

TCP/11/16(325)

Planning Application 14/01205/FLL – Change of use from public open space to private garden ground and erection of a fence, land 10 metres north west of 41 Lumsden Crescent, Almondbank

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TCP/11/16(325)

Planning Application 14/01205/FLL – Change of use from public open space to private garden ground and erection of a fence, land 10 metres north west of 41 Lumsden Crescent, Almondbank

**PAPERS SUBMITTED
BY THE
APPLICANT**

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Contact Telephone 1
 Contact Telephone 2
 Fax No

E-mail*

Agent (if any)

Name

Address

Contact Telephone 1
 Contact Telephone 2
 Fax No

E-mail*

Mark this box to confirm all contact should be through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail? Yes No

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application

Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

MR & MRS DONALD MARTIN COULD NOT BELIEVE THAT PERZU & KIRROSS COUNCIL REFUSED THE APPLICATION FOR PLANNING PERMISSION WHICH

1. PERZU & KIRROSS COUNCIL HAD SOLD MR & MRS. MARTIN THE GROUND IN QUESTION
2. PERZU & KIRROSS COUNCIL PREPARED A TITLE DEED FOR THE GROUND WHICH WAS SURPLUS TO THEIR REQUIREMENTS
3. MR & MRS MARTIN PAID FOR THE GROUND & PERZU & KIRROSS COUNCIL L ELOL PERZU
4. I ENCLOSE COPIES OF PREVIOUS CORRESPONDANCE REGARDING THIS
5. I ENCLOSE A SUPPORT LETTER FROM MS ROSA ALLEN THE NEIGHBOUR TO THE DEED AT N° 39

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

I BELIEVE MS GILLIAN PEARLES MIGHT NOT HAVE BEEN AWARE THAT THE GROUND HAD BEEN SOLD BY PERZU & KIRROSS TO MR & MRS. D. MARTIN.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

1. COPY OF TITLE DEED PLAN PREPARED BY PERM & KINROSS COUNCIL (DATED 10:1:2014)
2. LETTER DATED 16:6:2014 FROM LEGAL SERVICES TO CONPLIES (SOLICITORS)
3. LETTER DATED 22:11:2014 TO DAVID SWAN (PERM COUNCIL) FROM CONPLIES
4. LETTER DATED 18:3:2014 FROM MR DAVID SWAN TO MR DAVID REID OF CONPLIES
5. SUPPORT LETTER FROM MS ANNA ALLAN THE HERCUBUS TO THE REAR AT NO 39 LUMSDEN CRESCENT.
6. LETTER TO ME (MR R ERERAR) DATED 27:10:2014 FROM MR DAVID REID OF CONPLIES (MR & MRS D MARRINS SOLICITOR) (BLACKHAPPERS)

7. A COPY OF MY PLANS FOR THE PROPOSAL.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

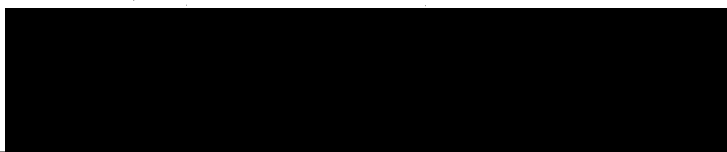
- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

24:10:2014

**Delayed Office Opening for
Employee Training**

This Office will be closed from 8.45 am –
11.00 am on the first Thursday of each
month



**PERTH &
KINROSS
COUNCIL**

Chief Executive's
Service

LEGAL

Head of Service Ian Innes

2 High Street, PERTH. PH1 5PH
LP-16 PERTH
Telephone 01738 475115 Fax 01738 475190

Contact: Mr Martin Anderson
Direct Dial 01738 475496
Email: maanderson@pkc.gov.uk

Our Ref: L/HO/03/122 MAA

Your Ref: Mr David Reid

Date: 18 June 2014

**Messrs Condies
Solicitors
LP 6
PERTH**

Dear Sirs

**SALE OF GROUND ADJACENT TO 41 LUMSDEN CRESCENT, ALMONDBANK
MR DONALD PETER MARTIN AND MRS GILLIAN ELIZABETH MARTIN**

On behalf of Perth and Kinross Council (hereinafter referred to as "the Council"), I hereby offer to sell to your clients, Donald Peter Martin and Mrs Gillian Elizabeth Martin, Spouses, residing together at Number Forty-one Lumsden Crescent, Almondbank (hereinafter referred to as "the purchaser") ALL and WHOLE that area of ground lying to the north-east of the subjects known as Forty-one Lumsden Crescent, Almondbank extending to Fifty square metres shown delineated in red on the plan annexed and signed as relative hereto, (hereinafter referred to as "the subjects of sale"); together with the whole parts, privileges and pertinents effeiring thereto and that on the following terms and conditions, namely:-

1. The Price shall be **TWO THOUSAND FIVE HUNDRED POUNDS (£2,500) STERLING** payable on the date of entry aftermentioned.
2. The date of entry shall be four weeks from the date of conclusion of missives of which this offer forms part, or such other date as may be mutually agreed in writing.
3. (1) If the price remains unpaid in whole or in part after the due date, the Council is entitled to interest on the amount outstanding at the rate of 4% per annum above the Royal Bank of Scotland plc base rate from the date due until the date when payment is made.

(2) If the price remains unpaid in whole or in part at any time more than two weeks after the due date, the Council is entitled to rescind the contract, and to damages in respect of all loss arising out of the purchasers failure to pay

the price (which may include wasted expenditure and the cost of a bridging or other loan to enable the Council to complete a purchase of heritable property).

(3) In this clause the "due date" means whichever is the later of:-

- (i) the date of entry
- (ii) the date on which payment of the price was due, having regard to the circumstances of the case including any entitlement to withhold payment owing to non performance by the Council.

4. It is an essential condition of this offer and any bargain to follow hereon that the purchasers obtain all necessary consents for the change of use from public open space to private garden ground to be used in conjunction with the purchasers adjacent dwellinghouse known as and forming 41 Lumsden Crescent aforesaid and that no later than three months from the date of this offer, failing which any contract to follow hereon shall be null and void and no expenses shall be due to or by either party. The application for planning permission will be lodged within three weeks of the date of conclusion of any bargain to follow hereon failing which the Council shall be entitled to withdraw from the bargain and no expenses shall be due to or by either party. If the planning permission is granted but is subject to unusual or onerous terms which are not acceptable to the purchasers then the purchasers may resile from any bargain to follow hereon within Fourteen days of the date of issue of the said planning permission and no expenses will be due to or by either party.
5. The Council do not warrant that the subjects of sale are suitable for any purposes of the purchasers. Further, the Council do not warrant that any planning permissions or consents will be granted for any such purposes of the purchasers.
6. The subjects of sale shall be used for garden ground only and for no other purpose whatsoever.
7. The purchasers shall be responsible for erecting a boundary fence or wall on the south, west and northern boundaries of the subjects of sale. The said fence or wall shall be erected wholly on the subjects and the purchaser shall be responsible for the maintenance, repair and renewal thereof.
8. The subjects of sale shall be sold subject to any underground or overhead public utilities and any rights in favour of the statutory undertakers. The purchasers shall be required to consult with the statutory undertakers in regard to the location and/or relocation of any such public utilities within, under or over the subjects of sale, in regard to the purchasers' intended use of the subjects.
9. The subjects of sale will include the minerals insofar as the Council has right thereto.

10. To the best of the Council's knowledge and belief, although no warranty is given, there are no third party rights, including without prejudice to the foregoing generality, rights of way, affecting the subjects of sale.
11. In exchange for the purchase price the Council shall deliver a duly executed Disposition in favour of the purchasers and will exhibit a valid marketable title. In addition, the Council, at or before the date of entry and at the Council's expense, shall deliver to the purchasers such documents and evidence as the Keeper may require to enable the Keeper to issue a Land Certificate in the name of the purchasers as the registered proprietors of the whole subjects of offer and containing no exclusion of indemnity in terms of Section 12(2) of the Land Registration (Scotland) Act 1979, such documents shall include a plan or bounding description sufficient to enable the whole subjects of offer to be identified on the Ordnance map. The Land Certificate to be issued to the purchasers will disclose no entry, deed or diligence prejudicial to the purchasers' interest other than such as are created by or against the purchasers, or have been disclosed to, and accepted by the purchasers prior to the date of settlement. No Form 10A, 11A or P16 Reports will be exhibited or delivered. The subjects of sale are sold under burden of the conditions contained in the titles and those contained in this offer. A copy of the Council's title to the larger subjects is enclosed and by acceptance hereof the purchasers shall be deemed to have satisfied himself as to the conditions contained therein.
12. The purchasers shall be responsible for payment of the Council's surveyor's and legal fees of £1000 and outlays plus VAT on the outlays.
13. As the subjects of sale are held on the Housing Revenue Account, the consent of the Scottish Ministers shall be required. An application has been made to the Scottish Ministers and a copy of the consent shall be exhibited once received.
14. Neither the subjects of sale nor any part thereof shall be used in such a way as to constitute a nuisance or annoyance to any tenant or proprietor in the neighbourhood.
15. The subjects of sale shall be maintained in a neat and tidy condition and in a reasonable state of repair.
16. The subjects of sale are sold free of any monetary burdens but no receipts or other documentary evidence or the redemption or discharge of any such burdens shall be exhibited.
17. The subjects of sale are sold under burden of the conditions and together with the rights contained in the titles thereof in so far as valid, still subsisting and applicable thereto and those contained in this Offer. As far as the Council is aware there are no overriding interests (as defined by the Land Registration (Scotland) Act 1979) affecting the subjects of sale.
18. No animals or birds, apart from ordinary domestic pets, may be kept on the subjects of sale.

