

REPORT TO: Planning Committee

MEETING DATE: Tuesday 1 September 2015

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: I feel the fence being forward of the front building line is outwith the norm for this estate.

Application No. **15/00290/P**

Proposal Change of use of public open space to domestic garden ground and erection of fencing

Location **7 Green Apron Park
North Berwick
East Lothian
EH39 4RE**

Applicant Mrs Helen Carlyle

Per Ian and Cathleen Duff

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The property to which this application relates is a single storey detached house, with accommodation in its roof space, and its garden located within North Berwick in a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

The property is bounded to the north by a large area of public open space, to the east by a small area of public open space beyond which there is an existing footpath, to the south by the public road of Green Apron Park and to the west by a neighbouring residential property.

Planning permission is sought for a change of use of part of an area of public open space to the east side of the residential property of 7 Green Apron Park, to be incorporated as additional garden ground for that house, and for the erection of a 1.8 metres high gap and board timber fence that would enclose the area of land the subject of the proposed change of use.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies C5 (Change of Use of Public Open Space to Garden Ground) and DP2 (Design) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Six written objections to the application have been received. They are made on the grounds that:

(i) the 1.8 metres high fence will detract from the open community space to the park area. The existing pathway will be an unsightly 38 metres by 1 metre "tunnel" and could be perceived to be dangerous;

(ii) if approved this proposal will set a precedence for others to extend their gardens outwith their original plots reducing the amenity ground and changing the whole layout of the estate. It would also allow the applicant to consider building an extension on this land. These areas provide a safe environment for children playing and contribute to the open aspect of the area;

(iii) the area of land the subject of the proposed change of use is an integral part of the community amenity space of Green Apron Park which will deprive the rest of the community if fenced off;

(iv) the front gardens of Green Apron Park are open aspect and no high fences are allowed to the front. The proposal to erect a perimeter fence would adversely affect the visual appearance of the estate;

(v) there are currently trees on the area which should be safeguarded;

(vi) the proposed fence would narrow the sight line for women walking alone on the existing pathway presenting a potential risk to them;

(vii) a large section of land with picturesque views has already been lost to Walker Homes (Mains Farm) on the field opposite the entrance to Green Apron Park;

(viii) the reason for buying a house in this estate was based on the fact that there were natural and green areas which were pleasing to the eye. The proposed fence would spoil this and deprive views;

(ix) the Title Deeds indicate that this area is a play area.

Non-compliance with conditions set out in title deeds is a legal matter and not a material planning consideration in the determination of an application for planning permission.

A loss of a view is not a material planning consideration in the determination of an application for planning permission.

One of the objectors refers to a previous decision by the Council to grant planning permission for the erection of a residential development comprising of some 420 houses

on land at Mains Farm, North Berwick. That application, as granted, was determined on its own merits. It does not prejudice a determination on this application which must also stand to be determined on its own merits.

The submitted application drawings indicate that there are three existing trees on the area of land the subject of the proposed change of use. Those existing trees are annotated on the drawings to be 'kept and unchanged'.

Approval of this application would not set an undesirable precedent for similar proposals to be made elsewhere. Any future application seeking planning permission for the change of use of open space to domestic garden ground with or without the erection of fencing would be assessed on its individual merits. Any future development within the area of land the subject of the proposed change of use would also be assessed on its individual merits.

North Berwick Community Council confirm that as the path to the side door of the house of 7 Green Apron Park is very restricted they support this application.

Policy C5 states that a change of use of public open space to garden ground will be supported where it would not result in unacceptable loss of visual or recreational amenity or harm the integrity of a landscaping scheme, or set a precedent which if followed would do so.

The area of land that is the subject of the proposed change of use measures some 118 square metres and is rectangular in shape. A similar sized area of planted public open space land would remain to the east of it, between the proposed timber fence and the public footpath. The taking of part of this ground into garden ground in a position immediately to the east side of the applicant's house would not harmfully compromise the integrity or harm the character, appearance and amenity of the overall layout and provision of the public open space of the housing development of which the applicant's house and garden are a part. Whilst the area between the proposed fence and the footpath would be less than before, there would still be a reasonable distance remaining such that the pedestrian's perception of the path would remain as a pathway adjacent to open space and not a 'tunnel'. Nor would a pedestrian's perception of the visual openness of the path and planted space beside it be unduly diminished. There would still be a visual perception of path and open space leading to the larger open space and in this the proposals would not be harmful to the visual amenity of the area. It would not set a precedent for other changes of use to garden ground of other areas of open space within the housing development that might otherwise result in an unacceptable loss of visual or recreational amenity or be harmful to the integrity of the landscaping of the housing development.

Accordingly, the proposed change of use is consistent with Policy C5 of the adopted East Lothian Local Plan 2008.

The use of the land as garden ground for the applicant's house would not be harmful to the residential character and amenity of the area and would not be harmful to the privacy and amenity of neighbouring residential properties.

The Council's Principal Amenity Officer confirms that this proposal will not have an adverse effect on the amenity of the area or maintenance of adjacent areas. He therefore raises no objection to the proposed change of use.

Although it would be visible from the public road of Green Apron Park to the south, the proposed 1.8 metres high gap and board timber fence that would be erected inside the boundaries of the land the subject of the proposed change of use would not, in its relationship with the built form of the applicant's house and garage and the existing 1.8

metres high fence enclosing the rear garden of the neighbouring house of 17 Green Apron Park to the east, appear harmfully incongruous or intrusive in its setting. The streetscape to Green Apron Park is of set back house with large, flat roofed garages to the front of them. The fence would therefore be seen in relationship to the house and its garage and that streetscape. Viewed against the greater height and massing of the garage and house it would not be harmful to the character, appearance and amenity of the area. It would not compromise the integrity or harm the character and appearance of the overall layout of the housing development of which the applicant's property is a part.

The proposed fencing is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and with Policy DP2 of the adopted East Lothian Local Plan 2008.

The Council's Road Services raise no objection to this planning application.

CONDITION:

1 None