

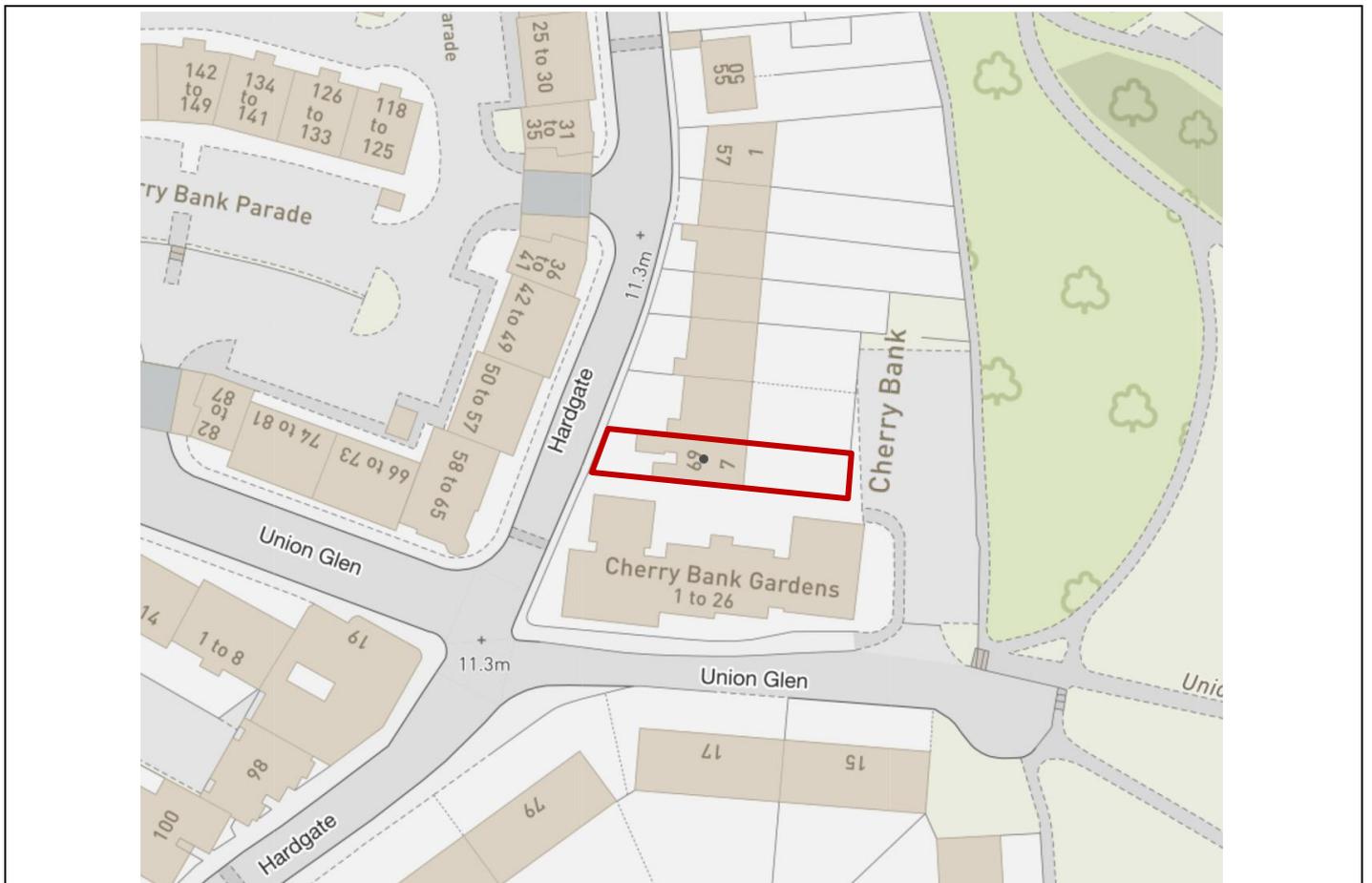


# Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 25 August 2022

Site Address:	Ground Floor Flat, 69 Hardgate, Aberdeen, AB11 6UX
Application Description:	Erection of fence, decking and gate to front (retrospective)
Application Ref:	220622/DPP
Application Type	Detailed Planning Permission
Application Date:	17 May 2022
Applicant:	Ms Susan Anderson
Ward:	Torry/Ferryhill
Community Council:	City Centre
Case Officer:	Ross McMahon



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## **RECOMMENDATION**

Refuse

## **APPLICATION BACKGROUND**

### **Site Description**

The application site comprises a ground floor flat forming part of a traditional end-terraced flatted block, of slate and granite construction, located to the east of Hardgate to the north of its junction with Union Glen. The application site is located within the Bon-Accord Crescent/Crown Street Conservation Area.

