

	Delegated Report	Reference no.	P/19/1545
		Date	05 December 2019

Planning proposal: Change of use of open space to form additional garden ground and erection of boundary fence

Location: 2 Howacre
Lanark
ML11 7PL

Application Type : Detailed planning application

Applicant : Mr Colin Christison

Location : 2 Howacre
Lanark
ML11 7PL

Decision: Application refused

Report by: Area Manager (Planning & Building Standards)

Policy reference:

South Lanarkshire Local Development Plan

Policy 4: Development Management and Placemaking
Policy 6: General urban area/settlements

Supplementary Guidance 3: Development Management, Placemaking and Design

Policy DM13: Development within general urban area/settlement

Proposed South Lanarkshire Local Development Plan P2

Policy 3: General Urban Areas and Settlements
Policy 5: Development Management and Placemaking

Assessment

Impact on privacy?	No
Impact on sunlight/daylight?	No
Impact on amenity?	No
Traffic issues?	No
Adheres to development plan policy?	Yes
Adverse comments from consultees?	No

Consultations

None

Summary of response

N/A

Representation(s):

▶	11	Objection letters
▶	0	Support letters
▶	0	Comment letters

Planning Application Delegated Report

1 Application site

- 1.1 This application relates to a 77 square metres area of established open space situated on the corner north of Howacre/ Mousebank Road junction, Lanark. The application site is located within a residential area lying to the north of the town centre.

2 Proposal

- 2.1 The proposal involves the change of use of part of the open space to form additional garden ground to a dwelling at 2 Howacre, Lanark. It also involves the removal of the existing boundary fence and the erection of a new boundary fence to define the remaining open space, along with the removal of a mature tree situated close to the western edge of the existing amenity open space. The application site, which is rectangular in shape, measures 2.9m in width by 27m in length and covers 77 square metres in area, representing 20% of the total open space area (391 square metres).

3 Background

3.1 Local Development Plan

- 3.1.1 The application site is identified as being within the residential area in the South Lanarkshire Local Development Plan. Policy 6 – General Urban area/settlements of the South Lanarkshire Local Development Plan seeks to safeguard the character and amenity of urban areas and small settlements and resist any developments detrimental to the amenity of such areas. Other relevant policies include: Policy 4: Development Management and Place Making which states that development proposals should have no significant adverse on the local community. Policy DM13 – Development within general urban area/settlement of Supplementary Guidance 3: Development Management Place Making and Design is also relevant.
- 3.1.2 Other material considerations include Policy 3 – General Urban Areas and Settlements and Policy 5 – Development management and placemaking of the approved Proposed South Lanarkshire Local Development Plan 2.

3.32 Planning History

- 3.2.1 The application site constitutes part of a designated area of open space which was laid out as part of the original development of the area. The original application for the residential development (application number P/LK/78/200 granted consent on 09 July 1978) designated the site as open space. However, in 1981 permission was granted for the erection of what is now the applicant's dwellinghouse and garage on part of that open space (application no: P/LK/80/143 granted on 01 April 1981). The remaining,(current)

area of open space was the subject of a Minute of Agreement dated 10 September 1981 whereby the then applicant transferred ownership on to the former Clydesdale District Council to maintain as public open space.

3.2.2 A previous application for relating to a slightly larger area (5m by 27m) was lodged in May 2019 but withdrawn in October.

4 Representation(s)

4.1 Following the carrying out of statutory neighbour notification eleven letters of objections have been received. The grounds of objections are summarised below:

- a) **Concerns that the proposal would lead to a substantial reduction in the open recreational land to which the public presently has free access with a consequent reduction in the amenity value of the public open space to the community.**

Response: It is considered that the proposal as in 2.1 above is such that it would reduce the area of the existing open space at Howacre by 77 square metres (20%). This in relative terms would reduce the area of amenity space available for recreational use and potentially reduce the amenity value of the current public open space to the local community without any justification.

- b) **Concerns that the proposed removal of a mature tree on the site would be contrary to the Scottish Government's intentions to create a greener and healthier Scotland by 2032.**

Response: The applicant has provided no justification for the proposed removal of an established healthy and mature tree which would form part of the additional garden ground if planning permission is granted.