19. There shall be reserved in favour of the Council or such other persons as may be authorised by the Council and all statutory undertakers and public gas suppliers, a servitude right of wayleave over, under or through the subjects of sale for any existing drains, gas or water pipes, electricity, telephone cables, television cables, communal aerials and ancillary equipment, electricity pylons, telephone poles, street lamps and all other equipment belonging to statutory undertakers together with, where appropriate, a right of property in such drains and others and also with a right of access thereto for the purpose of maintenance, repair and renewal thereof; but any such right of access exercised in terms hereof shall be exercised subject to the obligation to make good any damage occasioned to the subjects of sale by the exercise of such right. The said statutory undertakers will only reinstate the ground in grass and will not accept any claim for compensation of loss of plants in the event of excavation or access to the ground being required. This condition does not supersede or diminish the powers laid down in the Sewerage (Scotland) Act 1968.
20. The Offer and the missives following hereon shall, with the exception of Clause 11 of this Offer, cease to be enforceable after a period of two years from the date of entry except insofar as they are founded on in any court proceedings which have commenced within the said period. The said Clause 11 shall remain in full force and effect until fully implemented.
21. This offer, unless previously withdrawn, is open for written acceptance within one month of the date hereof.

Yours faithfully



pp Legal Manager



LOCATION PLAN
Scale 1:1250

THIS IS THE PLAN REFERRED TO IN THE FOREGOING

Syghuli



PERTH & KINROSS COUNCIL

The Environment Service

Subject
Ground 41 Lumsden Crescent Almondbank
Dwg Description
DEED PLAN

Drawn by
DS Scale
1:100 1:1250

Dwg No
D/AMB/14 Date
10/01/2014



**AREA OUTLINED RED
50 SQUARE METRES**

10 metres

SITE PLAN Scale 1:100

David Reid

From: David Swann [DSwann@pkc.gov.uk]
Sent: 18 March 2014 11:42
To: David Reid
Subject: RE: 41 Lumsden Crescent, Almondbank

Dear Mr Reid,

I can advise that I have received Scottish Ministers consent to sell the area of ground in question to Mr & Mrs Martin.

I have also had the ground officially declared surplus to Council requirements under the Council's scheme of administration and received the consent of the Executive Director of Housing.

I am therefore now in a position to instruct the Council's Legal Services to prepare the formal offer and will contact you in the near future to provide the contact details of the member of the Council's Legal Services staff that will be dealing with the transaction.

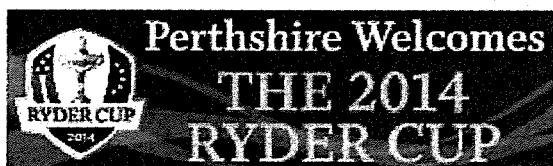
I hope this is of assistance in the meantime.

Kind Regards

David Swann
Estates Technician
Estates & Commercial Investment Team
Planning & Regeneration
The Environment Service
Perth & Kinross Council
Pullar House
35 Kinnoull Street
Perth, PH1 5GD

☎ 01738 475957
✉ 01738 475310
✉ dswann@pkc.gov.uk
www.pkc.gov.uk

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From: David Swann
Sent: 23 January 2014 10:13
To: 'David Reid'
Subject: RE: 41 Lumsden Crescent, Almondbank

Dear Mr Reid,

Thank you for your confirmation, on behalf of your clients, that the terms and conditions contained in my letter of 10 January 2014 are acceptable.

In respect of condition 3 I will issue a further letter clarifying the limits on the use of the ground.

In respect of condition 9 I will apply to the Scottish Ministers for approval to sell the ground in question under section 12(7) of the Housing (Scotland) Act 1987.


On receipt of permission from the Scottish Ministers I will instruct our Legal Services to prepare the formal offer.

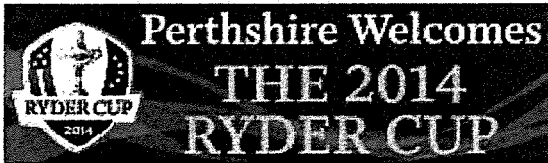
I hope this is of assistance.

Kind Regards

David Swann
Estates Technician
Estates & Commercial Investment Team
Planning & Regeneration
The Environment Service
Perth & Kinross Council
Pullar House
35 Kinnoull Street
Perth, PH1 5GD

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☎ 01738 475310
✉ dswann@pkc.gov.uk
www.pkc.gov.uk

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From: David Reid [<mailto:dwr@condies.co.uk>]
Sent: 22 January 2014 15:21
To: David Swann
Subject: 41 Lumsden Crescent, Almondbank

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Michael G Simpson, David W Reid, Alastair R Duncan & James G Morris

Email dwr@condies.co.uk

David Swann, Esq.,
Perth & Kinross Council

Our Ref: DWR/CAM
MAR/15/1

Your Ref:

Date: 22 January 2014

E-MAIL: DSwann@pkc.gov.uk

Dear Mr. Swann,

**Donald Peter Martin & Mrs. Gillian Elizabeth Martin
Ground adjacent to 41 Lumsden Crescent, Almondbank**

I refer to your letter dated 10th instant, to our subsequent telephone conversation and to your e-mail of 20th instant. My clients are happy to go ahead with the acquisition at a price of £2,500, on the understanding that the use of the ground will be extended in accordance with your e-mail. My clients are prepared (albeit reluctantly) to agree to the Council's survey and legal fee.

Can you arrange for the appropriate Offer to be issued?

I would confirm that my clients' names are as shown above.

Yours sincerely,

David Reid

Securing the future... - Improving services - Enhancing quality of life - Making best use of public resources.

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7 October 2014

Mr R Crerar
The Square
Methven
Perth
PH1 3PE

Dear Mr Crerar

**Mr Donald Martin and Mrs Gill Martin
Planning Application for Ground Adjacent to 41 Lumsden Crescent, Almondbank**

I write to lend support to my neighbours Donald and Gill Martin of 41 Lumsden Crescent, Almondbank, PH1 3LG in their planning application for the erection of a fence around the area of ground (coloured purple on the attached plan) adjacent to their house. I understand the area coloured purple is already in the ownership of Mr and Mrs Martin.

I have lived at No 39 Lumsden Crescent with my partner, Iain McPherson, since 2002. Our house (shown outlined in red on the attached plan) is immediately behind the Martins' house.

We have absolutely no objection whatsoever to Donald and Gill Martin owning the ground or erecting a fence around it. We are completely surprised that the initial planning application has been refused, especially in view of the fact that the Council has already sold the area of ground to the Martins prior to the planning application being considered.

I understand there have been objections from neighbours on various grounds which I feel are not particularly substantive.

I understand that one point made is that any fence around the purple area will restrict visibility for access from the area coloured brown on the attached plan (adjacent to No 31) on to Lumsden Crescent. This access is no worse than the two accesses which I have coloured light blue. One is from the car park to the rear of our property which is used by approximately 10 cars on a daily basis and enters on to Lumsden Crescent on a bend where visibility can be difficult. The second blue access is from Roman Road on to Lumsden Crescent, at a very narrow point on the Crescent, and visibility is severely hampered on both sides by high hedges. The Roman Road access is used by all traffic in and out of Roman Road as there is no other means of access. In both cases, all that is required is due care and attention.

There are often numerous cars parked from No 40 Lumsden Crescent along to the gate that gives access to the little park opposite the Martins' house and the ground in question, half on the pavement and half on the road. This also restricts visibility, but again, all that is required is due care and attention. Also, any children that use the park are of an age to have road sense.

A comment has been made that the fence will attract "anti-social behaviour". I have coloured yellow the unadopted path which runs behind the Martins' house and is adjacent to my house which leads to the car park behind our properties. If any anti-social behaviour was to take place, this would be the ideal place for it to happen – a dark lane leading to a dark car park leading on to fields and woods with only one lamp-post! However, we have never experienced any such behaviour. As someone who has walked their dog every evening for 12 years, in all seasons, I have not come across any anti-social behaviour in the scheme, apart from kids kicking a football about, which is surely normal. There is already a lamp-post at the corner of our front garden which would be to the rear of the fence, and perhaps the addition of a security light would help.