### **Relevant Planning History**

None relevant.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Detailed planning permission is retrospectively sought for the installation of an area of raised decking and an associated fence/boundary enclosure. Located within the front garden of the flatted block, the decking and its enclosure sit adjacent to the front window of the associated ground floor property and measures c.5m in width, projecting c.4.4m from the principal elevation of the block. The decking is raised c.150mm above ground level and is surrounded by a timber fence on all sides measuring between 1.8m and 2m from ground level, and nine c.2.2m high 100x100mm timber posts located to the perimeter of the decking area. A timber gate is located adjacent to the communal footpath and principal entrance serving all three properties within the block. A new 1.8m high, 900mm wide timber gate has also been installed to the eastern boundary of the site.

### **Amendments**

The description of the development has been updated to reflect the fact that the works have been carried out to the 'front' of the property rather than the 'rear'.

### **Supporting Documents**

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

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RC00WYBZFU00>

### **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee because it has attracted six or more representations that express concern with the proposal. Consequently, the proposal falls out with the Scheme of Delegation.

## **CONSULTATIONS**

**City Centre Community Council** – No response received.

## **REPRESENTATIONS**

A total of thirteen letters of representation have been received, all of which express concern with the proposal. Representations are summarised as follows:

- *The development location has been undertaken to the front of the property rather than the rear, as described by the applicant.*
- *The erected structure is an eyesore and negatively impacts the conservation area.*
- *The design and materials specification are not in keeping with the surrounding area.*
- *Devalues adjacent property.*

- *Affects building home insurance policy.*
- *Flooding concerns.*
- *Fire hazard.*
- *Overdevelopment of land under the ownership of the applicant.*
- *Use of the development may attract rodents.*
- *The development will overshadow adjacent garden ground.*
- *Loss of light to adjacent property windows.*
- *Loss of a view.*
- *The replacement gate far taller than existing and not in keeping with the established fence/gate height.*
- *The agent is not an architect and therefore not necessarily aware of conservation area rules.*
- *Upper floor windows are no longer able to be cleaned due to deck.*
- *Approval of the development would set an undesirable precedent.*

## **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.

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.

### **Development Plan**

#### Strategic Development Plan

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.

#### Local Development Plan

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 5 years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 has been submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, 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".

### **National Planning Policy and Guidance**

- Scottish Planning Policy (SPP)
- Historic Environment Policy for Scotland (HEPS)

## **Aberdeen Local Development Plan 2017 (ALDP)**

- Policy H1 (Residential Areas)
- Policy D1 (Quality Placemaking by Design)
- Policy D4 (Historic Environment)

## **Supplementary Guidance (SG)**

- Householder Development Guide SG

## **Other Material Considerations**

- Bon-Accord Crescent/Crown Street Conservation Area Character Appraisal (CACA)

## **Proposed Aberdeen Local Development Plan 2020**

The Proposed Aberdeen Local Development Plan (PALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the PALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The PALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The ALDP will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on whether –

- such matters have or have not received representations as a result of the period of representations in public for the PALDP;
- the level of representations received in relation to relevant components of the PALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case-by-case basis. The following policies of the PALDP are of relevance in the assessment of this planning application:

- Policy H1 (Residential Areas)
- Policy D1 (Quality Placemaking)
- Policy D2 (Amenity)
- Policy D6 (Historic Environment)

## **EVALUATION**

### **Principle of Development**

The ALDP 'proposals map' identifies the entirety of the site being located within a 'residential area'. Policy H1 (Residential Areas) applies to development within such areas, and states that a proposal for householder development will be approved in principle if it:

1. does not constitute overdevelopment;
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 SG.

There would be no loss of open space given the nature and type of development proposed, in that the proposal relates to the curtilage of a private flat, or within communal areas, wholly located within the building's established curtilage. The area of the proposed deck does not cover more than half of the open front garden area. As such, and with regard to proviso 1, the proposal would not amount to overdevelopment of the site. Therefore, in terms of establishing the acceptability of

the principle of the proposal in the context of Policy H1, provisos 2 and 4, as set out above, are applicable. Where appropriate, such matters are discussed in the context of the Council's Householder Development Guide SG (hereafter referred to as 'SG'), below.

### **Design & Amenity**

Policy D1 (Quality Placemaking by Design) states that all development must ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials. 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.

