

Planning and EP Committee

Application Ref: 21/00386/FUL

Proposal: Change of use from public open space to private garden

Site: Land Adjacent To 415 Eastfield Road, Eastfield, Peterborough, PE1 4RE
Applicant: Mr Kaveljit Singh

Site visit: 29.04.2021

Referred by: **Councillor Jackie Allen**
Reason for Referral: Character and appearance of the area would not be harmed, repurposing of this strip will not deter from the neighbourhood amenities.

Case officer: Mr M A Thomson
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Recommendation: **REFUSE**

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

Site Description

The application site comprises an area of dedicated public open space situated in a prominent position on the corner of Eastfield Road and Reeves Way. To the immediate west is No. 415 Eastfield Road, to which this application relates, and to the south is 417 Reeves Way. The site itself is for all intents and purposes rectangular in shape with an extension to south, which houses a substation. The site is also host to two large mature trees; the land of which is owned and maintained by the Council.

Proposal

The Applicant, who resides within 415 Eastfield Road, is seeking to enlarge the curtilage of the dwelling into an area of public open space. The curtilage would extend 5.8m west, with a depth of 23 metres (133.4 square metres), and would be bounded by a 2.8m high fence and trellis.

As set out within the covering letter, it is understood that the Applicant has resided at the property for 20 years and seeks to enlarge his garden, to enable more space for family members to exercise and for the family pet. It is stated that the area of public open space is rarely used, except for occasional fly tipping.

2 Planning History

Reference	Proposal	Decision	Date
06/00445/FUL	Loft conversion with three front dormers	Permitted	15/05/2006
P0588/75	Erection of a conservatory	Permitted	29/08/1975
P0249/75	Erection of new conservatory and extension to garage	Permitted	16/05/1975

3 Planning Policy

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

National Planning Policy Framework (February 2019)

Section 8 – Promoting healthy and safe communities

Paragraph 97 - Loss of existing public open space

Section 12 – Achieving well-designed places

Peterborough Local Plan 2016 to 2036 (2019)

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- 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.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP19 - The Historic Environment

Development should protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value.

Unless it is explicitly demonstrated that a proposal meets the tests of the NPPF permission will only be granted for development affecting a designated heritage asset where the impact would not lead to substantial loss or harm. Where a proposal would result in less than substantial harm this harm will be weighed against the public benefit.

Proposals which fail to preserve or enhance the setting of a designated heritage asset will not be supported.

LP23 - Local Green Space, Protected Green Space and Existing Open Space

Local Green Space will be protected in line with the NPPF. Development will only be permitted if in addition to the requirements of the NPPF there would be no significant detrimental impact on the character and appearance of the surrounding areas, ecology and heritage assets.

LP28 - Biodiversity and Geological Conservation

Part 1: Designated Site

International Sites- The highest level of protection will be afforded to these sites. Proposals which

would have an adverse impact on the integrity of such areas and which cannot be avoided or adequately mitigated will only be permitted in exceptional circumstances where there are no suitable alternatives, overriding public interest and subject to appropriate compensation. National Sites- Proposals within or outside a SSSI likely to have an adverse effect will not normally be permitted unless the benefits outweigh the adverse impacts.

Local Sites- Development likely to have an adverse effect will only be permitted where the need and benefits outweigh the loss.

Habitats and Species of Principal Importance- Development proposals will be considered in the context of the duty to promote and protect species and habitats. Development which would have an adverse impact will only be permitted where the need and benefit clearly outweigh the impact. Appropriate mitigation or compensation will be required.

Part 2: Habitats and Geodiversity in Development

All proposals should conserve and enhance avoiding a negative impact on biodiversity and geodiversity.

Part 3: Mitigation of Potential Adverse Impacts of Development

Development should avoid adverse impact as the first principle. Where such impacts are unavoidable they must be adequately and appropriately mitigated. Compensation will be required as a last resort.