- c) **Concerns that the proposed boundary treatment which includes an area of planting along the eastern boundary of the application site on the applicant's side of the fencing would leave a totally inappropriate boundary treatment facing the remaining amenity land.**

Response: The proposed boundary treatment along the eastern boundary of the site as it stands is inadequate. The applicant would have to amend the plans to ensure that planting along the eastern boundary of the application site should be similar to the existing boundary fence/hedge defining the public open space from the applicant's property.

- d) **Concerns that the public open space at Howacre is used by dog walkers and forms a vital outdoor space for children to play therefore it would not be in the public interest to reduce the size of the open space as proposed.**

Response: Although the current level of usage of the public open space is not quantified, the proposal would lead to a reduction on the physical size of the public open space currently used by the dog walkers and children without any relevant justification.

- e) **Concerns that the reason for the application is not for the creation of additional garden ground but to create an opportunity for potential improvements including an extension to the applicant's property.**

Response: All Applications are considered and determined on the merits of their submissions. The intended use of the proposed garden extension is not relevant to the assessment of this application.

- f) **Concerns that the proposal is contrary to the policies and proposals contained in the Local Development Plan.**

Response: The proposal would be contrary to the policy provision contained in the Council's adopted Local Development Plan which seek to prevent the loss of valued public open space and local landscape to any development.

- g) **Concerns that the proposal would lead to a loss of privacy of the property opposite the open space on Mousebank Road, assuming that a stob and wire fence would be erected as a boundary to the extended land then the living room window will be directly adjacent to the end of the garden.**

Response: There would be no loss of privacy as the proposal is such that there would be a hedge erected as part of the boundary fence to the same height as the existing boundary fence/hedge if planning permission is granted.

- h) **Concerns that the proposal does not accord with National Policy Advice and Guidance where there is a requirement to consider the environmental impact of any application for development/change of use and a requirement on the local authority to ensure that the proposal does not impact adversely on the sustainability of the environment and the wellbeing of the local population.**

Response: The National Policy Advice and Guidance mainly focuses on major new developments geared towards achieving development that would not adversely impact on the sustainability of the environment and the wellbeing of the population. However, there is no National Policy Advice and Guidance on established amenity open spaces within general urban/settlement area of the size/nature such as this.

5 Assessment and Conclusions

- 5.1 The applicant seeks planning permission for a change of use of part of an established area of public open space to form additional garden ground and the erection of a boundary fence on the site, located within a residential area at 2 Howacre, Lanark. The determining issues in the consideration of this application are its compliance with adopted local development plan policy and associated supplementary guidance, the impact on both the residential and visual amenity of the surrounding area, relevant government advice and policy and other material consideration in the determination of the application.

- 5.2 The application site lies within the residential area and is subject to assessment against Policy 6 – General Urban area/settlements of the adopted South Lanarkshire Local Development Plan. The policy seeks to safeguard the character and amenity of urban areas and small settlements and resist any developments detrimental to the amenity of such areas.

Policy 4 – Development management and placemaking states that developments proposal should have no significant adverse impacts on the local community.

Policy DM13 – Development within general urban area/settlement as contained in the Development Management Place Making and Design Supplementary Guidance states that proposals must meet the following criterion:

- There must be no resultant loss of, or damage to, open or play spaces, trees, bushes or hedgerows which make a significant contribution to the character or amenity of the area.

Policy 3 – General Urban Areas and Settlements of the approved Proposed South Lanarkshire Local Development Plan 2 states that developments which would be detrimental to the amenity of residents and the wider community or the character of the surrounding area will not be permitted. Policy 5 – Development management and placemaking states that proposals should have no significant adverse impacts on the local community and environment.