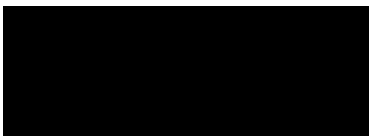
I have coloured green the unadopted path which leads behind the area in question and along the front of Nos 39 – 33 and leads to the "Gelly" where people frequently walk their dogs. This path is unadopted and is therefore the responsibility of the affected proprietors, however, due to the passage of time and usage, it has become "public". We feel that a fence around the area may possibly prevent people from using the path immediately to the front of our house, giving us more privacy which we would welcome. Instead they would be more likely to use the public path leading down from the area coloured brown.

Finally, I must say that it is surprising that the Council sold a piece of ground and then have refused to grant planning permission for the fence. This has caused considerable stress and worry to Mr and Mrs Martin. In addition, the errors in the Neighbour Notification Notices issued by the Council have not helped matters. The first notice did not attach the correct plan, the second notice did not describe the area accurately and eventually we received a third notice. With each notice, an extension of time was given to object. This unfortunately led to the inevitable village gossip taking place and growing arms and legs as to what Mr Martin intended to do with the ground and the extension of time unfortunately resulted in more objections.

Mr Crerar, I should be obliged if you would submit my comments to the Planning Committee and, in light of the above, I trust and hope that the Council will re-consider Mr and Mrs Martin's planning application in a favourable manner.

Thank you for your assistance.

Yours sincerely

A solid black rectangular box redacting the signature of Rona Allan.

Rona Allan



LAND REGISTER
OF SCOTLAND

Officer's ID / Date

9995
19/1/2011

TITLE NUMBER

PTH13304



ORDNANCE SURVEY
NATIONAL GRID REFERENCE

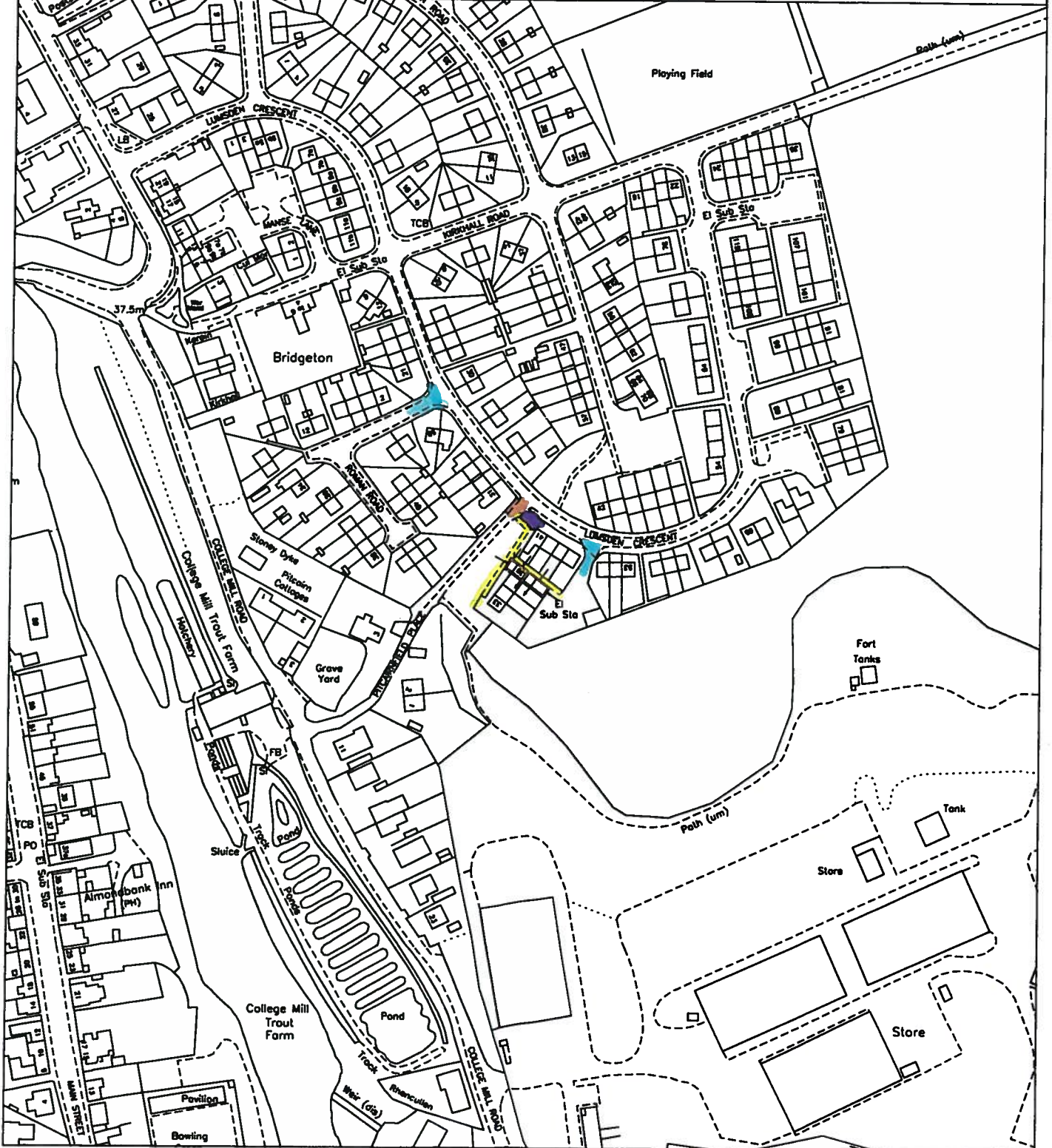
140m

NO0625 NO0626

Survey Scale

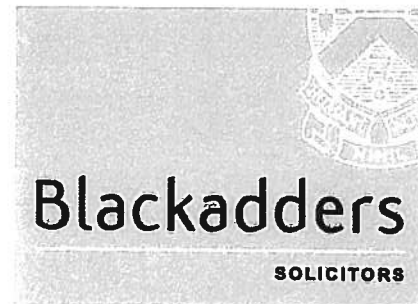
1/2500

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DWR/CAM MAR/new

21 October 2014



R Crerar Esq
Building Consultant
The Square
Methven
Perth
PH1 3PE

Please Contact
David Reid

2 Tay Street
Perth PH1 5LJ

LP-8, Perth
Tel: +44 1738 440088
Fax: +44 1738 441131
Email: David.Reid@blackadders.co.uk

Dear Bob

Mr & Mrs Donald Martin
Land adjacent to 41 Lumsden Crescent, Almondbank

I refer to our telephone conversation. I would confirm that Mr and Mrs Martin have decided that they do, after all, wish to appeal the refusal of Planning Consent in respect of the ground adjacent to their property.

For your information, I enclose a copy of a Letter of Support issued by their neighbour, Rona Allan. The letter was, of course, initially submitted to you, but I think it would be as well to submit this to Perth and Kinross Council in support of the Appeal.

I also enclose a copy of an e-mail from David Swan of Perth & Kinross Council dated 18th March.

I would confirm that Mr and Mrs Martin had originally approached the Council with a view to acquiring the land. In the past they have had problems with youths congregating outside their property and they wanted to establish some form of physical barrier to keep those youths at a distance. The land would have achieved this. You will see that the Council had approached the Scottish Ministers for Consent to sell the ground and this had been granted. The Council themselves had declared the area in question as surplus to their requirements and received the Consent of the Executive Director of Housing. A formal Offer was therefore issued. I enclose a copy of that Offer as well. In terms of Condition 4, the bargain was conditional upon change of use from public open space to private garden ground and the deal was to be "null and void" if this did not happen.

Condition 6 of the Offer made it clear that subjects were to be used as garden ground only and Condition 7 made the Martins responsible for the erection of a boundary fence or wall.

It was clearly in the contemplation of the Council that the land was no longer required as public open space and Mr and Mrs Martin were keen to take it on and secure their amenity. As Mr and Mrs Martin also own a dog, the additional garden ground would have provided additional space for the dog.

We cannot see how the area in question can be adversely affected by its proposed use by Mr and Mrs Martin as garden ground. The next property along Lumsden Crescent from theirs, lying on the other side of the access path, has a boundary which extends along the side of the access path. Allowing Mr and Mrs Martin to acquire the land in question would appear to regularise the position rather than prejudicing it.

In all the circumstances, it appears inappropriate that Planning Consent should be refused and Mr and Mrs

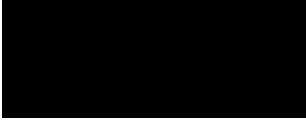
ABERDEEN EDINBURGH DUNDEE PERTH

Visit: www.blackadders.co.uk

Martin prohibited from acquiring the land which would benefit them and their quality of life.

