

Planning Development Management Committee

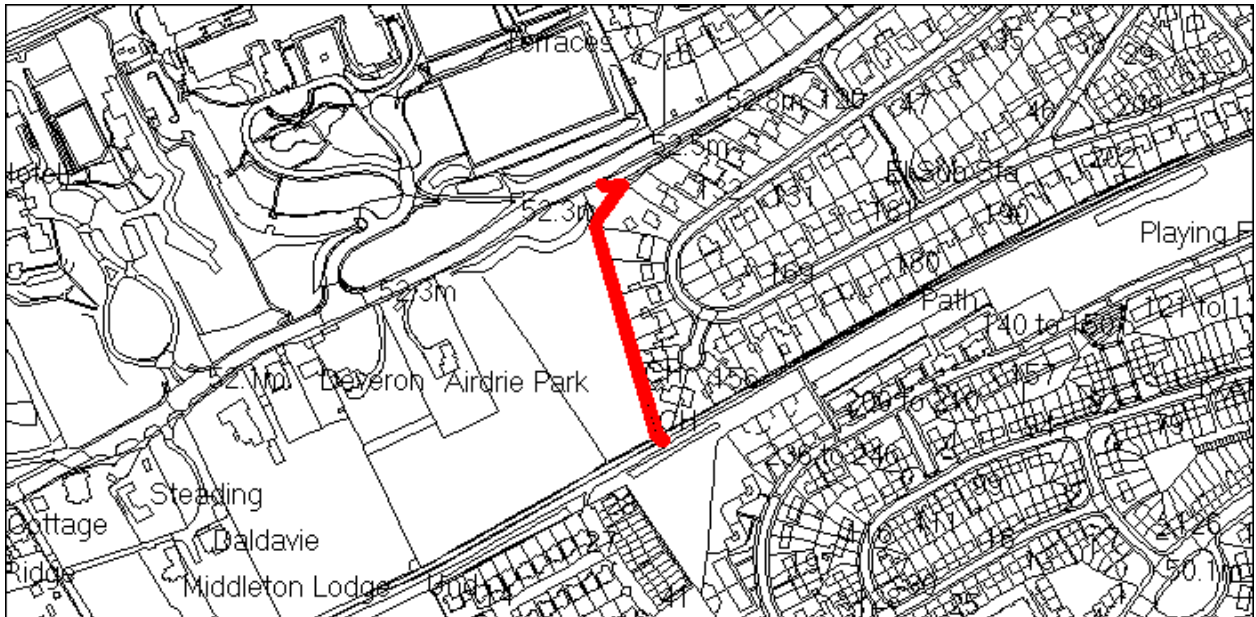
NORTH DEESIDE ROAD & THE OLD DEESIDE LINE, (CORE PATH 65 BETWEEN)

RETROSPECTIVE UPGRADE OF CORE PATH AND ASSOCIATED ENGINEERING AND LANDSCAPING WORKS (AMENDMENT TO PATH GRANTED UNDER P141260).

For: Dr George Stevenson

Application Type: Detailed Planning Permission
Application Ref.: P151493
Application Date: 14/09/2015
Officer: Andrew Miller
Ward: Lower Deeside (M Boulton/A Malone/M Malik)

Advert: Can't notify neighbour(s)
Advertised on: 23/09/2015
Committee Date: 14/01/2016
Community Council : No response received



RECOMMENDATION: Approve subject to Conditions

DESCRIPTION

The site comprises a strip of land running from North Deeside Road south towards the Deeside Way at Airyhall. It has recently been developed as a footpath linking North Deeside Road and 'the Deeside Way'. It is located within the Pitfodells Conservation Area.

RELEVANT HISTORY

P141260 – Erection of three houses with landscaping and creation of new path granted Detailed Planning Permission by the Planning Development Management Committee on 4 February 2015.

PROPOSAL

Retrospective Detailed Planning Permission is sought for the formation of the footpath that has recently been installed. The footpath runs from North Deeside Road and takes access from the pavement to the rear of houses in the north western corner of Deeside Gardens. It follows a route adjacent to the rear of the houses to the west of Deeside Gardens, running parallel with their rear boundaries. The straight path follows the gradient of the land sloping down towards 'the Deeside Way', where the two paths meet. Finished in bounded whin dust, the path is 1.8 metres wide and is held together with treated edge boarding driven into the ground with wooden pegs. At either end of the path, chicane gates are in place to slow down cyclists.