- 5.3 The proposal seeks consent for the change of use of part of an established amenity open space to form additional garden ground and the erection of a boundary fence to a dwelling at 2 Howacre, Lanark. The proposal would lead to the loss of 77 square metres or 20% of one of a limited number of public open space areas. I therefore consider that the proposal would lead to a relatively significant reduction in the physical size of the existing valued amenity area which currently makes a significant contribution to the character and amenity of the surrounding area and is obviously highly valued by local residents, as borne out by the strength of local objection.
- 5.4 In view of the above I conclude that the proposal does not comply with the policy provision and criterion contained within either Policy 6, Policy 4 of the adopted South Lanarkshire Local Development Plan or Policy DM 13 of the Development Management Placemaking and Design Supplementary Guidance. Furthermore, the proposal does not accord with Policy 3 – General Urban Areas and Settlements and Policy 5 – Development management and placemaking of the approved Proposed South Lanarkshire Local Development Plan 2.
- 5.5 Given the relative low provision of public open space in the surrounding area, if a proposal such as this is granted planning permission without justification then it would set a precedent and make it difficult to resist future applications of a similar nature in general.
- 5.6 Based on the above, I consider that the proposed development would be detrimental to the amenity of residents and to the character of the surrounding area and therefore recommend that planning permission be refused.

6 Reason for decision

- 6.1 The proposed development does not comply with the requirements of Policies 4 and 6 of the South Lanarkshire Local Development Plan (2015) and in particular Policy DM 13 of Supplementary Guidance 3: Development Management Placemaking and Design. Furthermore, it does not accord with policies 3 and 5 of the approved Proposed South Lanarkshire Local Development Plan 2.
- 6.2 It is recommended that planning permission should be refused.

Delegating officer: Lynda Dickson

Date: 19/12/19

Previous references

- ◆ None

List of background papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated

- ▶ Consultations

▶ Representations

Mr And Mrs Douglas Boag, 22 Starkhill, Lanark, ML11 7PW, ,	Dated: 07.11.2019
Ross Coulter, 19 Mousebank Road,, Lanark,, ML11 7PE, ,	Dated: 31.10.2019
Mr James Quinn, 17 Howacre, Lanark, South Lanarkshire, ML11 7PL,	Dated: 04.11.2019
Mrs Joan Scott, 23 Mousebank Road, Lanark, ML11 7PE, ,	Dated: 25.10.2019
Mr John Watson, 22 Mousebank Road, Lanark, South Lanarkshire, ML11 7PE,	Dated: 05.11.2019
Alan J Prentice, 18 Mousebank Road, Lanark, South Lanarkshire, ML11 7PE,	Dated: 06.11.2019
Mrs Joan Scott, 23 Mousebank Road, Lanark, South Lanarkshire, ML11 7PE,	Dated: 24.10.2019 24.10.2019
David And Kerstin Herriott, 4 Howacre, Lanark, South Lanarkshire, ML11 7PL,	Dated: 01.11.2019
Mr Phil Manners, 27 Mousebank Road, Lanark, South Lanarkshire, ML11 7PE,	Dated: 18.10.2019
Mr Charlie McHenry, 29 Mousebank Road, Lanark, South Lanarkshire, ML11 7PE,	Dated: 25.10.2019
F.H Joynes, , , , ,	Dated: 01.11.2019
Gerard O'Hanlon, 6 Howacre, Lanark, South Lanarkshire, ML11 7PL,	Dated: 06.11.2019

Contact for further information

If you would like to inspect the background papers or want further information, please contact:-

Jerry Gigya, Planning officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB
 Phone: 01698 455180
 Email: jerry.gigya@southlanarkshire.gov.uk

Planning Application

Application number: P/19/1545

Reasons for refusal

01. The proposal is contrary to Policies: 4 and 6 of the South Lanarkshire Local Development Plan in that it will not safeguard the character and enhance the amenity enjoyed by the residents of the local area.
02. The proposal is contrary to Policy DM 13 of the South Lanarkshire Local Development Plan in that it would result in the loss of or damage to valued public open space and local landscape which makes a significant contribution to the character and amenity of the area.
03. If approved, the proposal would set an undesirable precedent which could encourage further similar applications for developments prejudicial to priority green space designations.

Reason(s) for decision

The proposed development does not comply with the requirements of Policies 4 and 6 of the South Lanarkshire Local Development Plan (2015) and in particular Policy DM 13 of Supplementary Guidance 3: Development Management Placemaking and Design. Furthermore, it does not accord with policies 3 and 5 of the approved Proposed South Lanarkshire Local Development Plan 2.

Informatives

01. This decision relates to drawing numbers:

Reference	Version No:	Plan Status
AR190729PL)001	REV A	Approved