Can you see what you can do by way of an Appeal?

Many thanks



David Reid

Partner
Encs

PROPOSED CHANGE OF USE OF COUNCIL

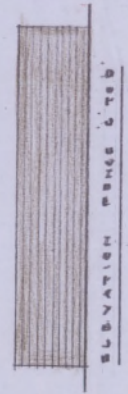
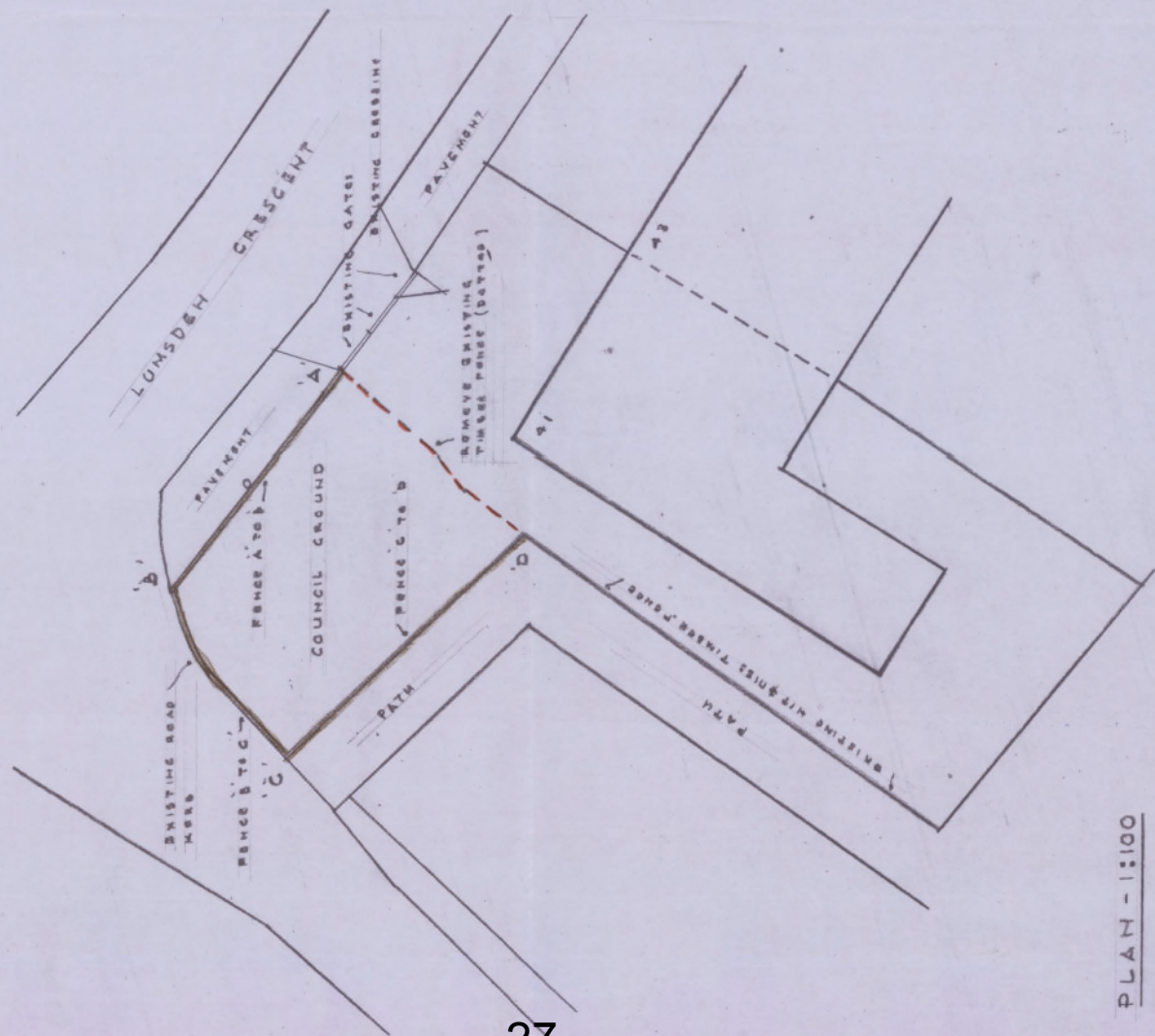
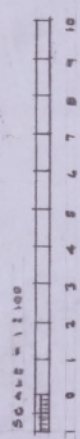
GROUND WITH BOUNDARY FENCE

AROUND AT 41 LUMSDEN CRESCENT,

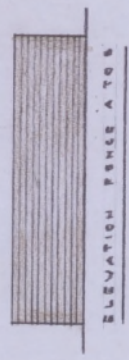
ALMONDBANK, PERTSHIRE

FOR MR D MARTIN

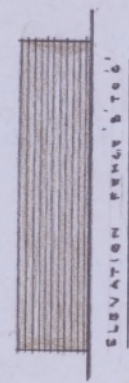
1:100



ELEVATION FENCE A TO B



ELEVATION FENCE C TO D



ELEVATION FENCE B TO C

PROPOSED FENCE
PROPOSED TIMBER POST & RAIL
HIV & MISS FENCE TO BE 1870MM
HIGH WITH 100 X 100 MM TIMBER
POLES & 150 X 25 MM TIMBER RAILS
TO MATCH EXISTING FENCE FINISH
STAINED TO MATCH

R CRERAR
BUILDING CONSULTANT
THE SQUARE
METHVEN, PERTSHIRE
TELEPHONE 01753 840244

PLAN - 1:100

TCP/11/16(325)

Planning Application 14/01205/FLL – Change of use from public open space to private garden ground and erection of a fence, land 10 metres north west of 41 Lumsden Crescent, Almondbank

PLANNING DECISION NOTICE

REPORT OF HANDLING

REFERENCE DOCUMENT *(part included in applicant's submission, see page 27)*

PERTH AND KINROSS COUNCIL

Mr Donald Martin
c/o R Crerar
The Square
Methven
Perth
PH1 3PE

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 1st September 2014

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **14/01205/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 9th July 2014 for permission for **Change of use from public open space to private garden ground and erection of a fence Land 10 Metres North West Of 41 Lumsden Crescent Lumsden Crescent Almondbank** for the reasons undernoted.

Development Quality Manager

Reasons for Refusal

1. The proposal is contrary to Policy RD1 (sub category c) of the Perth & Kinross Local Development Plan 2014 as the change of use of this area of land would result in a loss of visual amenity to the surrounding residential area as the open space contributes to the character and appearance of the area.
2. The proposed development is contrary to Placemaking policy PM1A and Placemaking PM1B of the Perth & Kinross Local Development Plan 2014, as it does not contribute positively to the character of the surrounding environment, nor does it complement its surroundings in terms of appearance, height and overall situation.
3. The proposal is not in accordance with Placemaking Policy PM1 B of the Perth & Kinross Local Development Plan 2014 (subcategory e) as the proposed development does not improve the character and environment of the village and would result in a significant loss of amenity to the local community.

4. The proposal is contrary to Policy NE4 (sub category d) of the Perth & Kinross Local Development Plan 2014 of the Local Development Plan as the change of use from open space to domestic garden ground and the enclosure thereof would result in the loss of a prominent area of open space which makes a valuable contribution to the visual amenity and character of the area. In addition, by virtue of the siting of the fencing, the proposal will reduce the sense of security of users of the footpath as it would result in an area obscured from users who enter the footpath from the west. The development would therefore be harmful to the open and spacious character of the area and would have an adverse impact upon users of the footpath.

Justification

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan

The plans relating to this decision are listed below and are displayed on Perth and Kinross Council's website at www.pkc.gov.uk "Online Planning Applications" page

Plan Reference

14/01205/1

14/01205/2

14/01205/3

14/01205/4

14/01205/5

REPORT OF HANDLING

DELEGATED REPORT

Ref No	14/01205/FLL	
Ward No	-	
Due Determination Date	08.09.2014	
Case Officer	Gillian Peebles	
Report Issued by		Date
Countersigned by		Date

PROPOSAL: Change of use from public open space to private garden ground and erection of a fence

LOCATION: Land 10 Metres North West Of 41 Lumsden Crescent Lumsden Crescent Almondbank

SUMMARY:

This report recommends **refusal** of the application as the development is considered to be contrary to the relevant provisions of the Development Plan and there are no material considerations apparent which justify setting aside the Development Plan.

DATE OF SITE VISIT: 21 July 2014

SITE PHOTOGRAPHS



BACKGROUND AND DESCRIPTION OF PROPOSAL

Planning consent is sought to change the use of open space to garden ground and erect a 1.8m high fence on land 10 metres north west of 41 Lumsden Crescent, Almondbank. Number 41 Lumsden Crescent relates an end terraced dwellinghouse, set within a block of four residential units.

