

Perth and Kinross Council
Development Control Committee – 08 September 2010
Report of Handling by Development Quality Manager

Change of Use from Common Ground to Garden Ground
15 Finlay Terrace, Pitlochry PH16 5EU

Ref. No: 10/01105/FLL

Ward No: 04 Highland

Summary

This report recommends approval of the application for the change of use of common ground to garden ground as the development is considered to comply with the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The application site consists of an area of land used as public open space, located to the east of 15 Finlay Terrace, Pitlochry. The proposal description refers to the land as common ground; however, it is Council 'open ground' as confirmed by PKC Property Division and is not tied to any Common Good Fund. The site comprises a small grassed area which forms part of a larger network of landscaped open space provision that serves the established residential estates situated to the east of Pitlochry town centre.
- 2 Consent is sought in this instance to change the use of this section of the public open space, to provide additional amenity space of the adjoining dwellinghouse, 15 Finlay Terrace.
- 3 The site area extends to approximately 38 metres square, and will essentially follow the present rear boundary line of the applicant's rear garden and be an extension of the garden to the east side. There are no boundary treatments enclosing the rear garden at present and no boundary treatments are proposed as part of this application.

NATIONAL POLICY AND GUIDANCE

The Scottish Planning Policy 2010

- 4 This SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
 - concise subject planning policies, including the implications for development planning and development management, and

- the Scottish Government's expectations of the intended outcomes of the planning system.

Of relevance to this application are

- paragraphs 149-150

- 5 However, whilst these paragraphs relate to open space, they are concerned more significantly over larger areas of open space e.g. playing fields.

DEVELOPMENT PLAN

- 6 The Development Plan for the area comprises the Approved Perth and Kinross Structure Plan 2003 and the Adopted Highland Area Local Plan 2000.

Perth and Kinross Structure Plan 2003

- 7 Due to the scale of the development there are no relevant Structure Plan policies.

Highland Area Local Plan 2000

- 8 The site lies within the defined settlement boundary of Pitlochry in an area identified for residential and compatible uses and the relevant policies are in summary:

Policy 2: Development Criteria

- 9 Identifies the criteria against which all development proposals will be judged and includes landscape setting, built form, land use, local transport network, services and energy efficiency.

10 Policy 39: Open Space Provision

Ensure the provision of appropriate areas of informal and formal recreational open space as an integral part of any new housing development.

Policy 76: Residential and Compatible Uses

- 11 Indicates that the existing residential amenity will be retained and where possible improved. Where sites become available for development, housing will be the most obvious alternative use. Small areas of private open space will be retained where they are of recreational or amenity value.

OTHER POLICIES

- 12 There are no other policies applicable to this application.

SITE HISTORY

- 13 Planning Application 05/00767/FUL was refused on 17 June 2005 for the erection of a 2 storey extension
- 14 Planning Application 07/00160/FUL was approved on 15 March 2007 for a revised 2 storey extension to this dwellinghouse.

CONSULTATIONS

- 15 **Scottish Water** – no objections – advisory note.

REPRESENTATIONS

- 16 No representations have been received in respect of this application.

17 ADDITIONAL STATEMENTS RECEIVED

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement or Design and Access Statement	Not required
Report on Impact or Potential Impact	None Submitted

APPRAISAL

Policy

- 18 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan in this instance comprises the Perth and Kinross Structure Plan 2003 and the Highland Area Local Plan 2000.
- 19 In terms of the Development Plan, the principal policies are contained in the adopted Highland Area Local Plan 2000. The key consideration of this application is ultimately whether or not the proposal accords with the requirements of Policies 2, 39 and 76.

Loss of Open Space

- 20 The application site is currently an area of grassed open space but has no formal designation in the Local Plan, in terms of serving as an active recreational area which should remain undeveloped in perpetuity. Proposals to change the use of the land therefore shall be judged on an individual case by case basis.

- 21 This is a relatively small parcel of land area being transferred, and is situated immediately adjacent to the existing dwelling. An adequate standard of open space provision will remain in the locality and I do not consider that the loss of this area will either undermine the overall integrity of the wider area of open space nor lead to other applications which would cumulatively have the same effect. Accordingly, I am of the opinion that the character of the overall area will be unaffected and there should be no noticeable impact on the visual or residential amenity of the surrounding area.

Infrastructure Requirements

- 22 There are no associated infrastructure implications in terms of traffic, drainage, flood risk or other servicing issues.

LEGAL AGREEMENTS

- 23 There is no planning requirement for any legal agreement to be entered into in respect of this application.

PLANNING AUTHORITY WITH AN INTEREST IN THE LAND

- 24 The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 advises on the procedure for notification of planning applications to the Scottish Ministers for developments in which planning authorities have an interest in. The Direction states that notification to the Ministers is only required where the proposal involves a significant departure from the authority's own Development Plan. Notification to the Ministers is not considered necessary in this instance as the proposals are not deemed to be a significant departure from the Development Plan.

DIRECTION BY SCOTTISH MINISTERS

- 25 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, Regulations 30–32, there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 26 The proposed change of use of the small area of ground is considered to be in full accordance with the Development Plan. The applicant's existing garden area is of limited size and can be satisfactorily extended without resulting in a negative impact to the surrounding environs. It is considered that the area of ground is small and does not form any real function in relation to the general amenity of the wider residential area. There are no material considerations which warrant departing from the approved Development Plan; therefore the recommendation is for approval.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The development shall be begun within a period of three years from the date of this consent.
- 2 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.

Reasons:

- 1 In accordance with the terms of Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland) Act 2006.
- 2 To ensure that the development is carried out in accordance with the plans approved.

B JUSTIFICATION

It is considered the proposal complies with the adopted Highland Area Local Plan 2000, in particular policies 2, 39 and 76. There are no material considerations that would justify refusing the application.

C PROCEDURAL NOTES

None

D INFORMATIVES

- 1 The applicant is advised that it is possible the proposed development may involve building over or obstruct access to existing Scottish Water infrastructure. On receipt of an application Scottish Water will provide advice that will require to be implemented by the developer to protect existing apparatus. Scottish Water can be contacted at Property Searches Department, Bullion House, Dundee DD2 5BB.
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

Background Papers: None
Contact Officer: Gillian Peebles– Ext 75330
Date: 6 August 2010

Nick Brian
Development Quality Manager

Perth & Kinross Council

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↑ Scale
1:2500

