

Report

Report to:	Planning Committee
Date of Meeting:	29 March 2022
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	P/21/0638
Planning proposal:	Change of use of communal open space to garden ground.

1. Summary application information

Application type:	Detailed planning application
Applicant:	Mr Douglas Szafranek
Location:	Land Adjacent To 17-1 Hunthill Road Blantyre G72 9SS

2. Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant detailed planning permission (subject to conditions) based on conditions attached

2.2 Other actions/notes

- (1) The Planning Committee has delegated powers to determine this application.
- (2) A report was presented to Planning Committee on 16 November 2021 and it was decided to defer a decision because a shed business was operating from the applicant's house without planning consent. The committee were not prepared to sanction any consent whilst unauthorised activity was occurring at the house. The Council's Planning Enforcement Team served a Planning Contravention Notice in December 2021 stating that the unauthorised business required to cease by 31st January or formal Enforcement Action would be taken. The company's website states they are now operating from Blantyre Industrial Estate. The Enforcement team have subsequently visited the site and are content that the business use is no longer operating from this property. As such the Enforcement case has been closed.

3. Other information

- ◆ Applicant's Agent: Ronald Gellan
- ◆ Council Area/Ward: 15 Blantyre

- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan 2021 (SLLDP2):**
 - Policy 2: Climate change
 - Policy 3 General Urban Areas
 - Policy 5 Development Management and Placemaking

- ◆ **Representation(s):**

▶	22	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

- ◆ **Consultation(s):**

Blantyre Community Council

Roads Development Management Team

Estates Services - Housing and Technical Resources

Planning Application Report

1. Application Site

- 1.1 The application site relates to a small part (approximately 62 square metres) of an area of open space (approximately 193 square metres) which is sandwiched between the boundary of the applicant's detached dwellinghouse at 17-1 Hunthill Road and 1 Afton Gardens, Blantyre. The site is in relatively close proximity to the junction of Afton Gardens and Hunthill Road. Vehicular access to the applicant's property is currently from Hunthill Road.
- 1.2 The site is currently owned by the Council and the applicant has exchanged correspondence with the Council with a view to purchasing the site. The remaining uses surrounding the site are residential in character. There is some shrubbery located on the area of open space which would require to be removed should the proposal be implemented. Adjacent to the site there is a larger area of open space which is partly landscaped and provides a pleasant setting at the entrance into Afton Gardens.

2. Proposal(s)

- 2.1 The applicant seeks planning consent for the change of use of part of the open space to garden ground.
- 2.2 The applicant's agent has submitted an email in which the applicant advises that his intention for the site is to create a larger garden which could perhaps accommodate a hot tub/BBQ area, a car port, or ideally a garage to store his bikes and campervan securely as they are not getting used on a daily basis. It is also stated that the garden is likely to be levelled off and a new timber fence erected. It should be noted that this planning application relates only to a change of use of the land and that any future plans that the applicant has may require planning permission.

3. Background

3.1 Local Plan Status

- 3.1.1 The adopted South Lanarkshire Local Development Plan 2 identifies the site as part of the General Urban Area. The proposed development therefore requires to be assessed against the following policies:-

- ◆ Policy 2: Climate change
- ◆ Policy 3: General Urban Areas
- ◆ Policy 5 Development Management and Placemaking

3.2 Relevant Government Advice/Policy

- 3.2.1 Scottish Planning Policy advises the policy principles of placemaking should take every opportunity to create high quality places by taking a design-led approach. Planning should direct the right development to the right place and support development that is well designed, and which demonstrates the six qualities of a successful place.

3.3 Planning Background

- 3.3.1 Planning consent (HM/07/0304) was granted for the erection of a dwellinghouse and integral garage.
- 3.3.2 Planning application (P/21/0056) was withdrawn for a change of use of a larger area (193 square metres) of communal open space to garden ground.