The dwellinghouse is located on the south side of Lumsden Crescent, with an adjacent footpath running northwest and southwest that provides a rear access to numbers 41-47 Lumsden Crescent and further afield and also sole pedestrian access to numbers 33-39 Lumsden Crescent. The two storey property is situated within a modest plot, however, has been extended to the rear utilising a majority of the garden ground.

Having researched the planning history no record of a planning application could be found for the rear extension. It may be the case that this was constructed under permitted development. Additionally, a 1.8m high fence has been erected on the north west boundary of the site, again no planning application appears to have been submitted.

SITE HISTORY

None recent

PRE-APPLICATION CONSULTATION

No pre application enquiry has been received in relation to this proposal.

NATIONAL POLICY AND GUIDANCE

The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, and a series of Circulars.

DEVELOPMENT PLAN

The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

Perth and Kinross Local Development Plan 2014 – Adopted February 2014

The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The principal policies are, in summary:

Policy RD1 - Residential Areas

In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private open space to be retained changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy PM1A - Placemaking

Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaptation.

Policy PM1B - Placemaking

All proposals should meet all eight of the placemaking criteria.

Policy NE4 - Green Infrastructure

Development should contribute to the creation, protection, enhancement and management of green infrastructure, in accordance with the criteria set out.

OTHER POLICIES

None

CONSULTATION RESPONSES

Transport Planning

Insofar as the Roads matters are concerned no objections to the proposed development were received provided the condition indicated below was applied to any approval, in the interests of pedestrian and traffic safety.

- The proposed fence fronting Lumsden Crescent shall be set back to ensure a visibility splay of 2.4m x 25m, is available for the existing adjacent junction (to the NW of the proposal).

Forward Planning

Losing this small area of open space would have a detrimental impact on the recreational and amenity value of the area of open space as a whole. With the erection of a 1.8m fence surrounding the open space, there would be a visual intrusion and no obvious linkage to the connecting open space behind this site. The proposal would also encroach upon the well-defined access route of the open space and it would be less permeable. The proposed fence may also result in the area being perceived as less safe by the creation of dark corners.

REPRESENTATIONS

The following points were raised in the three representation(s) received:

1. The proposal will alter the character and visual amenity of the area;
2. The proposal may result in future development on the area of ground;
3. The erection of a fence around this area of ground would restrict access for grass cutting, street lighting and emergency vehicles to the residential units and area of open space to the south of the site;
4. Concerns that the erection of a fence will reduce visibility when exiting the side road to the west of the site which is a well used turning point.
5. The erection of a fence will reduce visibility for pedestrians and cyclists using the public footpath;
6. The erection of a 1.8m high fence would create a precedent and would be unsightly and obtrusive;
7. Enclosing this area of land has the potential to create an area of unwanted and disturbing behaviour. Antisocial behaviour has been a problem in the past in this area and erecting a fence will create a dark and partial hidden area for youths to congregate;

8. Why has the Council agreed to sell the land to the applicant without consultation with the community and an opportunity for all interested parties to bid for the ground?
9. If the application was approved the area of open space to the south of the site would be hidden and may result in neglect of maintenance.

Response in relation to the letters of representation:

1. The proposal would result in the loss of a prominent area of open space which makes a valuable contribution to the visual amenity and the character of the area.
2. In order to mitigate any potential future development within the application site, permitted development rights would be removed.
3. This is not a planning consideration.
4. If the application is to be approved a condition will be applied to any consent in that the proposed fence fronting Lumsden Crescent shall be set back to ensure a visibility splay of 2.4m x 25m, is available for the existing adjacent junction (to the NW of the proposal).
5. If the application is to be approved a condition will be applied to any consent in that the proposed fence fronting Lumsden Crescent shall be set back to ensure a visibility splay of 2.4m x 25m, is available for the existing adjacent junction (to the NW of the proposal).
6. The erection of a fence is considered to set a precedent and would have a detrimental impact on the character of the surrounding area.
7. Enclosure of this area of land would result in the loss of a prominent area of open space which makes a valuable contribution to the visual amenity and character of the area. In addition, by virtue of the siting of the fencing, the proposal will reduce the sense of security of users of the footpath as it would result in an area obscured from users who enter the footpath from the west. The development would therefore be harmful to the open and spacious character of the area and would have an adverse impact upon users of the footpath.
8. This is not a planning consideration in the determination of this application.
9. This is not a planning consideration in the determination of this application.

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 eg Flood Risk Assessment	Not Required

APPRAISAL

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 for the area comprises the approved TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014.

The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

Policy Appraisal

The site is located within the settlement boundary of Almondbank where Policies RD1: Residential Areas, PM1A and PM1B (sub category e): Placemaking and NE4: Green Infrastructure are directly applicable. Policy RD1 states that residential amenity will be protected and, where possible, improved. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy PM1A of the Local Development Plan seeks to ensure that all developments contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. PM1B (e) seeks to ensure all buildings, streets and spaces (including green spaces) should create safe, accessible, inclusive places for people, which are easily navigable, particularly on foot, bicycle and public transport and Policy NE4: Green Infrastructure seeks to ensure development should contribute to the creation, protection, enhancement and management of green infrastructure, in accordance with the criteria set out.

The proposal is not considered to comply with the above policies for the reasons stated elsewhere in the report.

Design and Layout

The area of land is located to the northwest of 41 Lumsden Crescent and measures approximately 50 square metres. At its widest point is 9 metres in width and 6.5m in depth, enclosed by a 1.8 metre hit and miss timber fence.

The local area has a residential character with a number of semi-detached and terraced properties. The majority of properties are set within a moderate sized garden with open front gardens and/or low level hedging/fencing. The wider residential area is linked by a number of footpaths, some of which are bounded by open space/landscaping areas with residential boundaries beyond. At the application site the proposed fencing will enclose a small area of grass that forms part of a larger area of open space to the north west and on the opposite side of the road to the north east.

The change of use of the land from open space to garden ground and the erection of a fence would result in the loss of a prominent area of open space which makes a valuable contribution to the visual amenity and the character of the area. The erection of a fence and subsequent change of use of the area of land would have a harmful impact upon the open and spacious character of the area.

The proposed development would also create an undesirable precedent which would make it difficult to refuse similar applications, thereby leading to a gradual erosion of important areas of open space in the area.

Additionally, by virtue of the siting of the fencing, the proposal reduces the security for users of the footpath as it would result in an area obscured by users who enter the footpath from the north west. The development would therefore be harmful to the open and spacious character of the area and would have an adverse impact upon users of the footpath

It is clear that the local area is defined by open space on both sides of the street in a symmetrical design. By approving this application, the existing symmetry would be harmed to a detrimental extent, and would, therefore, impact on the existing character and amenity.

Landscape

Having had the opportunity to undertake a site visit and take cognisance of the surrounding area I have considered the acceptability of the "change of use" only and omitting the erection of the fence. In considering this option even although the land concerned would still be "open", in the sense that it is not being built upon permanently, the suburbanising effect of low level garden fences, garden buildings, and other paraphernalia associated with use of land as a domestic garden will have a harmful impact on the landscape. I have considered mitigating the impact through the removal of permitted development rights however the different visual characteristics between garden ground and open space are significant and will be detrimental to the landscape to a level which justifies refusal.

Residential Amenity

I have taken account of overshadowing and overlooking and consider this proposal would have no material effect on the amenity of the neighbouring property, as regards privacy, or loss of daylight or sunlight.

Visual Amenity

The change of use of the land from open space to garden ground and the erection of a fence would result in the loss of a prominent area of open space which makes a valuable contribution to the visual amenity of the area and will have a significant impact on the streetscene. The area is generally characterised by low level fences/hedges and the erection of a 1.8m high fence would act as an alien feature within the streetscene.

Roads and Access

I do not have any concerns with roads or access matters.

Drainage and Flooding

The site is not within an area at risk of flooding. There are no concerns with drainage as part of this proposal.

Developer Contributions

The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

Economic Impact

The economic impact of the proposal is likely to be minimal and limited to the construction phase of the development.

Conclusion

In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, it is clear that the proposal does not comply with the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommend for refusal.

APPLICATION PROCESSING TIME

The recommendation for this application has been made within the statutory determination period.

LEGAL AGREEMENTS

None required.

