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**Report to Planning Committee**

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**Date of Meeting: 8<sup>th</sup> November 2018**

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**Subject: Change of Use of Open space to Garden Ground,  
Formation of Driveway and Erection of Boundary Fence  
(Retrospective) - 16 Sunnyside Court, Alloa (Ref No.  
18/00207/FULL)**

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**Report by: Planner**

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**1.0 Purpose**

- 1.1. The purpose of this report is to provide an assessment of and recommendations on the Change of Use of an area of open space to private garden ground. The application relates to an area of open space adjoining No.16 Sunnyside Court, Alloa. The area of existing open space is level ground, laid in grass and is adjacent to communal parking areas serving surrounding housing.
- 1.2. The application is being reported to the Committee, following a referral request by a local member.
- 1.3. Members should note the retrospective nature of the application.

**2.0 Recommendations**

- 2.1. Planning application ref : 18/00207/FULL is recommended for approval for the following reasons
  1. The proposal meets the criteria of policy SC 8 and SC 10 of the Clackmannanshire Local Development Plan.
  2. The proposal complies with guidance contained in Supplementary Guidance No.10 Domestic Developments, in terms of the amenity of neighbours, the character of the site / area and boundary treatments.
  3. There are no other material considerations that outweigh the development plan position.

### 3.0 Considerations

- 3.1. Having been contacted by the owner of No. 16 Sunnyside Court in 2017 and in line with Council policy at that time, the Council agreed, subject to any necessary consents including planning permission, to the sale of the area of land adjacent to the southern boundary of No. 16 Sunnyside Court. This area of land is bounded by roads on the south and west and a footpath on the east. The conditions of sale included notification that an application for planning permission for a change of use would be required.
- 3.2. The sale was completed in August 2018 and the owner started work on creating a driveway/parking area, laying paths and erecting a fence. At this time, a member of the public contacted the Planning service and the owner was reminded that they required planning permission for a change of use and they were advised to stop work until a decision on the application was made. The owner advised that his solicitor had not made him aware of the need for planning permission. Once the owner had accepted that planning permission was needed, all remaining work ceased.
- 3.3. The owner contacted the Council's Roads service and arranged for the kerb to be lowered, to serve the new parking space. The lowering of the kerb does not require planning permission. The Roads assessment of the merits of allowing a kerb to be lowered is informed by criteria relating to road safety and not by the status of the land and therefore approval was granted to lower the kerb, prior to the determination of this application. The lowered kerb has now been completed.
- 3.4. Consultations
- 3.5. Roads and Transportation – have no objections to the proposed use or any associated works.
- 3.6. Representations
- 3.7. A total of 28 No. neighbouring properties were notified of the planning application. Objections to the proposal have been received from two neighbours on the following grounds :
- 3.8. Around a year ago, an area of land adjacent to No. 22 was sold to the owner of that property. No notification was given of this sale and there was no opportunity to lodge an objection to the change. Comment. *The procedure followed by the Council in land disposal does not include notification of the proposed sale to adjoining neighbours. In this highlighted case, the owner has not submitted an application for planning permission, despite being informed in the offer letter that planning permission would be required. The owner of No. 22 Sunnyside Court will now be advised to submit a retrospective planning application.*
- 3.9. The area of land that is the subject of this application was recently purchased and no notice was given. It was stated that as the land was sold for under £10,000 no notice was required, Comment. *It is unclear from the objection*

*who in the Council stated that no notice was required as it is not Council policy to notify surrounding properties during any land disposal.*