Proviso 2 of Policy H1 (Residential Areas) states that householder development will be approved in principle if it does not have an unacceptable impact on the character and amenity of the surrounding area. Additionally, the Council's SG, in discussing boundary enclosures specifically, states that, in all instances, the scale and form should be appropriate to their context and should not detract from the street scene as a result of inappropriate visual impact.

Policy D4 (Historic Environment) states that the Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, HEPS and its own Supplementary Guidance and Conservation Area Character Appraisals and Management Plan. High quality design that respects the character, appearance and setting of the historic environment and protects the special architectural or historic interest of its listed buildings, conservation areas and historic gardens and designed landscapes, will be supported.

HEPS (p. 13) in its policies for managing the historic environment, states that decisions affecting the historic environment should be informed by an inclusive understanding of its breadth and cultural significance; when considering changes to specific assets and their context, detrimental impacts should be avoided.

The implemented deck, associated boundary enclosure and gate has an unacceptable impact on the character and amenity of the surrounding area, which, in this location, is characterised by open aspect gardens with a high degree of exposure to surrounding streets. The works, in principle, are not supported on the basis of their location i.e. adjacent to the principal elevation of a traditional property and further the design, layout, height, size and composition of the works are wholly out of character with the associated traditional tenement and the remainder of the street and its defining characteristics. The works have a significant detrimental impact on visual amenity in a prominent and public location resulting in an imposing, defensive and interruptive structure in an otherwise open environment. If approved, the application would establish a precedent that would be difficult to resist elsewhere in the immediate vicinity and surrounding areas. The proposed front gate, owing to its height relative to surrounding boundary treatments/enclosures which sit at a lower height, is, for the reasons set out above, also considered to result in a detrimental impact on the visual amenity of the wider area.

In light of the above, the implemented works fail to comply with Policy D1 (Quality Placemaking by Design), proviso 2 and 4 of Policy H1 (Residential Areas) and the Council's Householder Development Guide SG, in that they result in an adverse impact on the character and visual amenity of the surrounding area. The proposal would cause significant harm to the Bon-Accord Crescent/Crown Street Conservation Area and therefore would neither preserve or enhance it in line with legislative requirements, Scottish Planning Policy, Historic Environment Policy for Scotland and therefore Policy D4 (Historic Environment) of the Aberdeen Local Development Plan 2017.

### **Residential Amenity**

In respect of residential amenity, the Council's SG states that boundary enclosures will not be

permitted where they would result in an unacceptable impact upon the amenity of neighbouring dwellings.

In terms of daylight and sunlight, respective calculations, namely the 45-degree rule, as set out in Appendix 2 of the Council's SG, demonstrate that the height and position the erected fence relative to adjacent property, including habitable room windows and private garden areas, is such that there would be no significant adverse impact. Accordingly, it is considered that the proposal complies with the Council's SG in respect of ensuring that residential amenity is suitably maintained.

### **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, apart from Policy D2, which is a new policy aimed at protecting residential amenity. However, it is considered that this aspect has been sufficiently assessed by current policies. Given the above assessment it is considered that the proposal is unacceptable in terms of both Plans.

### **Matters Raised in Representations**

Regarding the matters raised via representations, those matters pertaining to precedent, visual impact and residential amenity have been addressed above. The size, scale and nature of the development is such that it is unlikely to exacerbate localised flooding conditions to a degree that would cause concern in planning terms. Matters relating to devaluation of property, property insurance, fire hazards, loss of a view etc. are not a material planning consideration and as such has not been taken into account in the assessment of this application.

### **RECOMMENDATION**

Refuse

### **REASON FOR RECOMMENDATION**

The implemented deck, associated enclosure and front entrance gate fail to comply with the relevant policies of the Aberdeen Local Development Plan, namely Policy H1 (Residential Areas) Policy D1 (Quality Placemaking by Design) in addition to the Council's Supplementary Guidance 'Householder Development Guide'. The works, owing to their public location and visibility, coupled with the design, size, scale and material finish, are wholly out of character with the prevailing characteristics of the immediate and wider area and in turn result in a significant detrimental impact upon visual amenity. The works cause significant harm to the Bon-Accord Crescent/Crown Street Conservation Area in this location and therefore would neither preserve or enhance it in line with legislative requirements, Scottish Planning Policy, Historic Environment Policy for Scotland and therefore Policy D4 (Historic Environment) of the Aberdeen Local Development Plan 2017. The proposal also fails to satisfy the relevant policies of the Proposed Aberdeen Local Development Plan 2020. On the basis of the above, it is considered that there are no material planning considerations of sufficient weight that warrant approval of the application.