

Garden fight will be decided by The Scottish Government

by Joseph Anderson Local Democracy Reporter

A man who was sold council land on the promise he would get planning permission to turn it into a garden has taken his fight to Ghe Scottish Government.

Gordon Gaffney, of Marchbank Grove, Balerno, spent £6,769 buying a 141-metre-squared plot of land to the south of his property from The City of Edinburgh Council, which he planned to use in creating a small, south-facing garden for him and his wife.

In April 2019, prior to the sale of the land, Mr Gaffney received an email from the council officer dealing with the sale advising that 'planning permission should be a formality', and 'be reassured, you'll get change of use'.

After the completion of the sale in August 2019, Mr Gaffney spent a further £3,655 on a fence surrounding his new garden.

In February 2020, an anonymous resident complained to the council, leading to Mr Gaffney being served with a planning enforcement order.



The following month, Mr Gaffney submitted a retrospective planning application through his agent, Dunfermline-based

planning consultants Marwick Planning.

The application proved controversial in the neighbourhood, with 30 residents lodging objections with the council, and 47 writing letters of support.

Council planning officers sympathised with Mr Gaffney's application, and in August they published a report recommending approval, which was put to councillors sitting on the council's development management committee.

However, when the committee met on 12 August, councillors refused the application, citing a 'detrimental impact on the open space'.

Now, Mr Gaffney has taken his fight to The Scottish Government's planning and environmental appeals department (DPEA), in a bid to keep what he regards as his garden.

An appeal statement, submitted by Marwick Planning, reads: "The council acquired the land now known as Marchbank Park and it allowed residents located adjacent to the park to purchase small parcels of land from the council to utilise as garden ground.

"This is exactly what the appellant has executed as they are now retired and want a south facing garden to enjoy in their retirement years in which the appeal seeks to achieve for them.

"The council as a corporate entity gave the appellant a clear message that the change of use would not be an issue and sold the land to them in that knowledge, with the appellant spending not an insignificant sum of money getting to this point with the comfort that Edinburgh City Council gave them.

"The appellant was legally obliged to erect the fence to comply with Part II of the Schedule of Real Burdens and in that context, the erection of the fence is an issue not

controlled through planning enforcement.”

The appeal will now be considered by a government Reporter, who reports to Scottish Ministers. The target date set for a decision is January 2021.

The Local Democracy Reporting Service (LDRS) is a public service news agency : funded by the BBC, provided by the local news sector, and used by qualifying partners. Local Democracy Reporters cover top-tier local authorities and other public service organisations.