- 3.10. The applicant only applied for permission to change the use of the land when the Clackmannanshire Tenants and Residents Association intervened. Comment. *The Planning service was informed by a member of the public that changes were being made to the land in early September and immediately contacted the owner. The application for a change of use was submitted shortly after that time.*
- 3.11. The owner of No.16 is a private owner and the Council tenants in the adjacent houses were not given an opportunity to purchase the land. Comment. *Previously it was Council policy for the disposal of small areas of land to favour the disposal to an adjacent owner so as to avoid the creation of standalone, small plots of land. In the case of No's 16 and 22 Sunnyside Court, there is only one adjacent owner. From January 2018 the sale of small areas of open space to interested purchasers is no longer being resourced. However, the sale of land adjacent to numbers 16 & 22 Sunnyside Court was progressed before the decision to no longer sell small areas of open space was taken.*
- 3.12. A better use of the land would have been for a community garden as the use by children has decreased. Comment. *No community interest in communal gardens to be established in this area has been previously informed to the Council.*
- 3.13. The change replaces a view of green space with fences and other development. Comment. *The applicant has stated that the majority of the area will remain as grass and the fence will be restricted to 1 m in height.*
- 3.14. The Planning Committee should decide on the reclassification of the land as there may have been a conflict of interest as one of the applicant's children works for the Council. Comment. *The person in question does not work in the council's Estate, Legal or Planning departments and has in no way influenced the land disposal procedure or the consideration of this planning application.*
- 3.15. The kerb has been lowered to serve the newly created driveway within the land. Comment. *Lowering the kerb does not require planning permission. An application was made to the Council's Roads department and consent was granted to lower the kerb.*
- 3.16. The driveway is too close to No. 18 Sunnyside Court and should be moved further away. Comment. *The driveway / parking area is separated from No.18 by the public footpath that runs up the sides of Nos.16 & 18. The house to the east does not have any openings in the gable end facing the driveway. The Council's Roads section has no objection to the position of the driveway.*
- 3.17. The use of the driveway should be limited so that there is no business use, large vehicles i.e. trucks vans, caravans should be excluded, and there should be no rebuilding of vehicles allowed in the area. Comment. *Normal domestic uses would be allowed in the area and this would include the parking of vehicles and caravans. Any noise impact from activities in the area would be investigated by the Council's Environmental Health department. Any business use would be investigated by the Council's Planning department.*

- 3.18. Was the area sold for garden use only and not for a drive, garage, extension in mind as this would have increased the value of the land far in excess of the amount that the Council received for this land? Comment. *The proposed use of the land is as a private garden. Domestic uses within garden ground include driveways, garages and extensions. The valuation of the land, by the Council reflected the proposed use of the land.*
- 3.19. Background
- 3.20. The application must be determined in accordance with the development plan unless material considerations indicate otherwise. The Clackmannanshire Local Development Plan, adopted August 2015 (LDP) comprises the development plan. Key policy considerations for the LDP are as follows :
- SC 8 Domestic Developments.
  - SC 10 (Education, Community Facilities and Open Spaces).
- 3.21. Clackmannanshire's Local Development Plan policy SC 8 states that the Council will normally approve alterations to houses provided that the development, by virtue of its siting, design, scale or massing does not detrimentally affect the character or appearance of the building, site or surrounding area.
- 3.22. Policy SC 10 aims to retain and enhance the provision of educational facilities, community facilities and open space, but sets parameters and criteria for assessment of proposals that, for example, propose changes to open space provision.
- 3.23. The area of land is to the side of the house and has a double road frontage. While an objection stated that the area has been used for recreation purposes, the other objection stated that the area is not used as often as in the past. It is also noted that Greenfield Park is only 50m away and is easily accessible from the housing in Sunnyside Court.
- 3.24. The area of open space has not been actively used by the public and this may reflect the proximity of Greenfield Park. It is therefore considered that the loss of this open space will not significantly affect levels of residential amenity in this area. The change in function will not be detrimental to the local community in terms of any significant loss of recreational space.
- 3.25. The general amenity and character of the surrounding area will therefore not be significantly compromised. The applicant has stated that, at the moment, the erection of the 1m high timber fence will be the last development on the site. This means that the majority of the land will remain as grass. Any further developments in the area would be assessed against permitted development rights and if an application for planning permission is required, further assessment of the impacts of any development would be undertaken.
- 3.26. The proposed 1m high wooden fence is in keeping with the character of the area. It will not adversely impact on visibility splays and will have no impact on pedestrian or road safety.

3.27. In summary, the proposals are considered to comply with the relevant provisions of the Local Development Plan and material considerations do not indicate that the application should otherwise not be supported.

#### 4.0 Sustainability Implications

4.1. None.

#### 5.0 Resource Implications

5.1. *Financial Details*

5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

5.3. Finance has been consulted and has agreed the financial implications as set out in the report. Yes

5.4. *Staffing*

#### 6.0 Exempt Reports

6.1. Is this report exempt? Yes  (please detail the reasons for exemption below) No

#### 7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box )

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

None.