4. Consultation(s)

- 4.1 **Roads and Transportation Services** – No objections. They advise that there is no impact on the road network from the proposed annexing of this portion of the open space.

Response: Noted.

- 4.2 **Estates** – No objection

Response: Noted.

- 4.3 **Blantyre Community Council** - The community council is opposed to the loss of amenity. This application is very similar to a previous application P/21/0056 and there has been no material changes within this application to alter the view of the community council and they wish to reiterate their original position:

1. The planning application will substantially reduce the amenity of the area.
2. There will be a reduction of the quality and character of the environment
3. The application will decrease the community's overall enjoyment of the area.
4. The application will have a negative effect on the local community by the loss of a landscaped area and a valuable piece of public ground being lost.
5. The site has very good site lines and the application will alter this fact.
6. We would not support the sale of land as it could endanger public safety.
7. We would not support the sale of land in common ownership for this purpose.

We have the same conclusion as before: it is our view that the approval of the planning application is not in the best interests of the Blantyre community: loss of amenity, impact on traffic management, loss of landscaped area and the potential loss of green space to the community. We trust that the planning department will acknowledge the concerns of the Blantyre Community Council and refuse the planning application.

Response: Noted.

5. Representation(s)

- 5.1 Statutory neighbour notification was undertaken and a total of 22 representations have been received.

- 5.2 The grounds of objection can be summarised as follows: -

(a) The applicant is operating a shed/fence business. The land would be used as a storage area in conjunction with existing business and not as garden. It would therefore be an eyesore, detrimental to the amenity and entrance of a well-kept estate and a fire hazard. Currently this area divides business and residential properties. As it is a timber construction business where an incinerator is used it is considered that a gap should be maintained to minimise potential health and safety hazards. If this proposal is to increase the amount of storage of raw materials even further then what guarantees can be given that any retaining wall or fence will be strong enough to bear the considerable weight of these materials and protect the safety of the general public walking on the adjacent pavement.

Response: The Council's Planning Enforcement Team served a Planning Contravention Notice in December 2021 stating that the unauthorised business required to cease by 31st January 2022 or formal Enforcement Action would be taken. The company's website states they are now operating from Blantyre Industrial Estate. The Enforcement team have subsequently visited the site and are content that the business use is no longer operating from this property. As such the Enforcement case has been closed.

The current planning proposal is for a change of use of communal open space to garden ground within the curtilage of an existing dwellinghouse and therefore requires to be assessed as such. Scenarios regarding how the applicant would potentially use their extended garden ground and indeed the potential health and safety implications do not constitute material planning considerations in the assessment of this current planning application proposal.

It is considered that the incorporation of this small area of open space into the residential curtilage of the applicant's property would not have a significant impact given the larger and more prominent area of open space that would remain. In addition, the loss of the small area of open space would have no material impact on the amenity of the residential area. In this respect, the proposal can be integrated within the existing garden without any adverse impact in terms of the existing pattern of development.

(b) The Afton Gardens missives state that the play park and all open space areas are for the use of the residents therefore how can land be for sale. Land should remain as Afton Gardens estate.

Response: The potential ownership of land is a civil issue and does not constitute a material planning consideration in the assessment of a planning application. Nevertheless, the Council's estates department have advised that the land relating to the current proposal is currently owned by South Lanarkshire Council and ultimately it is their decision as to whether the land is sold.

(c) The applicant currently parks 4 cars in front of their house which is a hazard. The proposal could result in increased traffic and on street parking in estate. Concerns at how area would be accessed and potential environmental impact if vehicles are parked in the area. The proposal would block view of motorists entering and egressing Afton Gardens.

Response: As detailed previously Roads and Transportation Services have no objections, commenting that there is no impact on the road network from the proposed annexing of this portion of the open space.

(d) The boundary would be too close to 1 Afton Gardens resulting in a loss of privacy.