LP29 - Trees and Woodland

Proposals should be prepared based upon the overriding principle that existing tree and woodland cover is maintained. Opportunities for expanding woodland should be actively considered. Proposals which would result in the loss or deterioration of ancient woodland and or the loss of veteran trees will be refused unless there are exceptional benefits which outweigh the loss. Where a proposal would result in the loss or deterioration of a tree covered by a Tree Preservation Order permission will be refused unless there is no net loss of amenity value or the need for and benefits of the development outweigh the loss. Where appropriate mitigation planting will be required.

4 Consultations/Representations

PCC Open Space Officer (29.04.21)

Object – The application site is dedicated public open space, and is not surplus to requirement. Any such development needs to accord with the criteria set out under Policy LP23 of the Peterborough Local Plan (2019) and Paragraph 97 of the NPPF (2019).

PCC Wildlife Officer (21.06.21)

Object - Considering the intense management of the grassland the application site is not considered to be a significant area of grassland for biodiversity connectivity, however, there are concerns that the proposal would result in the incremental loss of green infrastructure.

The biodiversity value of the site has not been characterised as part of this application, however, it has potential to form high quality wildflower habitat.

PCC Peterborough Highways Services (07.05.21)

No objection - The relocated fence would not impede vehicle or pedestrian visibility as the wide highway verge enables clear views of approaching highway users. It also does not appear to impede the visibility for users of the cycleway. If planning permission is granted, conditions and informatives have been sought with respect to details of any temporary facilities, as well as no depositing on the highway.

Local Residents/Interested Parties

Initial consultations: 8
Total number of responses: 0
Total number of objections: 0
Total number in support: 0

No letters of representation have been received.

5 Assessment of the planning issues

The main considerations are:

- Principle of development
- Character and visual amenity
- Biodiversity
- Access and parking
- Neighbour amenity

a) Principle of Development

Policy Context

The application site is identified as dedicated public open space (POS) and is maintained by the City Council. The loss of designated POS is strongly resisted through the Local Plan and NPPF as it is acknowledged to be of significant benefit to the communities that it serves.

Paragraph 97 of the NPPF (2019) states, '*Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use'.*

Whilst LP23 then goes on to state '*In addition, if the requirements of the NPPF (2019) can be satisfied, the proposal must also demonstrate that:*

- a. The open space does not make an important contribution to the green infrastructure network or connectivity of habitats, and the development would not result in landscape or habitat fragmentation or incremental loss; and*
- b. The proposed development can be accommodated on the open space without causing significant detrimental impact on the character and appearance of the area, ecology or any heritage assets'*

With respect to the Peterborough Open Space Strategy (Atkins, 2016), East Ward within which the application site is located, is expected to experience a population increase of 20% over the plan period, from 10,400 to 12,500 by 2036. Referring to Table 6-2 (Page 59), this sets out the quantitative deficiency of open space per type and by ward. Within East Ward, there is a shortfall of 14.14ha of neighbourhood parks, 0.28ha of children's play, and 1.32ha of allotments, which is considered to be significant in a Ward which has been identified as having one of the highest expected increases in population.

In accordance with Policy LP23, the starting point is Paragraph 97 of the NPPF (2019). The application has not been accompanied by an assessment which demonstrates that there is a clear surplus of open space or land within the ward, it has not been evidenced that the POS is surplus to

requirements, the development would not be replaced by an equivalent or better provision in terms of quantity or quality in a suitable location, and the development is not for an alternative sport or recreation provision. Accordingly, the proposal fails all criteria to be applied by the NPPF.

Whilst not of exceptional quality in itself, the POS subject to this application forms part of the overall network of green verdant spaces within the locality, serving the local community and offering relief from the dense built form of the area. The only benefit arising from the proposal would be the private benefit of the Applicant through the extension of their garden, and there are not considered to be any public benefits.