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

RECOMMENDATION

Refuse the application

Conditions and Reasons for Recommendation

1. The proposal is contrary to Policy RD1 (sub category c) of the Perth & Kinross Local Development Plan 2014 as the change of use of this area of land would result in a loss of visual amenity to the surrounding residential area as the open space contributes to the character and appearance of the area.
2. The proposed development is contrary to Placemaking policy PM1A and Placemaking PM1B of the Perth & Kinross Local Development Plan 2014, as it does not contribute positively to the character of the surrounding environment, nor does it complement its surroundings in terms of appearance, height and overall situation.
3. The proposal is not in accordance with Placemaking Policy PM1 B of the Perth & Kinross Local Development Plan 2014 (subcategory e) as the proposed development does not improve the character and environment of the village and would result in a significant loss of amenity to the local community.
4. The proposal is contrary to Policy NE4 (sub category d) of the Perth & Kinross Local Development Plan 2014 of the Local Development Plan as the change of use from open space to domestic garden ground and the enclosure thereof would result in the loss of a prominent area of open space which makes a valuable contribution to the visual amenity and character of the area. In addition, by virtue of the siting of the fencing, the proposal will reduce the sense of security of users of the footpath as it would result in an area obscured from users who enter the footpath from the west. The development would therefore be harmful to the open and spacious character of the area and would have an adverse impact upon users of the footpath.

Justification

- 1 The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan

Procedural Notes

Not Applicable.

PLANS AND DOCUMENTS RELATING TO THIS DECISION

14/01205/1

14/01205/2

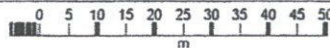
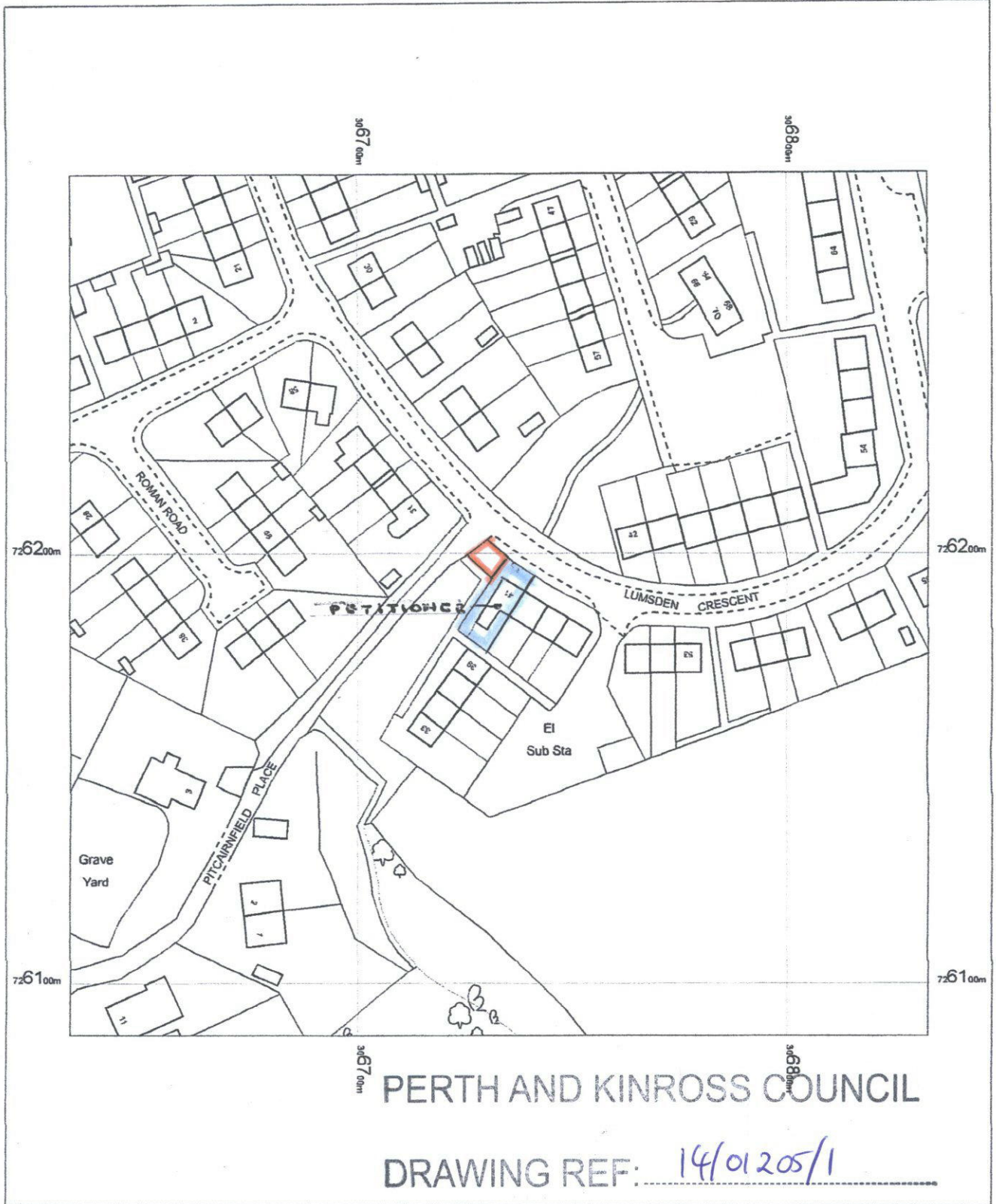
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14/01205/5

Date of Report 28.08.2014

Location Plan



41 Lumsden Crescent
Almondbank
Perthshire
PH1 3LG

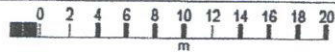
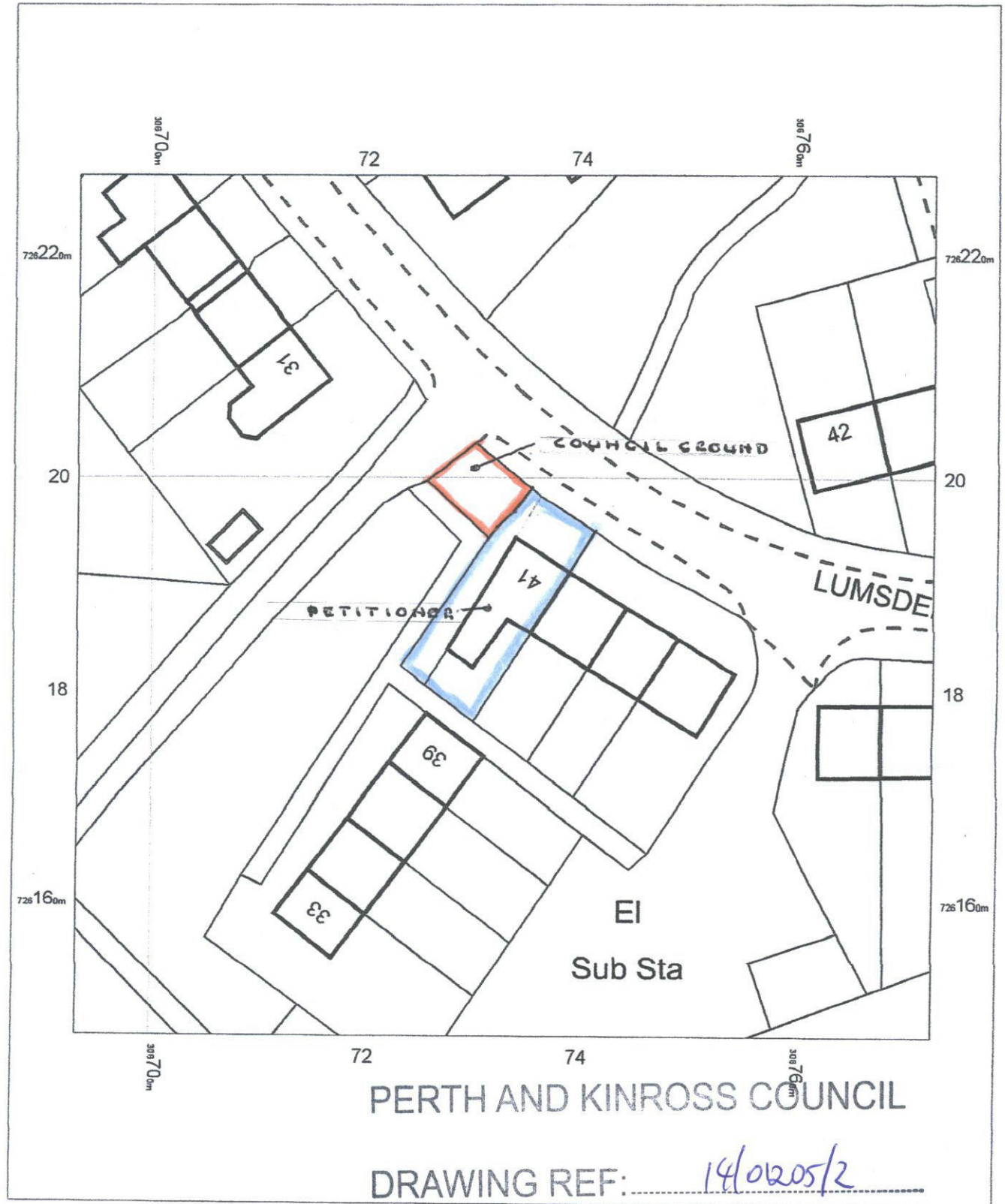
OS MasterMap 1250/2500/10000 scale
27 June 2014, ID: MNOW-00338455
mapsnow.co.uk

