
NORTH AYRSHIRE COUNCIL

Planning Committee

Locality	Irvine
Reference	19/00533/PP
Application Registered	17th July 2019
Decision Due	17th September 2019
Ward	Irvine East

Recommendation	Approved with no Conditions
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Location	3 Ladyburn Court Lawthorn Irvine Ayrshire KA11 2BH
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Applicant	Robert & Joan Corrance
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Proposal	Change of use of open space to incorporate into garden area including erection of 1.8 metre high fence
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1. Description

This application seeks planning permission for the change of use of open space to incorporate into a garden area, including the erection of a 1.8m high fence. The open space in question is located to the south east of the existing garden area and measures approx. 20.508sqm.

The application site is located at 3 Ladyburn Court, Lawthorn. The existing building is a bungalow with a conservatory on the south elevation following planning permission being approved without conditions in 1999 (ref. 99/00261/PP). The site is adjacent to a footpath connecting Speyburn Place with Ardbeg Court and Ladyburn Court and the wider footpath serving Lawthorn North. Planning permission had previously been refused in 2005 by the then Planning Committee, for the change of use of a larger area of open ground, measuring 34.7sqm., to private garden ground and the relocation of an existing fence (ref. 05/00102/PP) at the same property.

The application site is within a residential area of Irvine as identified in the adopted North Ayrshire Council Local Development Plan (LDP). The application requires to be assessed against Policy ENV 12 (Development of Open Space) and the General Policy of the LDP.

Relevant Development Plan Policies

ENV12

POLICY ENV 12: DEVELOPMENT OF OPEN SPACE

Development of land identified on the LDP Maps as protected open space, including school playing fields, and small areas of recreational and amenity open space, not individually identified on the LDP Maps, shall not accord with the LDP unless the following criteria can be satisfied:

1. Where the proposed development is for an outdoor recreation or physical activity use, it will:

(a) improve the quality and range of outdoor recreation or physical activity facilities within the LDP area; AND

(b) not lead to an unacceptable net loss of open space (including playing fields); OR

2. Where the proposed development is for a use other than outdoor recreational or physical activity purposes, it will not set an undesirable precedent for further incremental loss of open space.

The following criteria apply to all proposals for development of open space:

3. The proposed development will not unacceptably impact upon the recreational and/or amenity value of any area of active or passive open space when considered in relation to the overall level of provision in the local area; AND

4. Where the loss of open space has a material effect on the quality, function or playing capacity of a facility, alternative provision of similar or improved community benefit and accessibility will be made available in a location which is convenient for its users.

Note: There is a presumption against the extension of private gardens into public open space or the development of communal/backcourt areas for reasons of undesirable precedent setting as well as the potential for creation of irregular boundaries and loss of access and amenity.

General Policy

GENERAL POLICY

(a) Siting, Design and External Appearance:

- Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.

- Design should have regard to existing townscape and consideration should be given to size, scale, form, massing, height, and density.

- External appearance should have regard to the locality in terms of style, fenestration, materials and colours.

- Development will require to incorporate the principles of 'Designing Streets' and 'Designing Places'.

- The particularly unique setting of North Ayrshire's rural, coastal, neighbourhood and town centre areas, and those with similar characteristics, necessitates that all development proposals reflect specific design principles unique to these areas.

Coastal, Rural, Neighbourhood and Town Centre Design Guidance (four separate documents) are Supplementary Guidance to the Plan and contain further details.

- Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.

- Design should have regard to the need to reduce carbon emissions within new buildings.

(b) Amenity:

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- Lighting;
- Levels and effects of noise and vibration;
- Smell or fumes;
- Levels and effects of emissions including smoke, soot, ash, dust and grit or any other environmental pollution;
- Disturbance by reason of vehicular or pedestrian traffic.

Development should avoid significant adverse impact on biodiversity and upon natural heritage resources, including those outwith designated sites and within the wider countryside. Development proposals should further have regard to the preservation and planting of trees and hedgerows, and should also have regard to their potential to contribute to national and local green network objectives.

In relation to neighbouring properties regard should be taken of privacy, sunlight and daylight.

(c) Landscape Character:

In the case of development on edge of settlement sites, substantial structure planting will generally be required to ensure an appropriate boundary between town and country is provided. Such proposals should include native tree planting, retain natural features where possible and make provision for future maintenance.

Development should seek to protect the landscape character from insensitive development and the Ayrshire Landscape Character Assessment shall be used to assist assessment of significant proposals.

(d) Access, Road Layout, Parking Provision:

Access on foot, by cycle, by public transport and other forms of transport should be an integral part of any significant development proposal. Development should have regard to North Ayrshire Council's Roads Development Guidelines and meet access, internal road layout and parking requirements.

