

Planning and EP Committee 8th July 2014

Application Ref: 14/00731/FUL

Proposal: Change of use of track to garden

Site: Land Adjacent To, 1 Regency Way, Peterborough, PE3 6HJ
Applicant: Miss Shumaela Syed

Agent:
Site visit: 21/5/14

Referred by: Cllr Arculus
Reason: Right of way; ownership; neighbour concern; inaccuracies in application.

Case officer: Ms L Lewis
Telephone No. 01733 454412
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Recommendation: **GRANT** subject to relevant conditions

1 Description of the site and surroundings and Summary of the proposal

Regency Way is a residential cul de sac built in the 1980s, accessed off The Drive. No 1 is the first house on the north side of the cul de sac. These dwellings would originally have backed onto the large rear gardens of houses in Thorpe Road, however subsequent backland development has taken place on these gardens. The north side of Regency Way now backs on to various smaller residential properties. To the side of No 1, between its western boundary and the rear boundary of 19 The Drive, is a track which connects Thorpe Road and Regency Way, running behind houses on the Drive and along the original side boundary of No 63 Thorpe Road. The track is about 6m wide, and is overgrown for most of its length.

The northernmost section of the track has been incorporated into the access and parking area around a block of flats built on 65 Thorpe Road, but it is clear to see that the route of this section of the track is still usable and unobstructed across this area. There is a gate at the south boundary of the curtilage of the flats, and beyond this the track does not appear to be widely used. There is no obvious reference to this matter on the relevant planning files, so it is likely that the access arrangement was made outside the planning system.

No 1 Regency Way has an attached double garage to the west side. The apron in front of this garage is shallow, and even small cars parking on it overhang the footway slightly. The outer corner of the garage is about 3m from the back edge of the footway, and a fence has been constructed running from this point, across the end of the track, to a point where it connects (approximately) with the corner of the side and rear fences to 19 The Drive. There is a mature conifer part way along this end of the track, and the fence has been constructed around it.

It appears that there was a fence across the track, from the rear corner of No 1's garage, possibly for many years. A feature is shown on plans from 1979, and appears on the Ordnance Survey plans. It is not possible to be certain, but views on photographs suggest that there was a gate in this fence.

The applicant has enclosed the application site by erecting a fence at the front and rear of the section of the track next to their garden. It appears that the west side boundary is still formed by the fence that was already in place at the rear of 19 The Drive. The new fence to the front, which is set only a small distance from the back edge of the footway, has double gates in it, and it is apparent that the area enclosed by the applicant and subject to this application has been used for

the parking of vehicles in the recent past. There is no dropped kerb on the footway outside the site.

There have been a number of complaints that a car sales business has been operating from the site. These have been investigated and to date there has been insufficient evidence that such a change of use has taken place.

The new fence across the rear of the application site does not have a gate.

2 Planning History

Reference	Proposal	Decision	Date
13/01723/FUL	Change of use of adjacent land to residential garden - retrospective	Withdrawn	11/04/2014

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Peterborough Core Strategy DPD (2011)

CS14 - Transport

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment Capital aspirations and development which would improve the quality of environments for residents.

CS16 - Urban Design and the Public Realm

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

CS19 - Open Space and Green Infrastructure

New residential development should make provision for/improve public green space, sports and play facilities. Loss of open space will only be permitted if no deficiency would result.

Peterborough Planning Policies DPD (2012)

PP01 - Presumption in Favour of Sustainable Development

Applications which accord with policies in the Local Plan and other Development Plan Documents will be approved unless material considerations indicate otherwise. Where there are no relevant policies, the Council will grant permission unless material considerations indicate otherwise.

PP03 - Impacts of New Development

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

PP12 - The Transport Implications of Development

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

PP16 - The Landscaping and Biodiversity Implications of Development

Permission will only be granted for development which makes provision for the retention of trees

and natural features which contribute significantly to the local landscape or biodiversity.