1:1250 scale print at A4, Centre: 306733 E, 726188 N

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Block Plan

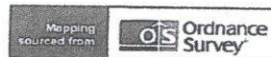


41 Lumsden Crescent
Almondbank
Perthshire
PH1 3LG

OS MasterMap 1250/2500/10000 scale
27 June 2014, ID: MNOW-00338450
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1:500 scale print at A4, Centre: 306733 E, 726188 N

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PERTH AND KINROSS COUNCIL

DRAWING REF: 14/01205/4



PERTH AND KINROSS COUNCIL

44

DRAWING REF:

14/01/2015

TCP/11/16(325)

Planning Application 14/01205/FLL – Change of use from public open space to private garden ground and erection of a fence, land 10 metres north west of 41 Lumsden Crescent, Almondbank

REPRESENTATIONS

- Objection from H Sharp, dated 19 July 2014
- Objection from E Brown, dated 27 July 2014
- Objection from E Doig, dated 28 July 2014
- Objection from C B McGregor, dated 30 July 2014
- Representation from Transport Planning, dated 1 August 2014
- Objection from E Brown, dated 7 August 2014
- Objection from H Sharp, dated 17 August 2014
- Representation from LDP, dated 28 August 2014
- Representation from H Sharp, dated 14 November 2014
- Agent's response to representation, dated 6 December 2014

RECEIVED

22 JUL 2014

Perth and Kinross Council

Planning and Regeneration

Pullar House

35 Kinnoull Street

Perth

PH1 5GD

19th July 2014



Dear Sirs

Objection to Planning Application Ref 14/01205/FLL at 41 Lumsden Crescent, Almondbank, Perth

I wish to lodge an objection to the above application. I reside at number 31 Lumsden Crescent which is the property which is next to the applicant's on the main road. My reasons for objection are as follows:

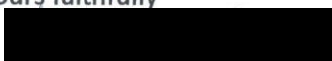
- On 29th March 1973 I was granted permission by the County Clerk of the Authority to use the small piece of ground at the side of my property as vehicular access on two grounds which were (1) in compliance with the terms of the Town and Country Planning Act 1972 and (2) in the interests of road safety. I have this in writing should you require confirmation. This piece of ground lies next to my property and would therefore be immediately adjacent to the proposed application if approved. If the acquisition of land was granted, this would enclose the ground and result in a blind side on the right when accessing Lumsden Crescent. This reduction of visibility for myself, family, visitors and deliveries may well result in an accident. The current adequacy of parking, loading and turning that I have permission for would be wholly compromised. The area of ground I have access rights of use for is also regularly and commonly used by pedestrian access, often people with dogs, and is regularly used by children as it is a path from properties further down the hill through the scheme. In particular, the children use this as an access route to the park which is immediately opposite the applicant's property. Children currently run along this path with no visual impairments. The design proposal is for high fencing tight up against the path with no visibility through it. Again I consider this hazardous to not only vehicular safety and it could lead to the potential for accidents to the general public, children in particular, and creates a hazard for highway safety generally.
- The application mentions the acquisition of the ground is for change of use. Why does it have such high fencing surrounding it? Surely planning permission would not be granted for fencing any higher than a metre at the front? None of the other neighbours have such high fencing and this would be overbearing and out of sync with neighbouring properties. My concerns would also be that if the sale of the ground was approved, this would have the potential for the applicant in the future to build on this land (or use for other purposes) and thus creating a further loss of light and thus create a feeling of enclosure that this current

open visual amenity area enjoys and introduces over development of this one particular area of Almondbank. The existing dwelling houses within this area are on the whole of high density and the visual amenity would be lost and spoilt if the layout of the whole area was transformed.

- I note from the Building Consultant's letter that the Council have agreed to sell the piece of ground providing he obtains planning permission for a change of use. Why would the Council have already potentially agreed to a sale without any consultation to the immediate community? Were the ground up for sale, should all adjoining parties not have been invited to bid for the ground? I realise it is immediately next to his ground but surely this does not give him automatic right to acquire a piece of open land currently in the ownership of the Council and thereby which is used and enjoyed by the people of Almondbank. Since it does not specify in the application what is to be the actual use of the land, albeit it mentions the possibility of affording parking, were this land to be used for building purposes, would the price reflect that realistically?
- In general terms the whole visual amenity of the area would change at a loss to the community as a whole. Further, there would remain the other existing piece of ground at the rear of the applicant's property which the Council currently maintains. If permission were granted, this would result in that whole area being hidden from view which may lead to the potential for neglect of maintenance of this ground along with difficulty accessing the ground. The only access would be via the small access area I have use of and which pedestrians require to access and it would not be suitable for accessing with pathway and grass cutting maintenance machinery on the grounds of health and safety. Also, in respect of emergency access, the current open areas of ground (both the one identified in the planning application and the other area of ground at the rear) are currently totally open to use by emergency vehicles (Fire Services in particular) should there be a need to access them at the front as opposed to their rear should there be an emergency. What would happen to those properties would be that they would be more isolated and built in. On a lesser note but still worth noting, for the purposes of identification again these properties at the rear would be compromised since they would in effect be 'sectioned off from the rest of the community'. The children using the path and current open ground would be locked out of sight of their parents whilst making their way to the park or playing generally around their homes.
- Finally, as above, since that area would effectively become 'hidden', this may lead to incidents of anti social behaviour or vandalism to neighbouring properties including my own due to the privacy it may afford to the transgressors. The area down the hill where the path leads is dense with very high trees and not well lit and would further promote the potential for affording an area for undertaking anti social behaviour of varying degrees.

I trust you will take these points on board and refuse the application on the aforementioned points.

Yours faithfully



Mr Hamish Sharp

31 Lumsden Crescent

this is the only access for maintenance vehicles i.e. grass mowing and street light outside No 39. humsden.

Its the only access for emergency services i.e Ambulance & Fire Brigade to the houses 33-39. humsden crescent. No vehicle access would be possible if these plans were granted.

I am very concerned at the safety aspect of a high fence on the narrow side road is a well used turning point for cars delivery harris etc Reversing onto the main road would be very dangerous as a high fence would obstruct their view.

Childrens cycle along this pavement and buses taxis use it daily

Yours Faithfully



40, humsden W.

24.7.2014. Almondbank

ENTERED IN COMPUTER
30 JUL 2014

Planning application ref: - 14/01205/FA 9P

Change of use from public open space to private garden ground and erection of a fence.

RECEIVED

30 JUL 2014

I object to this planning application at 41 Lumsden Crescent, Almondbank.

This would obstruct my view and totally change the outlook of the area.

I frequently walk across this grassy area to get to the back of my property.

I am nearly 90 years old and disabled, the erection of this would most certainly prevent me from doing this due to the distance I can walk.

This area in question is used every day by pedestrians, dog walkers and children. There is also a 'playground' sign allocated here which must be in full view of all road users this can

not be obstructed.

Yours Faithfully



43 Lumsden Cres
Almondbank.

I have written this on behalf
of my grandmother who finds
it difficult to write.

Leeanne MacGregor.

22 Talisker Pl

Perth PH1 3GW

28TH July 2014.

ENTERED IN COMPUTER

30 JUL 2014

ap

Caroline Stewart - TES

From: [REDACTED]
Sent: 30 July 2014 15:13
To: Development Management - Generic Email Account
Subject: Planning Application Ref: 14/01205/FLL. 41 Lumsden Crescent, Almondbank, Perth, PH1 3LG.

C B McGregor
59 Lumsden Crescent
Almondbank
Perth
PH1 3LG



Dear Sirs

Please regard this as my objection to the above planning application.

My main objection is regarding road safety since the proposal will significantly restrict visibility for road users and pedestrians alike. The applicant already has a fence which is in excess of the recommended height for fences in close proximity to a road. The access adjacent to the proposed site is in regular use by vehicles, children, pedestrians (including dog walkers) and cyclists. The area across from the proposed site is a designated children's play area and can be accessed by crossing Lumsden Crescent at this point. Local buses travel along Lumsden Crescent regularly and there are times when they travel faster than would be considered safe. The potential for an accident is always there but the erection of a high fence in such a position would significantly increase the risk.

If planning approval is granted for a fence of this height and proposed construction it would set a precedent and similar fences would spring up all over and compromise safety and ruin the appearance of many neighbourhoods.