Response: It must be accepted that absolute privacy in an established residential area is difficult to achieve and that a degree of mutual overlooking is commonplace. It is considered that the proposal will be within acceptable parameters, all aspects considered, and will not result in a material loss of privacy that would merit refusal of the application.

(e) It is a difficult site and may require development for use. Unsure how land can be part of garden given its topography. This could impact on root systems of mature trees in the adjacent garden and damage to existing wildlife. Also, access to carry out any groundworks may require to be via the remaining part of the communal gardens causing damage to this area.

Response: Any potential damage to neighbouring land/trees is a civil issue. Given the nature of the proposal, it is considered on balance that it would not have a significant adverse impact on existing wildlife that would merit refusal of the application. It would also be the responsibility of the applicant to ensure that a suitable access can be formed in order to undertake any works, should planning permission be granted.

(f) It is unclear as to how the applicant was allowed to build a house. The applicant parks his vehicles anywhere and on the pavement. He kept chickens in his back garden. He erected a 10ft High Fence. He advertises his business on a wall inside his gates.

Response: As detailed before, planning consent (HM/07/0304) was previously granted for the erection of a dwellinghouse and integral garage. This has no relevance to the assessment of the current planning application. In addition, the planning enforcement team is dealing with the operation of a business at this location. The other issues raised do not constitute a material planning consideration in the assessment of this planning application.

5.3 These letters are available for inspection on the planning portal.

6. Assessment and Conclusions

6.1 Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the approved Glasgow and the Clyde Valley Strategic Development Plan 2017 (GCVSDP), and the Adopted South Lanarkshire Local Development Plan 2021 (SLLDP 2).

6.2 In the Adopted South Lanarkshire Local Development Plan 2021 (SLLDP 2), the application site is located on land designated as being in the General Urban Area. Policy 3 General Urban Areas seeks to ensure proposals do not adversely affect the amenity and character of predominately residential areas.

6.3 Policy 2: Climate Change seeks to minimise and mitigate against the effects of climate change. The proposal avoids areas of medium to high flood risk, has no significant adverse impacts on the water and soils environment, air quality, biodiversity, and/or green networks. Therefore, taking into account the scale of the proposed development, it is considered the proposal meets the terms of Policy 2 of the adopted SLLDP 2.

6.4 Policy 5 'Development Management and Placemaking' states that development proposals should take account of and be integrated with the local context and built form. New development should also have no significant adverse impacts on the local community. The area of open space the applicant seeks to change the use of is approximately 62m² and forms part of a larger area approximately 193m² in size. This area of open space, being at the edge of the larger area, is not as attractive as the remaining area. The loss of site from the larger area of open space would leave an area of approximately 131m² in size, (approximately 68% of the original area) and it is considered that this would still allow for a satisfactory level of open space within the area for local residents to enjoy.

6.5 It is considered that the incorporation of this small area of open space into the residential curtilage of the applicant's property would not have a significant impact given the large area of open space that would remain. In addition, the loss of the small area of open space would have no material impact on the amenity of the residential area. In this respect, the proposal can be integrated within the existing garden without any adverse impact in terms of the existing pattern of development. It should also be noted that the area of open space which is proposed to be annexed is located between two fences and is not overly prominent. The most important area of open space is located adjacent to the junction and this will be retained, ensuring that there is not a detrimental impact on the visual amenity of the surrounding residential area.

- 6.6 With regard to the objectors' concerns detailed in section 5, it is considered that the proposal is in accordance with local plan policy and would not be detrimental to the residential amenity of the area. In addition, Roads and Transportation Services, do not have any objections.
- 6.7 Blantyre Community Council objected to the planning application as detailed previously. In response, it should be noted that the current planning application proposal relates to an area of ground approximately 62 square metres in comparison to the previous withdrawn proposal which was an area of land approximately 193 square metres (more than three times larger). Roads and Transportation Services have no objection in terms of pedestrian and road safety. The land is currently owned by the Council and it is considered that the incorporation of this small area of open space into the residential curtilage of the applicant's property would not have a significant impact on residential amenity that would merit refusal of the application given the larger area of open space that would remain.
- 6.8 Given the above, it is recommended that planning permission be granted.