Taking this into account, the proposal would result in the loss of much-needed public open space which has not been demonstrated as being surplus to requirement. The principle of development is therefore not acceptable.

b) Character and visual amenity

The proposed development would reduce an area of open space by 133.4sqm, and would be bounded by a 2.8m high fence with trellis above. No soft landscaping is proposed on the outside of the proposed boundary treatment. It is acknowledged that the existing fence stands in the region of 2.8m in height, however, given the additional encroachment of the proposed fence into the area of public open space (POS), and its juxtaposition to the POS and highway, this would form an incongruous and visually prominent feature from the public realm, to the detriment of the character and appearance of the area.

Furthermore, the proposal would result in the incremental loss and erosion of public open space which is of key amenity value to the surrounding locality, adding verdancy to the dense built form of the area. Its loss would result in unacceptable harm to the character, appearance and visual amenity of the surrounding area which is contrary to Policy LP16 of the Peterborough Local Plan (2019).

c) Access and Parking

The Local Highway Authority (LHA) have raised no objections to the proposal, advising that the relocated fencing would not impede vehicle or pedestrian visibility of the vehicular access serving No.415 Eastfield Road as the wide highway verge enables clear views of approaching highway users. The LHA have also stated that the proposal does not appear to impede the visibility for users of the cycleway. If planning permission were to be granted, conditions and informatives have been sought with respect to details of any temporary facilities, as well as no depositing on the highway.

To confirm, if planning permission were to be granted, Officers would not be seeking to attach a temporary facilities condition, as the storage of materials on the highway is a matter for the Local Highway Authority to enforce, and is covered by separate legislation to planning.

Officers have noted, further to passing the application site over the years, that vehicles are sometimes found to be parked on the application site, however, there is no evidence to suggest that these vehicles are connected with the application site. That said, it is noted that if permission was granted, the proposal would increase the amount of off-site car parking available for the property of 415 Eastfield Road.

The proposal would not result in an adverse highway safety hazard, and would therefore accord with Policy LP13 of the Peterborough Local Plan (2019). However, for the avoidance of any doubt, whilst the proposal may be acceptable in this respect, this does not overcome the other concerns raised elsewhere within this report.

d) Neighbour Amenity

Whilst no letters of representation have been received, the matter of neighbour amenity remains a material planning consideration.

Policy LP17(b) states, *'new development should not result in an unacceptable impact on the amenity of existing occupiers of any nearby properties. These impacts may include ... loss of public green space and/or amenity space...'*

The proposed change of use would result in the reduction of an established area of public open space (POS) by 133.4sqm, in a Ward where POS has been identified as being deficient. Therefore, the proposed change of use would have an unacceptably adverse impact on the amenity of neighbour occupiers and the proposal would be contrary to Policy LP17(b) of the Peterborough Local Plan (2019).

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

7 Recommendation

The case officer recommends that Planning Permission is **REFUSED** for the following reasons:

- C 1 This proposed change of use to private garden would result in the loss of 133.4 square metres of public open space, in an area where it has been demonstrated that there is currently a deficiency of 14.14ha of open space, and is expected to see a population increase of 20% by 2036. The application has not been accompanied by an assessment which shows that the open space is surplus to requirement, the loss would not be replaced by an equivalent or better provision in terms of quantity and quality in a suitable location, and the proposal is not for an recreational provision; there are no public benefits which outweighs the loss of public open space. As such, the proposal would be contrary to Policy LP23 of the Peterborough Local Plan (2019), and Paragraph 97 of the National Planning Policy Framework (2019).
- C 2 The proposed change of use to private garden and extension of a 2.8m high boundary fence would unacceptably diminish an established area of public open space, and would form a visually prominent and incongruous feature from the public realm that unacceptably detracts from the character and appearance of the area. As such, the proposal would be contrary to Policies LP16 and LP23(b) of the Peterborough Local Plan (2019), and Paragraph 127 of the NPPF (2019).
- C 3 The proposed change of use would result in the reduction of an established area of public open space in a Ward where public open space has been identified as being deficient. This loss would have an unacceptably adverse impact on the amenity of neighbour occupiers, and the proposal is considered to be contrary to Policy LP17(b) of the Peterborough Local Plan (2019).

Copy to Councillors J Allen, Hemraj and Qayyum