A hit and miss boarded fence of 1870mm would present an unsightly and obtrusive obstacle, out of place in such a location and creating areas for unwanted and disturbing behaviour. There have been problems in the past in this area with some the local youth acting in a very antisocial manner. Dark and partial hidden areas were the main locations for youngsters to congregate and then venture forth to commit crimes, acts of vandalism and antisocial behaviour and this fenced off area will add yet another potential meeting place.

The proposed fenced off area will bisect an area of open green space, which at present is well maintained by the Council. Any fenced off portion of this space, regardless of the height of the fence, would spoil a very welcome swathe of green. There are few such areas in the vicinity and it would be a pity to lose an open green place. The proposal site is in continual use and has been, to my knowledge, for over 40 years. Despite the path to the rear of the proposal site, the grassy area is used for access as well as for children playing.

I trust my grounds for objecting will be given fair consideration and result in a refusal of this application.

Yours faithfully

C B McGregor



MEMORANDUM

To	Gillian Peebles Planning Officer	From	Niall Moran Transport Planning Officer Transport Planning
Our ref:	NM	Tel No.	Ext 76512
Your ref:	14/01205/FLL	Date	1 August 2014

Pullar House, 35 Kinnoull Street, Perth, PH1 5GD

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, - ROADS (SCOTLAND) ACT 1984

With reference to the application 14/01205/FLL for planning consent for:- **Change of use from public open space to private garden ground and erection of a fence 41 Lumsden Crescent Almondbank Perth PH1 3LG for Mr Donald Martin**

Insofar as the Roads matters are concerned I do not object to the proposed development provided the conditions indicated below are applied, in the interests of pedestrian and traffic safety.

- The proposed fence fronting Lumsden Crescent shall be set back to ensure a visibility splay of 2.4m x 25m, is available for the existing adjacent junction (to the NW of the proposal).

I trust these comments are of assistance.

4/8/2014 CP

Planning application Reference 14/01205/FLL

RECEIVED

- 8 AUG 2014

Description of Development

Change of use from Public open space to private garden ground and erection of fence

Land 10 metres North West of hl. hunsden Crescent

I have already objected to above planning permission, in an earlier letter. Dated 14.4.2014

I would like to add, to my objection having received a third letter on this application. Dated 29.4.2014

As neighbours and members of the Public we should have been informed about the sale of this land, and the asking price, before planning application was submitted,

ENTERED IN COMPUTER


11 AUG 2014

We have had no information from the council as to whether this land is for sale or is Mr Martin acquiring this land from the council free of charge?

I would appreciate if my questions could be answered before the

closing date 19. Aug 2014.

Yours Faithfully


40, Kemsden Crescent
Almondbank

CP

Perth and Kinross Council
Planning and Regeneration
Pullar House
35 Kinnoull Street
Perth
PH1 5GD
17th August 2014

CUSTOMER SERVICE
POINT
19 AUG 2014
RECEIVED

RECEIVED F
20 AUG 2014 20 AUG 2014

Dear Sirs

Objection to Planning Application Ref 14/01205/FLL at 41 Lumsden Crescent, Almondbank, Perth

Further to my previous letter of objection I note there has been an amendment to the application including a proposal that the front fencing would be 2.4 metres back from Lumsden Crescent.

Please accept this letter as confirmation that my previous points still stand and remain unchanged by this amendment and take this letter as an objection to the planning application.

Yours faithfully

[Redacted signature]

Mr Hamish Sharp

31 Lumsden Crescent

ENTERED IN COMPUTER
20 AUG 2014

CONSULTATION ON PLANNING APPLICATION – LOCAL DEVELOPMENT PLAN



To: Gillian Peebles
From: Nicola Malone
Date: 28/08/2014

Planning Reference: 14/01205/FLL

Description of Proposal: Change of use from public open space to private garden ground and erection of a fence

Site Address: Land 10 metres North West of 41 Lumsden Crescent, Almondbank, Perth

LDP & Area: Perth and Kinross Local Development Plan 2014 – South Area

Perth and Kinross Council Local Development Plan 2014

PM1: Placemaking

Policy PM1A seeks to ensure that any new development contributes positively to the surrounding built and natural environment, respecting the character and amenity of that place.

Policy PM1B sets out a list of criteria that should be met for each new proposal focussing on design, sense of identity and respect for surrounding areas. Of particular relevance is criteria (e), where it is emphasised that buildings and spaces 'should create safe, accessible, inclusive places for people, that are easily navigable'.

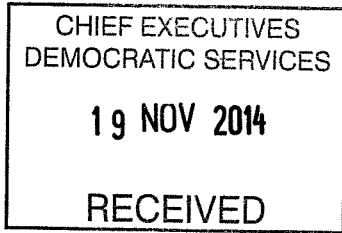
RD1: Residential Areas

Policy RD1 is in place to protect and improve residential amenity by retaining small areas of public and private open space which has either a recreational or amenity value to surrounding residents.

Overview

Loosing this small area of open space would have a detrimental impact on the recreational and amenity value of the area of open space as a whole. With the erection of a 1.8m fence surrounding the open space, there would be a visual intrusion and no obvious linkage to the connecting open space behind this site. The proposal would also encroach upon the well-defined access route of the open space and it would be less permeable. The proposed fence may also result in the area being perceived as less safe by the creation of dark corners.

TCP/11/14(325)



31 Lumsden Crescent

Almondbank

PH1 3LG

14th November 2014

Perth and Kinross Local Review Body

2 High Street

Perth

PH1 5PH

Dear Sirs

Application Ref: 14/01205/FLL

41 Lumsden Crescent

Almondbank

I refer to your letter of the 6th November 2014 in connection with the above.

It is disappointing to learn that the applicant is still wishing to pursue the acquisition of the public open space despite the original decision of the Planning Authority.

As detailed in my previous letter, as well as contained within the letters of objection from others, this would result in an irreversible adverse effect on the whole community, a community that has already voiced its concerns which were recognised as wholly viable both in terms of community impact and contravened 4 sections of the Local Development Plan. It is clear that the application failed significantly and was refused since it did not meet with the criteria required within the Development Plan. The fact that the applicant is aware of the impact this would have on the neighbourhood shows a general disregard and contempt for the residents of both the immediate area and the people who live in Almondbank who have benefited from the safety and aesthetic qualities of the existing geographical design for this neighbourhood.

I hope the original decision will be upheld.

Yours faithfully

Hamish Sharp

41 Lumsden Crescent
Almondbank
Perth
PH1 3LG

6 December 2014

For the attention of Gillian Taylor
Perth & Kinross Council
Clerk to the Local Review Body
2 High Street
Perth
PH1 5PH

Your Ref: TCP/11/16 (325)

Dear Ms Taylor

Donald Martin
Application Ref: 14/01205/FLL – Change of Use from Public Open Space to Private Garden Ground and erection of a fence, Land 10 metres NW of 41 Lumsden Crescent, Almondbank

I refer to your letter dated 25 November to Mr Crerar, The Square, Methven enclosing a copy of a letter dated 14 November 2014 from Mr Hamish Sharp, 31 Lumsden Crescent, Almondbank. Mr Crerar has passed me a copy of both letters.

In response to Mr Sharp's further letter of objection, I would like to make the following points:-

- 1) I am a pensioner who has lived at 41 Lumsden Crescent with my wife and family since the house was built in approximately 1967. At no time in the past have I done anything which would cause an "irreversible adverse effect on the whole community" and I certainly do not intend to do that now, or in the future. I am an extremely quiet-living person and the idea of purchasing the land was simply to extend my garden ground, possibly to park my car, and for no other purpose. There is no intention on my part to show disregard or contempt for anyone. I do not agree that the "whole community" has voiced concerns as it states in Mr Sharp's letter. Mr Sharp and two other neighbours lodged letters of objection, as they are entitled to do, and considering the time, money and energy spent on this project, I took the decision to lodge an appeal, which I am entitled to do. There has only been one further objection from Mr Sharp, who cannot be classed as "the whole community". At least 7 other properties in the immediate vicinity who were notified have not made any comment whatsoever and one property has submitted a letter of support, rather than objection.
- 2) I feel that the point should be made that the ground is already in my ownership, the Council having sold it to me earlier this year. By selling the ground to me, it would appear that the Council, at that time, consented to the change of use from public open space to private garden ground and there should therefore no longer be any issue.

- 3) It should also be noted that the area of ground in question is of the size to park two cars maximum and the removal of this small area from public open space will not significantly impact on the existing layout of the neighbourhood. There is still a large area of public open space in front of Nos 33 – 39 Lumsden Crescent and a reasonable sized park between Nos 40 and 42 Lumsden Crescent. There is a large football pitch and playpark for the children within the scheme at Kirkhall Road and there are other small grassed areas throughout the scheme.

I hope that my comments, and in particular the fact that the ground actually belongs to me, will be given due consideration.

Yours sincerely

A solid black rectangular box used to redact the signature of Donald Martin.

Donald Martin