4 Consultations/Representations

Transport & Engineering Services (02.06.14)

No objection.

There is a set of gates along the site frontage. There is no dropped kerb adjacent the gates so this cannot be considered to be a lawful access.

Enforcement Team

No comments received

Councillor Comments

The application has been referred to Committee by Cllr Arculus on the following grounds:

1. The provisions do require the diversion/extinguishment of a right of way –contrary to the statement made by the applicant at panel 6. There is at least one document and very extensive right of way across along this track.
2. Highways. I disagree (which I don't do lightly) with the comments of the Local Highways Authority. There is the potential for the existing track to be converted and used by servient tenements for access both to Regency Way and/or Thorpe Road. This may be advantageous in future to the highway network in the area in future and this does not seem to have been considered.
3. The applicant's supporting statements does not seem to be accurate and they should have the opportunity to correct this before the committee.
4. The applicant cannot show ownership of the property or that they control the area in question. The enclosure of the site is recent and has been in the face of resident and councillor opposition and that of a party with an interest in the site.
5. There is significant resident concern over the application.
6. If the committee is minded to approve the decision then the residents ought to have the opportunity to inform the debate of the planning authority with regard to the imposition and enforceability of any planning conditions necessary not to reduce the amenity of the local area.

Generally, it is in the interests of ward harmony and community relations for this matter to be referred to the planning committee.

Local Residents/Interested Parties

Initial consultations: 13

Total number of responses: 14

Total number of objections: 14

Total number in support: 0

Neighbour comments have been received as follows:

- The land obviously belongs to somebody else
- Previous builders would have used the land to build on but there has always been this problem of ownership
- Land is not owned by the applicant
- Land [the full extent of the track] was owned by the [now Church Commissioners] in 1879 and cannot find a record of sale
- The fence includes part of the land registered to 19 The Drive [*nb this comment was not made by the owner of 19 The Drive*]. The lane is 20 feet wide yet the new fence/gates are wider than 20 feet. PCC should serve notice on the registered owners of 19 The Drive

- Why is this application not listed as “retrospective” which the previous one was
- Does “change of use to garden” mean that the applicant can continue to park cars
- What help and advice was given [by the LPA] to the applicant, was this to ensure that she received planning permission
- Various sections of the application form have not been completed correctly
- No 63 Thorpe Road has a right of way over the length of the [track]
- There is a right of way over the land – why should somebody else have to pay to defend his own rights
- Applicant should not have put up fence and gates without permission
- Applicant states they have maintained and cultivated the land since 2006, this is not true, please refer to the document from [the Neighbourhood Watch Co-ordinator]
- Owners [*sic*] never maintained this land until June 2013 when a fire was lit to clear the land
- Land has not been gardened or maintained since June 2013 when the fence and gates were erected
- Applicant states “approximate date for starting and finishing work was November 2013” this is untrue work started in June 2013 when a gate and fence were erected on this land enabling the family to park on the land (confirmed with photographs taken by the Highway Authority)
- Applicant states that there was vandalism and anti-social behaviour, but there was a very low number of incidents
- Regency Way is a quiet residential area. It has none of the adverse incidents referred to by the applicant
- [Applicant] hopes to get cars round the side of the premises
- Change of use has allowed applicant to trade in cars at a business level from a residential property
- No 1 has a double garage with two drive areas which one would normally expect to be sufficient.
- [Footway] access has frequently been blocked by parked cars outside No 1
- Owners of No 1 might take even more of the land to store more vehicles
- Email [to LPA from the applicant] states that they are happy to keep the grounds free from cars, so why are cars still on the land
- Has been a lot of time and effort spent on this matter, there are too many uncertainties for this application to be granted
- Properties adjacent to No 1 have been devalued due to the garden and street being cluttered with cars
- Nuisance caused by car trading business has caused great stress and resulted in 3 houses having to be withdrawn from sale
- Garden will be used for commercial purposes unsuitable for a residential area
- Current gardens have been used for commercial car-trading, vehicle repair and testing. This results in increased fire and traffic risks
- Cars have been washed and valeted at No 1 at all times of the day and night
- Ingress to Regency Way is frequently hampered by cars parked outside No 1 without permits, frequently blocking the only pavement. Children and adults are forced into the road
- Cars are parked on the road without permits [Regency Way is in a residents permit parking zone]
- Local residents have been in correspondence with Planning Compliance over the last three years about car trading taking place from the application site, including parking vehicles and giving test drives using trade plates licenced to another motor trader
- At least three other businesses are being carried out at No 1 already
- What enforceable conditions can be used to prevent car-trading activity from recurring as a result of the change of use being approved
- PCC Highway Control Team has made comments about aspects of parking cars at the rear and side; residents cannot understand why these have not been enforced