7. Reasons for Decision

- 7.1 The proposal will not result in a significant adverse impact on either residential or visual amenity and generally complies with the provisions of Policies 2, 3, 5 and DM2 of the South Lanarkshire Local Development Plan 2. There are no other material considerations that would justify the refusal of planning consent.

David Booth

Executive Director (Community and Enterprise Resources)

Date: 10 March 2022

Previous references

- ◆ HM/07/0304
- ◆ P/21/0056

List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2 (adopted 2021)
- ▶ Neighbour notification letter dated 21 April 2021

▶ Consultations

Blantyre Community Council	10.06.2021
Roads Development Management Team	17.05.2021
Estates Services - Housing and Technical Resources	28.04.2021

▶ Representations

Dated:

Mr Andrew Thompson, 8 Afton Gardens, Blantyre, Glasgow, G729TW	07.05.2021
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Mr John Fleming, 12 Afton Gardens, High Blantyre, Glasgow, G72 9TW	09.05.2021
Mrs Elizabeth Matthews, 63 Afton Gardens, High Blantyre, Glasgow, G729TW	10.05.2021
Mr Willian McGuire, 49 Afton Gardens, Blantyre, Glasgow, G729TW	11.05.2021
Mr Joseph Penman, 1 Afton Gardens, Blantyre, G72 9TW	12.05.2021
Mrs Selina Fleming, 12 Afton Gardens, High Blantyre, Glasgow, G72 9TW	10.05.2021
Mr David Brown, 23 Afton Gardens, Blantyre, Glasgow, G72 9TW	25.04.2021
T Cunningham, 61 Afton Gardens, Blantyre, Glasgow, South Lanarkshire, G72 9TW	25.05.2021
M Cunningham, 61 Afton Gardens, Blantyre, Glasgow, South Lanarkshire, G72 9TW	25.05.2021
Miss Gillian McGuire, 49 Afton Gardens, Blantyre, GLASGOW, G72 9TW	11.05.2021
Mrs Elizabeth McGuire, 49 Afton Gardens, Blantyre, GLASGOW, G72 9TW	11.05.2021
Mrs Magdalena Colligan, 10 Afton Gardens, Blantyre, G729tw	12.05.2021
Mr Ian Beattie, 4 Afton Gardens, Blantyre, Glasgow, South Lanarkshire, G72 9TW	29.04.2021
Ms Kathleen Allan, 21 Afton Gardens, High Blantyre, Lanarkshire, G72 9TW	26.04.2021
Mr Peter Dougela, 2 Afton Gardens, Blantyre, Glasgow, G729TW	04.05.2021
Ms Grace Simm, 3 Afton Gardens, Blantyre, G72 9TW	25.05.2021
Hugh Black, 3/3 Hunthill Road, Blantyre	27.05.2021
Marion Robertson, Received Via Email	21.05.2021
Mrs Marion Robertson, 14, Afton Gardens, High Blantyre, Glasgow, G729TW	12.05.2021
Charles Allan, 17 Afton Gardens, Blantyre, G72 9TW	14.05.2021
Mr Robert MacGregor, 43 Stonefield Crescent, Blantyre	20.09.2021