The path has been installed as part of the requirements of a development of three houses on land to the west of the site. That application (P141260) was granted subject to a condition requiring the provision of a path meandering through the site which was shown on the approved site plan.

The path was subsequently installed as described above and is not considered to warrant a non-material variation to consent P141260, hence the requirement of this application.

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=151493>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

REASON FOR REFERRAL TO COMMITTEE

The application has been referred to the Planning Development Management Committee because more than 5 in time letters of objection have been received (9 letters). Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Development Management – Following provision of rest points and drainage, no objections.

Environmental Health – No observations.

Communities, Housing and Infrastructure (Flooding) – Following provision of surface water soakaways, no objections.

Community Council – No response received.

REPRESENTATIONS

18 letters of representation have been received – 9 objections and 9 letters of support.

The objections raised relate to the following matters –

1. The path has not been constructed in accordance with details granted by Elected Members in the original application. This showed a meandering path through a landscaped area.
2. Neighbours did not object originally to the original application for the three houses and path on the basis that the plans showed a well-designed path with landscaping either side and it appeared not too intrusive to the residents of Deeside Gardens who overlook the site.
3. The path is extremely steep.
4. Cyclists using the path cycle down it at excessive speed
5. The gradient of the path means some elderly people find it difficult to walk on and when walking down the path, cannot see or hear cyclists coming at speed.
6. The construction of the path has elevated the ground level, with the path sloping down to the eastern side. This has resulted in surface water run off during heavy rain into gardens along Deeside Gardens. The water is clay coloured and from the surfacing of the path.
7. Surface water also runs off down the path like a stream to the Deeside Way, which subsequently floods in heavy rain.
8. There have been flooding instances due to heavy rain running from North Deeside Road to Morrison Drive in the past. The provision of the path in this location may result in this happening again.
9. The surfacing of the path is not suitable for the weather in the area and has already been significantly eroded by the rain.
10. The path as built has not resulted in any viewpoint as proposed as part of the original plan.

11. It is not easy to understand why a developer can think it is acceptable to ignore approved plans without gaining appropriate consent or giving any explanation.
12. Why has the developer been allowed to build it without consent then months later apply for consent – this is not right.
13. Path does not look good and is an eyesore.
14. Loss of privacy of houses to rear of houses at Deeside Gardens adjacent to path.

The supporting comments raised relate to the following matters –

1. The path has been built in a logical place given the topography of the site, on the site of a well trodden path through the field.
2. Ideal link between North Deeside Road and Deeside Way, with the previous closest link being Pitfodels Station Road, which itself has steep steps and no pavement at the top of the steps.
3. Why has the applicant had to apply for permission again?
4. It would be a travesty if this new path was lost.
5. Path is an excellent addition to the network of walking paths.
6. Path is safer than the current access at Station Road
7. It is a pity that a pedestrian crossing is not proposed as part of this application.
8. There are few access points from North Deeside Road and the Deeside Way between Cults and Duthie Park and this is a great addition.
9. Route of path follows that shown in the Aberdeen City Core Path Plan 2009.

PLANNING POLICY

National Policy and Guidance

Scottish Planning Policy (SPP)

Development should pay regard to the layout, design, materials, scale, siting and use of listed buildings, as well as their surrounding area's character and appearance. It also states development should either enhance or preserve the character or appearance of a conservation area.

Aberdeen Local Development Plan

NE2 – Green Belt

No development will be permitted in the green belt for purposes other than those essential for agriculture, woodland and forestry, recreational uses compatible with an agricultural or natural setting, mineral extraction or restoration or landscape renewal.

NE1 – Green Space Network

Proposals for development that are likely to destroy or erode the character of function of the Green Space network will not be permitted.

NE9 – Access and Informal Recreation

New development should not compromise the integrity of existing or potential recreational opportunities including access rights, core paths, other paths and rights of way.

NE6 – Flooding and Drainage

Development will not be permitted if:

1. It would increase the risk of flooding:-
 - a. By reducing the ability of the functional flood plain to store and convey water;
 - b. Through the discharge of additional surface water; or
 - c. By harming flood defences.

