

**THE HIGHLAND COUNCIL**

**SOUTH PLANNING APPLICATIONS COMMITTEE  
30 September 2014**

Agenda Item	7.11
Report No	PLS/078/14

**14/03015/FUL : Christopher Blake  
59B Strathspey Drive, Grantown-On-Spey**

**Report by Area Planning Manager - South**

**SUMMARY**

**Description :** Change of use of open amenity ground to house curtilage

**Recommendation - GRANT**

**Ward :** 21 – Badenoch and Strathspey

**Development category :** Local

**Pre-determination hearing :** N/A

**Reason referred to Committee :** 5 or more objections from members of the public.

**1. PROPOSED DEVELOPMENT**

- 1.1 The proposal is to change the use of an area of open amenity ground to house curtilage.
- 1.2 The applicant submitted an informal pre-application consultation in July 2014. This was subsequently withdrawn on officer advice following submission of this planning application.
- 1.3 No supporting documents have been submitted in connection with the application.
- 1.4 **Variations:** None.

**2. SITE DESCRIPTION**

- 2.1 The site consists of a narrow rectangular strip of land directly between the houses at 59A and 59B Strathspey Drive. It is an area of maintained grassed open space which features some shrub and tree planting. It is fenced off from the adjoining houses but is owned by the occupiers of 59B who also have responsibility for the maintenance of this area. It rises up to the west (rear) boundary beyond which lies the dismantled Strathspey railwayline, now part of the core path network. The upper part of the site has a small slabbed area leading from the adjacent house and containing a clothes airer.

### **3. PLANNING HISTORY**

- 3.1 12/01562/PREAPP: Erection of fence and subsequent change of use from open amenity ground to house curtilage. Response issued May 2012.  
14/02727/PREAPP: Change of use of amenity open space. Application withdrawn following submission of this planning application.

### **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Unknown Neighbour. Expired 30/08/14  
Representation deadline : 30/08/14  
Timeous representations : 6 Representations from 5 households.  
Late representations : None.
- 4.2 Material considerations raised are summarised as follows:
- Land should be maintained as open amenity ground;
  - Loss of this area to garden curtilage may set a precedent leading to further loss of amenity areas;
  - Land forms public open space and provides public access to the woodlands beyond;
  - Guidelines require the Council to safeguard open spaces within residential areas;
  - The loss of this area of amenity space will have an adverse effect on the character of the street.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam). Access to computers can be made available via Planning and Development Service offices.

### **5. CONSULTATIONS**

- 5.1 No consultations were carried out in connection with this application.

### **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

#### **6.1 Highland Structure Plan 2001**

G1	Conformity with Strategy
G2	Design for Sustainability
SR5	Access

#### **6.2 Cairngorms National Park Local Plan 2010**

36	Other Open Space Provision
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## **7. OTHER MATERIAL CONSIDERATIONS**

### **7.1 Draft Development Plan**

Not applicable.

### **7.2 Cairngorms National Park Supplementary Planning Guidance**

Open Space

### **7.3 Scottish Government Planning Policy and Guidance**

PAN 65, Planning and Open Space

## **8. PLANNING APPRAISAL**

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

### **8.3 Development Plan Policy Assessment**

Policy G1 of the Highland Structure Plan states that the Council will support developments which having regard to sustainable objectives, enhance the social, economic and environmental wellbeing of the people of Highland.

The relevant provisions of Policy G2 of the Structure Plan state that developments will be assessed to the extent to which they impact on individual and community residential amenity.

In terms of the Cairngorms National Park Local Plan, Policy 36 on open space provision states a presumption against development which would result in the loss of existing provision, particularly where the site is identified within the Local Plan proposals maps or open space strategy.

The determining issue in assessing whether the proposal complies with the provisions of the development plan is whether the change of use of amenity space to house curtilage would have an unacceptable impact on community residential amenity by resulting in the material loss of a valuable area of open space.

### **8.4 Material Considerations**

PAN 65 acknowledges the importance of open spaces as they provide the setting for a wide range of social interactions that support community wellbeing. They can also be important in defining the character and identity of settlements.

PAN 65 classifies 'open space' as greenspace consisting of any vegetated land or structure within and on the edges of settlements. It provides a detailed typology of the various types of open space which include public parks and gardens, private gardens or grounds, amenity greenspace and playspace for children and teenagers. All spaces, regardless of ownership and accessibility (i.e. public and private spaces) contribute to the amenity and character of an area .

The planning records for the site indicate that outline planning permission was originally granted for the overall estate in 1974 followed by detailed applications for individual houses or groups of houses. The layout plans made reference to several 'open areas' within the estate. There is also historical correspondence confirming that many of these areas were owned privately.

There is an informal pathway that leads through several open space areas between Woodburn to the east, through the central belt of the estate to the western side. These areas are largely wooded, with grass and shrub coverage and maintained by the Council. There is a larger area of grassed open space at the estate entrance which is also maintained by the Council. These areas contribute significantly to the amenity of the estate and are considered to be of high value in defining and enhancing the character of the estate.

A public path on the south west corner of the estate provides a direct link to the dismantled railway line forming part of the core paths network. There is no evidence to suggest a direct link to the core path via the application site. The edge of the western boundary of the site is several metres higher than the adjoining track with a steep embankment.

The application site consists of a narrow amenity strip. It has low visual significance to the appearance and character of the street scene as a whole and is only visible when viewed directly from the adjacent road. It provides no significant function which would otherwise be expected of open space and the proposed change to garden curtilage is likely to result only in the erection of a small fence or other means of enclosure which is unlikely to have any adverse impact on the amenity of the area. Approval of this application would simply restrict its use and availability to the enjoyment of the occupiers of the adjacent house with whom the maintenance responsibility rests. In the event that planning permission is granted, it is recommended that a condition is imposed removing permitted development rights to ensure that the Council retains control over any future development that may have an impact on amenity.