- Appears inconceivable that permission might be granted thereby allowing a commercial business in a residential area and resulting in obstruction and access difficulties and impact on emotional and physical well-being of neighbouring residents in their own homes

the following 11 comments are from the owner of 63 Thorpe Road, who enjoys access rights over the track

- The applicant is seizing land that does not belong to them
- Concerned that local authority could grant permission that defies and obstructs the legal right of way
- Right of way is enforceable by law
- Matter is a concern to me and my mortgage lender
- Application should be refused to avoid any further cost/time to me and my mortgage lender
- Applicant has ticked “no” on the application form when asked about effect on rights of way
- The land is not owned by the applicant
- Right of way is blocked
- Right of way states that travel across the land with transport is permitted
- Applicant has not replied to my letter
- Common sense and law should be observed when considering this application

Stewart Jackson, the local MP, has commented as follows:

- The application would set a precedent as it would encourage a commercial use in a residential area
- It would have a serious and detrimental effect on the quality of life and amenity of [residents in] Regency Way
- Increased traffic, parking, noise and annoyance as a result of related activities
- I am unconvinced that the City Council should be granting permission – there is at best disputed ownership (in the form of a beneficial right of way) and at worst the appropriation of land owned by the householder at 63 Thorpe Road
- Applicants are at liberty to move elsewhere if they do not like the restrictions of living in a narrow cul de sac
- LPA should seek to protect the integrity of established residential areas, should not allow retrospective applications of this sort, and should have sought to take enforcement action earlier
- There is evidence that the use of the land would be for commercial car trading, as laid out by neighbours over the last two years

5 Assessment of the planning issues

The proposal is for a change of use of the end of the track, as enclosed by the applicant, to domestic garden. Implicit in this is retention of the fencing.

The application is not for any commercial use of the site. This would require a separate application.

Site History

Since 2007, there have been complaints to the Enforcement Team about car trading from the site. Enforcement Officers have investigated at various times but there is insufficient evidence that there has been a change of use. It is understood that an extended family lives at the house (and that a member of the household operates a car business in the city), with several adults each owning their own cars. Occasional car sales of private vehicles from a home are considered ancillary – as yet, the scale of car sales established by Officers has not moved beyond ancillary.

Principle of use

The land has no allocated use in planning terms. As a general rule, areas of land with no allocated

use, which are adjacent to a garden, and which have no particular value in the streetscene, are suitable for incorporation into a garden. The general rule can be applied in this case.

The basic foundation of the planning system is that it exists to regulate and control the use and development of land in the public interest. That is, not the private interest. Private interest is for a private person to protect themselves. In this case, the issues of ownership and a private right of way do not affect the public interest. Nevertheless, they are examined in more detail below, as neighbours have made several comments.

The Right of Way (RoW)

It is understood, and land registry documents have been provided by a neighbour (as part of the previous application) to show, that there is a private right of way over the track (identified as Occupation Road), from Thorpe Road to Regency Way. This right of way pre-dates the development of Regency Way – the year given is 1902, but it appears to have been granted in 1879, when a piece of land along the east side of the track was sold. It is a private right of way, enjoyed by owners of 63 Thorpe Road and any persons authorised by them. Title evidence from the owner of 63 Thorpe Road has been provided to show this, but it has not been established whether any other properties or persons share the right of way.

