

PLANNING APPLICATION DETERMINED BY DIRECTOR OF DEVELOPMENT SERVICES UNDER DELEGATED POWERS – REPORT OF HANDLING

PROPOSAL : Change of Use from Public Open Space to Private Garden Ground and Erection of 1.8 m Boundary Fence (Retrospective)

LOCATION : 28 Cedar Road Banknock Bonnybridge FK4 1JQ

APPLICANT : Mr John Curson

APPN. NO. : P/09/0635/FUL

REGISTRATION DATE : 8 September 2009

1. SITE LOCATION / DESCRIPTION OF PROPOSAL

The application is for the change of use of public open space to private garden ground and enclosure of this area with 1.8 metre high timber fencing. The applicant has advised that this area would be used for the growing of vegetables. The fence contains a double gate opposite an existing vehicular crossing. The applicant has indicated that this would be used from time to time by delivery vehicles e.g. for the delivery of mulch.

The application site comprises part of an area of amenity open space located at the corner of Wellpark Road and Hazel Road, Banknock. The site is laid in grass and is characteristic of open space areas which are integral to the planned layout of the area. The application is retrospective and the application site has been enclosed by timber fencing. The area is residential in nature.

2. SITE HISTORY

There is no planning history for the land subject to this application.

The area has a history of planning permission being granted or refused for changes of use of public open space to private garden ground. Factors influencing the decision to grant or refuse have included the scale and nature of the proposal and the individual merits of the case.

3. CONSULTATIONS

The following responses to consultation were received:

Roads Development Unit	No objections.
------------------------	----------------

The local Community Council did not request a formal consultation.

4. PUBLIC REPRESENTATION

In the course of the application, 9 contributor(s) submitted letter(s) to the Council. The salient issues are summarised below.

- detriment to visual amenity and outlook
- the fence has already been erected
- the fence is higher than 1.8 metres
- the existing trees were originally on common ground before the garden was extended and fenced into the applicant's property
- detriment to privacy
- the land has been well maintained by the Council
- loss of accessible and safe children's play space
- contrary to Council's planning policies seeking to avoid the loss of public open space
- setting of undesirable precedent for the area and cumulative loss of amenity space

- a double gate has been installed in the fence opposite an existing dropped kerb
- use of the gate for access would disrupt residents parking
- the applicant has not made any contact with affected neighbours
- the land is intended to be used for other purposes
- the land is not owned by the applicant
- local residents have joint responsibility for this land under title deeds
- impediment to access to maintain existing fences

5. THE DEVELOPMENT PLAN

The proposed development was assessed against the undernoted Development Plan(s) :

Falkirk Council Structure Plan.

Bonnybridge and Banknock Local Plan

There are no relevant policies of the Development Plan.

5A. MATERIAL CONSIDERATIONS

The following matters were considered to be material in the consideration of the application:

Falkirk Council Local Plan Finalised Draft (Deposit Version)

Responses to Consultation

Assessment of Public Representations

6. PLANNING ASSESSMENT

The Development Plan

There are no relevant policies within the Development Plan.

Falkirk Council Local Plan Finalised Draft (Deposit Version).

Policies EQ3 (Townscape Design) and SC12 (Urban Open Space) are relevant to this proposal. Policy EQ3 requires new development to contribute positively to the quality of the built environment. Policy SC12 seeks to protect all existing urban open space. Under this policy, the loss of urban open space will only be permitted in limited circumstances. These circumstances include where there would be no adverse impact on the character and appearance of the area, particularly through the loss of amenity space planned as an integral part of a development.

In this instance, the development extends an existing fence to enclose over half of an open, maintained grass area forming part of the planned amenity open space for the area. This area is considered to contribute to the amenity of the area. The fence enclosing the open space replicates the style and height of the existing fence, a condition of any grant of planning permission could require it to be painted to match the existing, the open space at the street corner is retained and fence lines abutting the footpath are characteristic of the area. Balanced against this, the fence encloses over half of the open space to a height of 1.8 metres and so is considered to materially reduce its open character. On balance, by virtue of its scale and nature, the development is considered to adversely affect the character and appearance of the area.

The land in question is not considered to be recreational open space or have any significant ecological value, and its loss would not threaten any public access route. The other aspects of Policy SC12 are therefore considered to be complied with.

Responses to Consultation

No adverse comments have been raised in consultation responses.

Assessment of Public Representations

The following comments are considered to be relevant to the concerns raised in representations:

- the impact of the development on the character and appearance of the area has been assessed in this report.
- the applicant has advised that the existing rear fence (placing the trees within his property) was at its current location when he purchased the property 10 years ago.
- it is not considered that the development would materially impact on privacy.
- the open space is intended for amenity rather than recreational purposes.
- applications for changes of use of public open spaces to private garden ground are assessed on their individual merits.
- use of the double gate for access, via an existing vehicular crossing, would have a minor impact on available street parking.
- the applicant has advised that the land would be used for vegetable growing.
- any person may make a planning application which involves land owned by another party. As required by planning procedure, the applicant has notified the owner of the application site.
- issues in relation to common ownership interest or access for maintenance are not material planning considerations.

7. CONCLUSION

There are no policies of the Development Plan of relevance to this application. Accordingly the emerging local plan is considered to assume significant weight. The development has been assessed in this report as contrary to Policy SC12 of the emerging local plan due to it adversely affecting the character and appearance of the area. Concerns in relation to visual impact and loss of open space have been raised in objections to the application. The desire for the applicant to use the land for the growing of vegetables is not considered to outweigh the adverse impacts of the development. Accordingly the application is recommended for refusal.

8. RECOMMENDATION

Refuse Planning Permission

Reason(s):

1. The application does not accord with Policy SC12 of the Falkirk Council Local Plan Finalised Draft (Deposit Version) as the loss of the application site as amenity open space and its enclosure by 1.8 metre high fencing is considered to adversely affect the character and appearance of the area to an unacceptable extent.


Director of Development Services

4.11.09
Date

Contact Officer : Brent Vivian
(Senior Planning Officer) 01324 504935