(e) Safeguarding Zones:

Pipelines, airports and certain other sites have designated safeguarding areas associated with them where specific consultation is required in assessing planning applications. The objective is to ensure that no development takes place which is incompatible from a safety viewpoint. The need for consultation within Safeguarding Zones is identified when an application is submitted. Supporting Information Paper No. 7 provides further information on Safeguarding Zones.

(f) The Precautionary Principle

The precautionary principle may be adopted where there are good scientific, engineering,

health or other grounds for judging that a development could cause significant irreversible damage to the environment, existing development or any proposed development, including the application itself.

g) Infrastructure and Developer Contributions

For development proposals which create a need for new or improved public services, facilities or infrastructure, and where it is proposed that planning permission be granted, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions, where required, will be sought through planning conditions or, where this is not feasible, planning or other legal agreements where the tests in Circular 3/2012 are met. Other potential adverse impacts of any development proposal will normally be addressed by planning condition(s) but may also require a contribution secured by agreement.

This will emerge from assessment of the impact of development proposals upon:

- Education;
- Healthcare facilities;
- Transportation and Access;
- Infrastructure;
- Strategic landscaping; and,
- Play facilities.

Further to analysis of infrastructure, indicative requirements for housing land allocations are set out within the Action Programme. Developer contributions will be further established by Supplementary Guidance (timing, costs etc.).

In addition to the above, Mixed Use Employment Areas are identified within the LDP. These sites are allocated for a mix of uses, subject to an element of employment space creation or improvement being provided. This will be informed by a business plan and masterplan. In these specific cases, contributions to the above (and affordable housing requirements as set out in Section 5) will also be required.

h) 'Natura 2000' Sites

Any development likely to have an adverse effect on the integrity of a 'Natura 2000' site will only be approved if it can be demonstrated, by means of an 'appropriate assessment', that the integrity of the 'Natura 2000' site will not be significantly adversely affected.

i) Waste Management

Applications for development which constitutes "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

2. Consultations and Representations

Neighbour notification was carried out for this application in accordance with statutory procedures. No representations were received in response to the application. No consultations required to be undertaken.

3. Analysis

The application requires to be assessed against Policy ENV 12 (Development of Open Space) and criterion (a) siting, design, and external appearance and (b) amenity of the General Policy contained within the LDP. Considering the requirements of these policies, the proposal will be assessed below.

The open space in question contains several trees and other greenery as part of an established tree line along the public footpath and rear boundaries of the residential properties of Ladyburn Court. As such, it is considered that the open space does contribute to the amenity value of the area. The application form states that no trees are proposed to be removed but that work to trees, shrubs or hedges is proposed. However, no details of tree works were included in the application. It is not considered that the proposal would set an undesirable precedent, as given the retention of the trees, there would not be an unacceptable impact upon the recreational and amenity value of the area. If Planning Permission is approved, a condition could require that prior to the commencement of the development, the applicant shall submit details of any proposed tree works for the written approval of North Ayrshire Council as Planning Authority. Therefore, the proposal meets the requirements of Policy ENV 12.

Located along the south east boundary of the property, the 1.8m high fence which would bound the incorporated land and would consist of dark green coloured timber with concrete posts, which is acceptable. There would be no adverse impact on the site or surrounding area and the proposal satisfies criterion (a) of the General Policy.

In terms of (b) it is not considered that the proposed fence or loss of open space would have any adverse impact on the amenity of the area.

It was considered in the Committee Report in 2005 (ref. 05/00102/PP) that for visual reasons an amendment to the site boundaries of the requested area to a triangular shape would be less intrusive. This application seeks planning permission for the change of use of a smaller area of land which is considerably less intrusive than the previous proposal.

The emerging North Ayrshire Proposed Local Development Plan is a material consideration, and the proposal has been assessed against the terms of the Proposed LDP. In this instance, assessing the proposal against the terms of the Proposed LDP would not alter the conclusion of the assessment of the proposal against the adopted LDP, because the policies in the Proposed LDP are substantially similar to those in the adopted LDP, and it does not raise any new issues that would alter the assessment of the proposal.

Given the above observations, the proposal complies with the relevant policies of the LDP and there are no other material considerations to indicate otherwise. Therefore, planning permission should be granted subject to the condition as noted above.

4. Full Recommendation

Approved with no Conditions

Russell McCutcheon
Executive Director (Place)

For further information please contact Mr Joe Thompson Assistant Planning Officer on 01294 324313.

Appendix 1 – Location Plan

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