**8.0 Equalities Impact**

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes  No

**9.0 Legality**

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

**10.0 Appendices**

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

None

**11.0 Background Papers**


11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

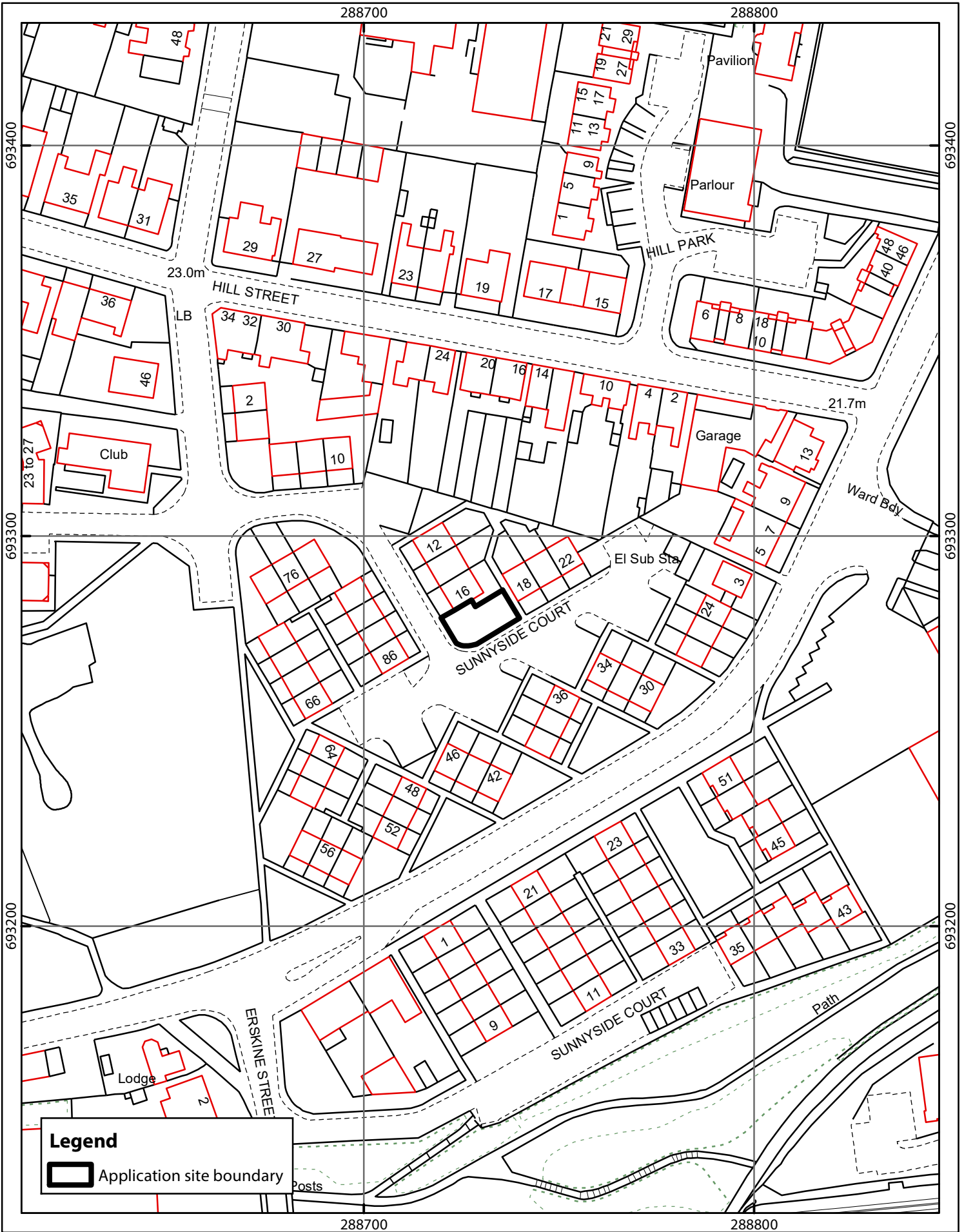
Yes  (please list the documents below) No

**Author(s)**


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Mark Stoddart	Householder Planner	2626


**Approved by**

NAME	DESIGNATION	SIGNATURE
Julie Hamilton	Development Service Manager	




**Legend**

 Application site boundary

**N**  
  
 Date:  
 15-Oct-2018

**18/00207/FULL - 16 Sunnyside Court, Alloa**  
**Change Of Use Of Open Space To Garden Ground, Formation of Driveway And**  
**Erection Of Boundary Fence/Gates (Retrospective)**

**Ward: Clackmannanshire South**  
 0 10 20 30 40 50  
 Meters

**OS Grid Ref: NS 88 93 SE**  
 Scale: 1:1,250

 **Clackmannanshire Council**  
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