D5 – Built Heritage

Proposals affecting Conservation Areas will only be permitted if they comply with Scottish Planning Policy

Proposed Aberdeen Local Development Plan

NE2 – Green Belt

No development will be permitted in the green belt for purposes other than those essential for agriculture, woodland and forestry, recreational uses compatible with an agricultural or natural setting, mineral extraction or restoration or landscape renewal.

NE1 – Green Space Network

Proposals for development that are likely to destroy or erode the character and/or function of the Green Space Network will not be permitted.

NE9 – Access and Informal Recreation

New development should not compromise the integrity of existing or potential recreational opportunities including access rights, core paths, other paths and rights of way.

NE6 – Flooding, Drainage and Water Quality

Development will not be permitted if:

1. It would increase the risk of flooding:-
 - a. By reducing the ability of the functional flood plain to store and convey water;
 - b. Through the discharge of additional surface water; or
 - c. By harming flood defences.

D4 – Historic Environment

The Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, SHEP, its own Supplementary Guidance and Conservation Area Character Appraisals and Management Plan.

Other Relevant Material Considerations

None

EVALUATION

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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas

The main considerations in this instance relate to the principle of the path and its general suitability (surfacing, gradient and drainage).

Principle

The path is located in the Green Belt, as designated in the ALDP. Associated policy NE2 creates a presumption against development, though exceptions apply. In this instance and as described under the proposals section, the path in question has been installed as a requirement of part of a development of three houses within the land to the west of the site. Notwithstanding the acceptability of the path in terms of its general suitability and impact on the surrounding area (including neighbours), the principle of a path in this area is considered acceptable in this instance and would not conflict with the requirements of policy NE2.

Relating to the designation of the wider area as Green Space Network, associated policy NE1 seeks to protect, promote and enhance the access value of the Green Space Network. Policy NE9 of the ALDP states that new

development should not compromise the integrity of existing core paths. As the development involves the upgrade of an existing core path, the proposal is considered to accord with both NE1 and NE9.

Surfacing

In ensuring paths are accessible for as many people as possible, consideration must be given on the suitability of the path in terms of its surfacing, gradient and drainage. Relating to its surfacing, smoother paths with hard surfacing are more likely to be attractive to the disabled (in particular wheelchair users) and those with prams/buggies. The use of whin dust allows for a smoother surface that is more accessible for those users.

Gradient

In respect of the paths gradient, ideally all pathways should be no greater than a 1:12 gradient. In this instance, there are parts of the path that exceed this. In order to mitigate against the gradient, two rest areas on a flat level are proposed at points on the path. Whilst ideally all paths should be no more than 1:12, there are instances where this is not practical. It should be noted that the path as consented under P141260 also fails to meet this gradient and it would be difficult for any path in this area to meet the necessary gradient. Subject to a condition requiring the rest areas to be implemented, it is considered the provision of these to mitigate against the unsuitable gradient is acceptable in this instance.

Drainage

Relating to drainage, policy NE6 of the ALDP states that development will not be permitted where it increased the risk of flooding through the discharge of additional surface water. The path as constructed has resulted in run off leaching into the gardens of adjacent houses in Deeside Gardens, as is noted in the representations. No suitable drainage has been constructed in the path, though this application proposes two soakaways for surface water drainage. Subject to a condition requiring this to be implemented, the surface water drainage is considered to be acceptable in this instance and would comply with NE6.

Impact on Conservation Area

Scottish Planning Policy (SPP) seeks to ensure that development within Conservation Areas either protects or enhances their character. Policy D5 of the ALDP seeks to ensure development accords with SPP. In this instance, the path is of standard design, typical of core paths around the city. Landscaping around the path would lessen the impact of the path on the surrounding area and conditions requiring this is recommended. Accordingly the proposals would have a neutral impact on the appearance of the Conservation Area and is considered to satisfy the requirements of SPP and subsequently policy D5 of the ALDP.

Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to representation and is regarded as an unresolved issue to be determined at the Examination; and
- the relevance of these matters to the application under consideration .

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material weight than those issues subject to Examination. The foregoing can only be assessed on a case by case basis. In this instance the relevant policies contained within the Proposed ALDP substantively reiterate those in the adopted ALDP. As such no further evaluation is considered necessary in respect of the Proposed ALDP.