It is possible that others do share the right of way, which was granted according to the 1879 document. No 1 Regency Way itself occupies part of the land that was sold with the right of way, as do several other dwellings.

As it is a private right of way it is for the holder(s) of the RoW to enforce his or her rights, and not within the power of the Local Planning Authority.

The applicant has stated on the application form, as pointed out by various parties, that the proposal does not require any diversions, extinguishments or creation of rights of way. Although it is not clear on the application form, this section of the form refers to **public** rights of way, not private. The Guidance Notes for filling in the form make this clear.

A grant of planning permission does not over-ride a private right of way, but it is for holder of the right of way to protect his or her own interest and/or the developer to extinguish the right of way through negotiation with the interested parties.

The LPA does not have the power to take any action in respect of the right of way. If the LPA were to refuse planning consent on the grounds that there is a private right of way over the land then it would be open to legal challenge and an award of costs against it.

Land Ownership

The applicant does not own the application site. Several neighbours have raised this as an objection, but the correct steps have been taken by the applicant. The land is not registered at the Land Registry, as has also been established by the Enforcement Officer when dealing with a complaint, and the applicant has posted a notice in the local newspaper. This is what is required by law in order that the planning application can be properly considered and determined. The issue of a planning consent does not give the applicant the right to occupy another person's land, but it is for the owner person to protect their own interest – the LPA cannot do it for them; nor can the LPA refuse planning permission just because the owner of the land objects on the grounds of ownership.

One neighbour has established that the land was owned by the Church Commissioners in 1879. It is likely that if it was so owned then it would be registered with the Land Registry, but Officers have contacted the Commissioners local representative (Smiths Gore) who have confirmed that the Church Commissioners do not own the land. They suggested the Diocese, but their representatives have also confirmed that they do not own the land.

One neighbour has commented that the site includes part of the land registered to 19 The Drive

[this comment was not made by the owner of 19 The Drive]. The comment appears to be based on the track width of 20 feet given in a title document, and the width of the new fence/gates being more than 20 feet. Neither the owner nor the occupant of 19 The Drive has commented. It is possible that some of the fence is on the applicant's own land as the track is not likely to be hard up to the side wall of the applicant's garage. It does not appear that the fence at the rear of 19 The Drive has been interfered with by the applicant. Land within the curtilage of 19 The Drive will already be lawfully garden land in planning terms and therefore will not require planning consent so to be used, whoever uses it.

On the plans accompanying an application for 19 The Drive, in 2012, the width of the track is shown as 6m (19.7 feet) alongside the garden fence for No 1 Regency Way, but 7m (23 feet) between the back boundary of 19 The Drive and the side wall of the garage at No 1 Regency Way. This might account for the discrepancy.

If the LPA were to refuse planning consent on the grounds that the applicant does not own the land then we would be open to legal challenge and an award of costs against us.

Alleged Commercial Use of the Site

Neighbours have commented about commercial activities taking place from the site. There are records of complaints to Enforcement Officers since 2007. These have been investigated and no breach of planning control has been identified. Neighbours have repeatedly commented that there is commercial activity taking place, but it is likely that some if not all of the activity they see relates to cars owned by occupants being sold privately. This is not, if carried out at a reasonable scale, a breach of planning control. In a household of several adults, private car sales taking place several times a year would be regarded as reasonable.

A neighbour has commented that "at least three other businesses are being carried out at No 1". This appears to refer to some other businesses having a registered address at No 1 Regency Way, which is not the same thing as being carried out. If a person wishes to register a business at their home address, or if a director of a company lists their home address, there is no planning objection. There are companies registered at two neighbouring addresses – a property company and a contracting company – but this does not appear to have given rise to any overt commercial activity in the area. It is the activity taking place that will, in certain circumstances, trigger the need for the involvement of the LPA; not the fact of a company registration.

