the application site. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Project Team – No objection.

Environmental Health – No comments received.

Enterprise, Planning & Infrastructure (Flooding) – No observations.

Community Council – No comments received

REPRESENTATIONS

None

PLANNING POLICY

Aberdeen Local Development Plan

Policy RT3 – Town, District and Neighbourhood Centres

This policy relates to changes of use from retail to other uses, with the aim of supporting the vitality of centres.

Policy NE3 – Urban Green Space

Permission will not be granted to use or redevelop areas of urban green space for any use other than recreation or sport, unless an equivalent and equally convenient and accessible area for public access is laid out and made available in the locality by the applicant for urban green space purposes. In all cases, development will only be acceptable provided that:

1. There is no significant loss to the landscape character and amenity of the site and adjoining areas;
2. Public access is either maintained or enhanced;
3. The site is of no significant wildlife or heritage value;
4. There is no loss of established or mature trees;
5. Replacement green space of similar or better quality is located in or immediately adjacent to the same community, providing similar or improved benefits to the replaced area and is as accessible to that community, taking into account public transport, walking and cycling networks and barriers such as major road

Policy D2 – Design and Amenity

Seeks to ensure appropriate levels of amenity for residential uses.

Supplementary Guidance

Householder Development Guide

This contains guidance on assessing applications for change of use of amenity ground, on the following criteria:

- contribution of open space to the character of the wider area;
- that the proposal would not fragment or, if replicated, erode larger areas of open space;
- impact on the level of recreational open space in the area;
- impact on visual amenity;
- that the proposal would result in irregular boundaries in an uniform area
- impact on footpaths or road safety;
- creation of an undesirable precedent.

EVALUATION

General Statement

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.

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) 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.

Residential Use

The site lies within, but on the edge of an area designated as a district centre; it is also relatively close to residential properties. The district centre uses close to the application site are community uses as opposed to commercial.

The residential use proposed would be adjacent to other residential uses, however, it would not comply with all requirements of Policy RT3. In terms of the criteria in that policy:

- the residential use would not make a positive contribution to the vitality of the shopping centre;
- the proposed alternative use would not undermine the retail function of the centre, as the uses in this particular area are not retail, but are community uses;
- the application premises have never been in retail use;
- the use would not be in a public use, so would not cater for a local need, other than the extent to which residential use is needed;
- the premises do not have a traditional shop front.

The loss of a small area of open space is an issue for consideration and is dealt with below.

In terms of the level of amenity that would be provided for a future resident, this is assessed in terms of the relevant criteria in Policy D2:

- the proposed residential property would have a public face to a road and a private face to a garden;
- there would be an outside area provided; and,

- parking would be accommodated satisfactorily without impinging on the garden area.

Furthermore, it is considered that a satisfactory level of residential amenity would be capable of being provided, in terms of daylighting and sunlighting as the premises are detached and due to the location in relation to other buildings. In terms of privacy, there are windows in the front elevation of the flats to the north west of the application building. They would have an oblique view at a distance of approximately 10m towards the rear elevation of the application building, and across the rear garden, however, any future resident would be moving into this situation. The windows to the existing flat currently overlook a public area and are also at a higher, raised ground floor level. Any impact on the residents of the flats is considered not to be so significant as to warrant refusal of the application.

Change of use of open space

This would be assessed in terms of both Policy NE3 and the Householder Development Guidance.

The area of open space in question lies immediately to the rear of the building and it is bounded by a footpath. The open space beyond the footpath is contained within a chain link fence that lies approximately 2-3m from the western edge of the footpath. The small area that falls within the application site therefore functions somewhat separately from the wider open space. The space does not contain trees, nor any other particular features. It is considered that there would be no significant loss to the character or functioning of the wider area, nor any significant loss to wildlife. Public access would be maintained along the footpath and the loss to the public of the use of this small space would be insignificant given the location and size of other open spaces within the area. The proposal would not comply with all the criteria in Policy NE3 as no replacement space would be provided.

The open space remaining adjacent to the site functions separately and the change of use of this area would not create a precedent. The proposal would not impact upon the provision of recreational space within the area, nor impact significantly upon visual amenity as the area in question is to the rear of the building and to the side of other residential accommodation. It would only be seen in oblique views from the nearby street. Also, there would be no adverse impact on vehicular movements and public safety.

The proposal would not be contrary to the guidance within the Householder Development Guide and although there are tensions with Policy NE3, it is considered that the proposal does not contravene the overall aim of the policy, due to the size and location of the area in question.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

Although the premises would not remain in community use, they lie close to other premises that provide a range of facilities for the community and it is considered that the loss of this small unit would not significantly adversely impact upon either the viability or the range of uses within the district centre. The proposal would not strictly comply with Policy RT3 'Town, District and Neighbourhood Centres' of the Aberdeen Local Development Plan, however, it is considered that the particular circumstances of the application premises, the size, location and previous use mean that the proposal is acceptable. In terms of residential amenity, there would be no significant adverse impact upon neighbouring residential properties as the building exists and there is sufficient space for car parking. It is considered that an adequate level of residential amenity would be capable of being provided. The proposal complies with the Policy D2 'Design and Amenity'. In terms of open space, the area is small and due to its location and relationship with other areas of open space, it is considered to generally comply with Policy NE3 'Urban Green Space' and the Householder Development Guide.

It is recommended that approval is granted subject to the following conditions:

- (1) That the residential use of the building shall not take place without the associated area of open space within the application site being fully available for private use by the occupiers of the building, unless otherwise agreed in writing with the planning authority – in the interests of residential amenity.

- (2) That details of any boundary treatment of less than 1m in height shall be submitted to, and approved in writing by, the planning authority prior to being erected on site (it should be noted that boundary enclosures of more than 1m in height would require planning permission) – in the interests of residential amenity.

Dr Margaret Bochel

Head of Planning and Sustainable Development.