If planning permission is subsequently granted, it is unlikely to lead to a precedent for the loss of other spaces within the estate, the most valuable being those areas maintained by the Council and which have a clear community amenity benefit to the occupiers of the estate, and contribute significantly to the character of the area.

## **8.5 Other Considerations – not material**

The title deeds relating to the ownership of the application site require the land to be maintained as an 'open amenity area', the maintenance of which befalls the adjacent householder. There is no evidence to suggest that this open amenity area had to be open to the public. A similar situation appears to exist elsewhere in the estate, adjacent to 43 Strathspey Drive, where a large area of well maintained grassed open space has been fenced off and is under the control of the adjacent householder.

## **8.6 Matters to be secured by Section 75 Agreement**

Not applicable.

## 9. CONCLUSION

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

## 10. RECOMMENDATION

**Action required before decision issued** No.

**Subject to the above**, it is recommended the application be **Granted** subject to the following conditions and reasons / notes to applicant:

1. Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development shall be permitted within the curtilage of the house without planning permission being granted on application to the Planning Authority.

**Reason** : In order to safeguard the use of the site and the amenity of occupants of nearby properties.

### REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

### TIME LIMITS

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

### FOOTNOTE TO APPLICANT

#### Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.

2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

**Accordance with Approved Plans & Conditions**

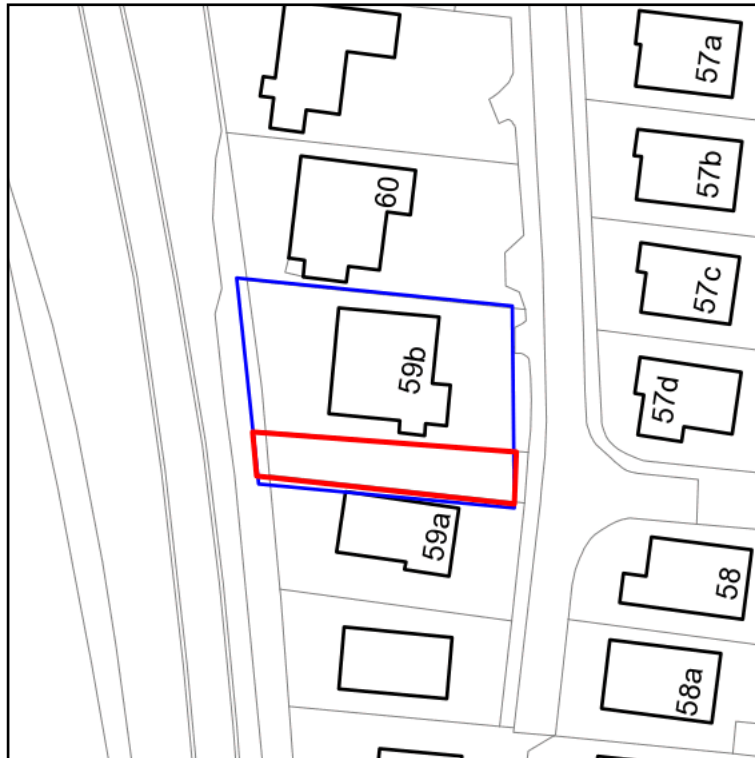
You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action



Signature: Allan J Todd  
Designation: Area Planning Manager - South  
Author: John Kelly  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan  
Plan 2 – Estate Layout Plan

## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
C Beange	58A Strathspey Drive, Grantown-on-Spey	21/08/14	Against
D Ritchie	58C Strathspey Drive, Grantown-on-Spey	27/08/14	Against
S McKenzie	55 Strathspey Drive, Grantown-on-Spey	28/08/14	Against
A McLeod	50 Strathspey Drive, Grantown-on-Spey	28/08/14	Against
C Beange	58A Strathspey Drive, Grantown-on-Spey	28/08/14	Against
J Laing	58 Strathspey Drive, Grantown-on-Spey	28/08/14	Against

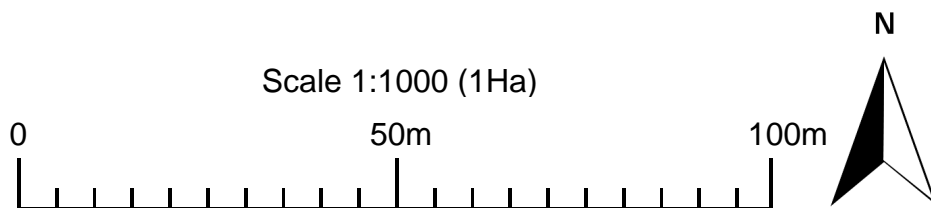
59B STRATHSPEY DRIVE, GRANTOWN-ON-SPEY, PH26 3EY



	Application Boundary
	Land in Ownership

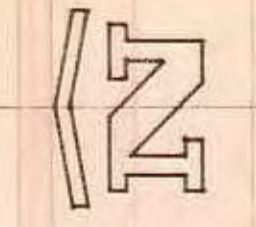
Information

Online Ref:  
000093494  
Date: 25/6/2014



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McLeod Building Ltd  
 78 High Street  
 Grantown on Spey  
 PH26 3EL  
 Tel. 2277

14/03015/FUL

JOB Strathspey Drive, Grantown on Spey Phase 1V.		
DRG. No. 146/92/1415.	SCALE 1 to 500 DATE June '81	TITLE site layout.
		<b>McLeod Building Ltd</b>
ARCHITECTURAL CONSULTANTS BUILDING CONTRACTORS ESTATE AGENTS		78 High Street Grantown on Spey PH26 3EL Tel. 2277