Residents have also mentioned matters such as mis-use of trade plates, and health and safety breaches, but these are not planning matters. It is for the relevant authorities (such as for example the DVLA) to take action on such matters where they are lawfully empowered to do so. The LPA cannot go beyond its own powers.

Possible Future Commercial Use

This cannot be taken into account. The applicant has stated that the proposal is to use the land as garden, and Officers consider that this is acceptable. Any commercial use of the site would require planning consent. If the LPA were to refuse planning consent on the grounds that the applicant might use the site for commercial purposes in the future then we would be open to legal challenge and an award of costs against us.

Although possible future commercial use cannot be taken into account, Officers are aware that this is a residential area, and this would be considered were any application received in the future for a commercial use.

Neighbours have asked about the use of conditions to control possible future car trading, but a condition cannot be used to stop something that requires planning permission in its own right. Private car trading, of residents own cars, several times a year, is already ancillary to the residential use of No 1, and cannot be prevented. Conditions imposed on a planning permission now would not apply retrospectively to the land that has always been No 1 Regency Way. A condition, as suggested below, preventing use of the land for the parking of vehicles, would

prevent just that – the parking of vehicles – but would not, and could not, prevent occupants selling their own private cars from their home.

Commercial scale car sales from the site would require planning consent, and if Enforcement Officers were ever able to establish that a commercial car sales operation was taking place then the appropriate enforcement action could be taken – a condition would not be required.

Assessment of Proposal

The land in question is of no particular merit in the streetscene. Although most of the length of track is visible from the north, and from the south if one looks over the fence, the fence across the track at the back of the application site does not require planning permission. This is because, under the Permitted Development regulations, a 2m fence can be erected without explicit planning permission in locations not adjacent to the Highway. Views up the track can therefore be blocked without planning consent. It is apparent from looking at the track that it has not been maintained lately. Maintenance of the track is not a planning concern, but in terms of impact on the streetscene the track is a neutral feature and therefore loss of the view along the track will not cause any particular harm.

The site shares a boundary with 1 Regency Way and is, purely in land use terms, a natural extension to the garden. There is no lawful planning reason to resist the change of use to garden. As set out above and below, many of the objections raised by neighbours are not lawful planning matters.

Highway Safety

Several neighbours have objected to the proposal on the grounds that vehicles might be parked on the land, which could be hazardous to Highway safety. Given that there is a private right of way in existence which allows for the travel of vehicles (albeit referred to in 1902 as horses carts and carriages) over the track, this potential hazard already exists. The owner of the right of way could, according to the wording in the Deeds, authorise anybody to use the right of way – in theory this means that a large number of vehicles could be driven up and down it.

Officers are of the view that it is reasonable to impose a condition prohibiting the applicant, or any future user of the land, from parking vehicles on the site. This is because the manoeuvring of vehicles across the footway in the absence of a dropped kerb could be hazardous. The right of way could in theory be used by an unlimited number of authorised persons creating an equivalent hazard to Highway safety, but this is unlikely. The parking of vehicles on the application site is extremely likely. Officers therefore consider that a condition should be used to prohibit the use of the site for the parking of vehicles.

Neighbours have asked why some recommendations made by the LHA Highway Control Team have not been enforced. This appears to be a reference to comments made at the time of the previous application. At that time, the Highway Engineer made comments about the proposal relating to the need for visibility splays and a dropped kerb. The application was withdrawn so those matters never had to be resolved. The current application is solely for garden use, so those matters do not arise. The Engineer also made advisory comments, which would apply if the applicant was intending to use the site for vehicle sales/storage. That is not the proposal which has to be determined, so the comments are irrelevant.

If there is an active Highway safety issue related to vehicles being driven up the raised kerb and across the footway then the Highway Authority has the power to take action, however the current situation can be resolved through the grant of planning permission for the scheme with appropriate conditions.