Matters Raised in Representations

In respect of the matters raised by objectors to the development, a response to each point is provided below:

1. The path has not been constructed in accordance with details granted by Elected Members in the original application. This showed a meandering path through a landscaped area.
(This application has been submitted due to the path not being installed in accordance with the approved plan.)
2. Neighbours did not object originally to the original application for the three houses and path on the basis that the plans showed a well-designed path with landscaping either side and it appeared not too intrusive to the residents of Deeside Gardens who overlook the site.
(This application has been submitted as it is a material change to the path. The specifics of this application have therefore been considered on their own merits above.)
3. The path is extremely steep.
(It is noted that the path is steep – consideration is given to this above under Gradient)
4. Cyclists using the path cycle down it at excessive speed
(It is noted that cyclists are able to use the path at speed due to the gradient, though staggered gates at the bottom of the path do act as some deterrent to slow cyclists down.)

5. The gradient of the path means some elderly people find it difficult to walk on and when walking down the path, cannot see or hear cyclists coming at speed.
(This application proposes rest areas in order to mitigate against the gradient of the path – further information under Gradient).
6. The construction of the path has elevated the ground level, with the path sloping down to the eastern side. This has resulted in surface water run off during heavy rain into gardens along Deeside Gardens. The water is clay coloured and from the surfacing of the path.
7. Surface water also runs off down the path like a stream to the Deeside Way, which subsequently floods in heavy rain.
8. There have been flooding instances due to heavy rain running from North Deeside Road to Morrison Drive in the past. The provision of the path in this location may result in this happening again.
9. The surfacing of the path is not suitable for the weather in the area and has already been significantly eroded by the rain.
(Surface water drainage has been proposed as part of this application – see Drainage above).
10. The path as built has not resulted in any viewpoint as proposed as part of the original plan.
(The viewpoint as shown on the plans subject to P141260 indicates a part of the path where there would be views from the path.)
11. It is not easy to understand why a developer can think it is acceptable to ignore approved plans without gaining appropriate consent or giving any explanation.
12. Why has the developer been allowed to build it without consent then months later apply for consent – this is not right.
(All retrospective applications are given no less scrutiny than applications on a normal pre-emptive basis).
13. Path does not look good and is an eyesore.
(Noted – the site is under redevelopment for housing and will be subject to further landscaping)
14. Loss of privacy of houses to rear of houses at Deeside Gardens adjacent to path.
(The loss of privacy is not a significant concern – the path is not highly trafficked and those using the path are not there for a significant period of time, rather they are travelling past.)

Comments of support received for the application are also noted.

RECOMMENDATION

Approve subject to conditions.

REASONS FOR RECOMMENDATION

Notwithstanding its retrospective nature, subject to conditions as recommended, the path is considered acceptable in this instance. The principle of a path through

the area is established under P141260 and as such would not conflict with policies NE2 – Green Belt of the Aberdeen Local Development Plan (ALDP) 2012. In addition, its upgrade would comply with the requirements of policies NE1 – Green Space Network and NE9 – Access and Informal Recreation. Its siting and finish would preserve the character of the surrounding Pitfodels Conservation Area, in line with Scottish Planning Policy and policy D5 – Built Heritage of the ALDP 2012. Sufficient surface water drainage is proposed that satisfies the requirements of policy NE6 – Flooding and Drainage.

Insofar as they are relevant, the proposals accord with policies contained within the Proposed ALDP 2015.

CONDITIONS

1. That within two months of the date of this decision notice, the rest areas and drainage measures as detailed in drawing number 104591/0006 Rev D hereby approved (or such other drawing subsequently approved by the Council) shall be implemented and completed. Thereafter these measures shall be retained for the lifetime of the development – in order to ensure the path provides sufficient drainage and accessibility in line with the details submitted with the retrospective application.
2. That within 2 months of the date of decision a further detailed scheme of landscaping for the site and adjacent areas, which scheme includes indications of all existing trees and landscaped areas on the land, and details of any to be retained, together with measures for their protection in the course of development, and the proposed areas of planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting - in the interests of the amenity of the area.
3. That all planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development (including the measures detailed in condition 1) and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority - in the interests of the amenity of the area.