Contact for further information

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

Murray Reid, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: 01698 453625

Email: murray.reid@southlanarkshire.gov.uk

Detailed planning application

Paper apart – Application number: P/21/0638

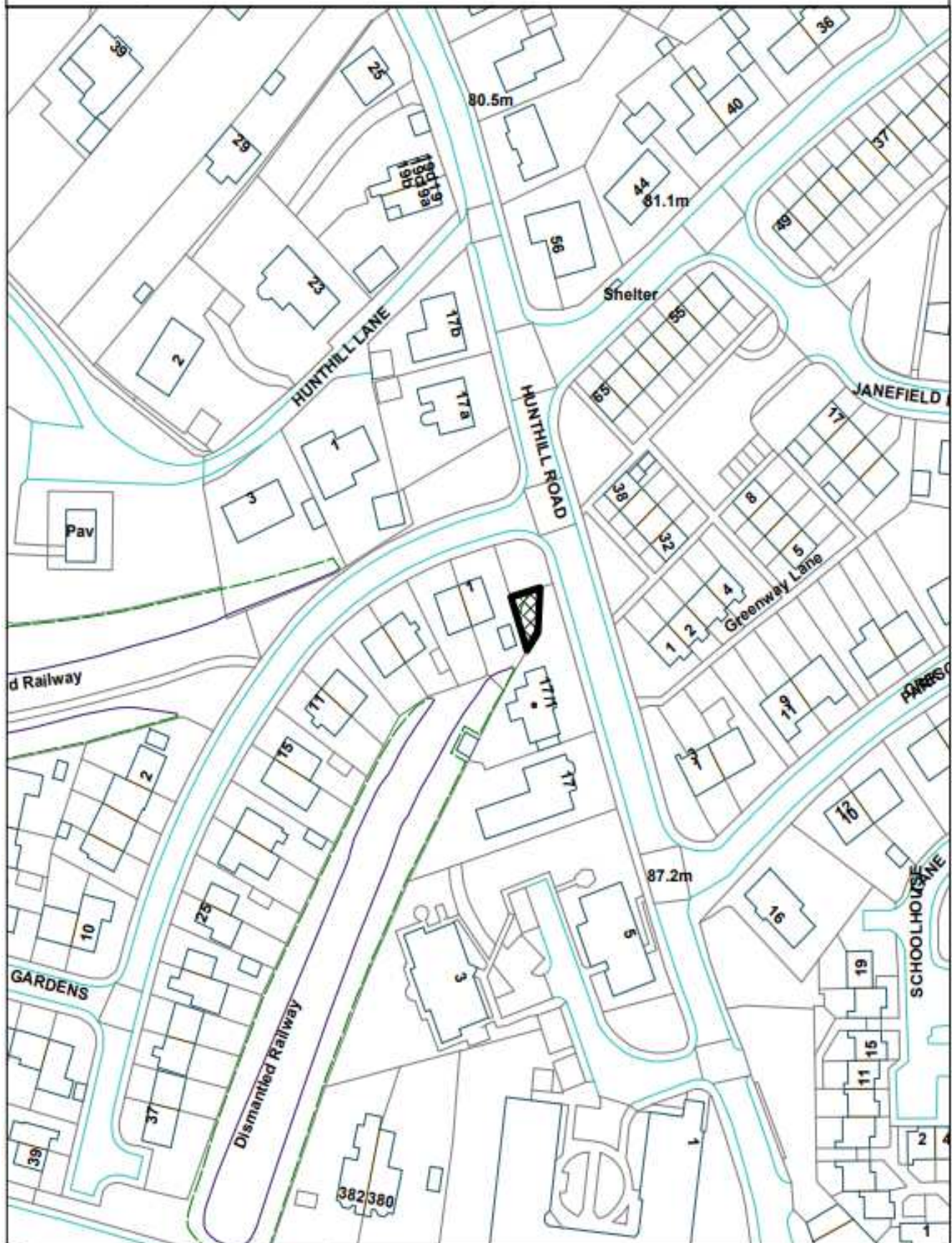
Conditions and reasons

- 1 That notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (or any such order revoking or re-enacting that order), no engineering works shall be undertaken or buildings and fences erected on the land relating to the change of use without the submission of a further planning application to the Council as Planning Authority.

Reason: To ensure that the Council retains control over future developments on the site.

P/21/0638

Land adjacent to 17-1, Hunthill Road, Blantyre



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Scale:
1:1,250
Date:
04/03/2022



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development