A condition is recommended prohibiting the use of the land for the parking of vehicles.

Fence and Gates

The fence at the back of the application site does not require planning consent. The fence at the

front, being adjacent to the Highway, does as it is over 1m tall. Officers have considered the various options.

Firstly, the fence and gates could be granted planning consent as they stand. The opening width of the gates would allow the passage of vehicles.

Secondly, a condition could be imposed requiring that any gate is restricted in width to 1m, to allow the passage of people but not large vehicles. This would prevent the applicant from being able physically to drive cars onto the site, but it would also prevent the owner of 63 Thorpe Road from exercising his vehicular right of way. As set out above, the private right of way is not a planning matter, and it would be open to the owner of the right of way, should he wish to drive vehicles over this boundary, to apply for a variation of the condition.

Thirdly, a condition could be imposed restricting the construction of any fence over 1m high. Given that the applicant wishes to use the land as garden, there is no planning reason to resist this, and there is already a tall fence along the side boundary of 19 The Drive, it is not considered reasonable to prevent the applicant having a 2m fence along the garden boundary to allow the usual level of privacy.

Officers therefore recommend that the second option is taken, and a condition is imposed requiring the gates to be changed so that the gate width is no more than 1m. It would be open to the holder of the right of way to apply to vary this condition should he wish to start using the right of way for vehicular access.

The Applicant's Supporting Statement

Some neighbours have commented on the applicant's planning statement. The main points in the supporting statement are:

- Have looked after the land for the last 6 years
- Burglaries taking place on Regency Way and down The Drive
- A van reversed into a car parked outside the house, having had two witnesses from the neighbourhood this was never resolved
- Youths hanging out drinking, making a nuisance, tipping rubbish late at night
- Dogs being allowed to litter on the grass
- Pests such as rats mice and foxes visiting, which has since stopped
- Access for youths to hide due to poor lighting/gangs hanging out/thieves and intruders having rear access to The Drive
- Police advised to apply for the side of the land it would be the best way forward and hopefully stop the neighbours from complaining
- Have purchased smaller cars so they are easily parked on the driveway and not hanging off on the footpath
- Have maintained the land since 2006, and secured the front and back to prevent the above mentioned
- Cleared up bushes, twigs, leaves, branches, grass which was 1.5m high and very untidy.
- Also was a lot of bricks/rubbish tipped inside the bushes which is now all cleared up
- This has helped remove the pests which were causing most of the problem around the house
- Also reduced the amount of theft and burglary in the area, especially criminal related
- Now all cleared up maintained and fenced, fully secured. This not only helps secure 1 Regency Way but also properties on The Drive.

None of these points has influenced the consideration of the application.

The Neighbourhood Watch Co-ordinator has examined these points in detail. Her letter is attached so that Members can read her comments in full.

The Application Form

Neighbours have made various comments about the way that the application form has been filled in. The matter of the right of way has been covered above; other points are (again, Officer response is *in italics*):

- Section 5 – Pre-application advice - Help and advice given to the applicant – *this was not to ensure that the applicant received planning permission, but to ensure that she completed the application form correctly. As the neighbours pointed out in great detail, the application form for the first application was not correctly filled in, although this did not, and would not have, affected the consideration of the application. Planning Officers are obliged to assist all parties, including applicants. The applicant in this case had a meeting with the Case Officer to go through the application, to ensure that it was as correct and complete as possible, and to explain to the applicant her options in relation to this application and future actions. So far, time spent talking to and helping the applicant has been heavily outweighed by time spent talking to and attempting to help the neighbours and objectors.*
- Section 9 – Materials to be used - the details on the plan are very unclear. The plan should show precise details of the width of the lane and explain why that differs from the dimension of the newly erected fence/gate so substantially – *the applicant is under no obligation to explain this. In any case, this section of the application form refers to materials. The applicant has stated “Gate fence wooden” which, as the fence and gates have already been put up, is obviously correct.*
- Section 10 – Vehicle Parking – the applicant has written “see cover letter” but that letter refers only the land at the front of the house – what is their intention re the former track? *The applicant has applied for change of use to garden. The level of information submitted is sufficient for Officers to make an informed recommendation on the application.*
- Section 14 – Existing use - the first box has not been completed *This does not affect the determination of the application*
- Section 16 – Trade effluent – there are a number of old vehicles parked on the site. These almost certainly contain fuel/oil; batteries are left in the open. This is a health and safety issue - *The proposal is for a domestic use. “Trade effluent” is not a consideration in this case and refers to, for example, outputs from factories, oil refineries etc. Health and safety is not a planning matter but in this circumstance would be the applicant’s responsibility.*
- Section 23 – Hazardous substances – as above – *This question is asked to establish whether an application for Hazardous Substances Consent might be required. This is not a consideration that would apply to domestic scale applications.*
- Section 26 – Declaration - the applicant has signed a declaration [that the information supplied is correct] but there are misleading details in the supporting statement. *This has not affected Officer’s consideration of the application.*

Other matters, with Officers response *in italics*

- Loss of property value – *this is not a planning matter*
- Application should be refused to save me time protecting my right of way – *this is a private matter outside the planning system*
- My [63 Thorpe Road] right of way is blocked – *this is a private matter to be resolved outside the planning system.*
- Right of way allows travel with vehicles – *this is stated in the Land Registry deeds for 63 Thorpe Road. A copy of this document was provided to support an objection to the earlier application. This is a private matter to be resolved outside the planning system.*
- Why is this application not listed as “retrospective” which the previous one was – *this has not affected comments on or the consideration of the application. The applicant has stated that the works/change of use have been completed so the word “retrospective” has been added to the description.*
- Email [to LPA from the applicant] states that they are happy to keep the grounds free from cars, so why are cars still on the land – *in discussions with the applicant Officers indicated that we would be recommending condition that effectively prevented the keeping of vehicles on the land. The applicant indicated that this would be acceptable. As no*

permission has been issued, there is currently no requirement or need for vehicles there now to be removed.

- Applicant states “approximate date for starting and finishing work was November 2013” this is untrue work started in June 2013 when a gate and fence were erected on this land enabling the family to park on the land (confirmed with photographs taken by the Highway Authority) – *the exact dates for the start and finish of work are not relevant to determination of the proposal. The photographs on the file were taken either by the applicant or by the case officer, and not by the Highway Authority. Photographs taken by the Case Officer were all taken in 2014 and so cannot establish anything earlier.*
- No 1 has a double garage with two drive areas which one would normally expect to be sufficient – how many families have up to 11 “family cars”? – *it is not the place of the LPA to decide how many cars a household should have.*

6 Conclusions

The proposed change of use to garden land, and retention of the front boundary treatment, will have no detrimental impact on the amenity of occupiers of neighbouring properties, or on the streetscene.

Activities likely to cause disturbance, or to cause a hazard to Highway safety, can be controlled by Condition.

Various matters arising such as a private right of way and land ownership are not planning matters and cannot be taken into account.

The proposal is therefore in accordance with Policy CS16 of the Peterborough Core Strategy DPD and Policies PP3 and PP12 of the Peterborough Planning Policies DPD.

7 Recommendation

The case officer recommends that planning permission is **GRANTED** subject to the following conditions:

C1 The site shall not be used for the parking, storage, maintenance or cleaning of motor vehicles.

Reason: In the interests of Highway safety and neighbour amenity in accordance with Policies PP3 and PP12 of the Peterborough Planning Policies DPD.

C2 The gates in the fence at the front of the site shall be altered so that there is only a single gate opening and that the opening is no more than 1m wide.

Reason: In the interests of Highway safety and neighbour amenity in accordance with Policies PP3 and PP12 of the Peterborough Planning Policies DPD.

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