

Full Planning Application 07/02877/FUL
at
19 Lady Nairne Place
Edinburgh
EH8 7LZ

**Development Management Sub-Committee
of the Planning Committee**

19 December 2007

1 Purpose of report

To consider application 07/02877/FUL, submitted by Mr Raqeeb. The application is for: **Change of use to private garden**

It is recommended that this application be **GRANTED** subject to the conditions below.

2 The Site and the Proposal

Site description

The application site forms a portion of a larger, open area of grass to the rear (south) of the terrace that is bounded by a 1 metre high, open, metal post and rail fence. The whole grassed area extends to 511 square metres and the application site, including the land to the rear and side of the unit, together with one sixth of the grassed area is 225 square metres.

There are a number of mature trees within the site. The land slopes downhill from west to east and is crossed at two locations by gated paths, albeit that those gates are not locked. There is a raised paved footway immediately along the rear elevation of the terrace giving access to all six of the units. Access from the public road to the end unit at No 19 is by a flight of steps up to the paved footway which continues around the front of the units.

The application property is in residential use and is an end terrace, single storey unit, one of six such units located on the south side of Lady Nairne Place. The buildings are of flat roof construction and step downhill from west to east. The surrounding area is predominantly residential in character with a mixture of houses and three and four storey flatted blocks. The site is at the eastern end of the terrace and has consent to be converted to residential use from a former shop premises; appeal decision in January 2006.

As well as the application unit the opposite end unit at No 9 is also in residential use as is the neighbouring unit at No 17. The unit at No 11-13 is a double shop unit operated as a convenience store and unit No 15 was last occupied by a hairdressers shop. There is a lay-by parking area in front (north) of the shop units.

Site History

16 June 2005 - Planning permission was refused for a change of use from shop to dwelling (Ref 04/03901/FUL).

25 January 2006 - An appeal against the above decision was allowed (Ref PPA/230/785).

Description of the Proposal

The application is for a change of use of the land from a public open space to private residential garden ground (Class 9).

The application identifies the area of land intended to relate directly to the property and makes no further proposals in terms of the proposed boundary treatment.

The larger area of land from which this portion will be separated is owned by the Council. At the Executive Committee meeting of the Council, on 14 August 2007, it was determined to dispose of this site, together with another portion of the land to the west, to the applicant.

3 Officer's Assessment and Recommendations

Determining Issues

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

ASSESSMENT

To address these determining issues, the Committee needs to consider whether:

- a) The principle of residential use of the land is acceptable in this location;
- b) The subdivision of a part of a larger area of public open land and the impact on the existing trees is appropriate to the character and appearance of the immediate area;
- c) There are any implications for road safety; and
- d) There will be any loss of residential amenity as a result of the proposals.

a) The unit, No 19 Lady Nairne Place, is situated within a 'local shopping centre', as defined by the North East Edinburgh Local Plan. The area of land at issue in this application is excluded from that classification. However, that shopping definition has been removed from the finalised Edinburgh City Local Plan where the unit and the land lie within the urban area. The removal of the shopping allocation from the terrace is, in part, due to the change of use of this unit and others to residential use.

Concern has been raised at the subdivision of this part of the wider public open area as opposed to a comprehensive subdivision of the area. However, as a parcel of land at one end of the wider area the proposed subdivision would neither detrimentally affect the appearance and amenity of the remaining area nor preclude the future subdivision of the land.

The subdivision and proposed use of the land, in order to provide private residential garden area to the existing property, is therefore acceptable in principle subject to compliance with the provisions of other policies and guidelines.

b) Policies E6 of the North East Edinburgh Local Plan and Os 1 of the finalised Edinburgh City Local Plan seek to retain areas of open space, permitting their loss only in certain circumstances.

The overall area is relatively small, some 57 metres in length by 9 metres in depth a total of 511 square metres, and contributes to the overall spatial character of the surrounding area, which is characterised by small areas of open space interspersed between three and four storey flatted blocks.

At present direct use of the area by the public is very limited and is predominantly beneficial indirectly as a part the wider streetscape. The proposal, although subdividing the wider site, is for a use as a private residential garden. As such the open appearance of the site will be maintained and there would only be a minor loss to the present levels of

public amenity. The proposal accords with the provisions of the development plan policies.

Policies E15 of the North East Edinburgh Local Plan and Env 11 of the finalised Edinburgh City Local Plan seek to protect trees that are worthy of protection. There are eight large, mature trees contained within the overall site. Of these three stand within the application site. The application does not identify any works to those trees and the proposed use, as a private garden, would be beneficial to the retention of those trees.

Once the proposed use is implemented on the site the land would, as residential garden ground, benefit from the permitted development provisions identified in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.

Given the relatively small size of the site and its present open appearance, within the street scene, it would be necessary to provide a degree of control over future alterations and changes to the site and its boundaries. It is therefore proposed to remove the householder permitted development rights from the land. This would not prevent future development of the garden but would provide the Council with control over those works.

Accordingly, subject to a condition removing relevant householder permitted development rights from the land the proposal complies with these policy requirements.

c) Transport has no objections to the proposal on road safety grounds.

Concerns have been raised with regard to access to the rear of neighbouring properties as a result of the proposed subdivision. At present there is a paved footway along the full length of the rear of the terrace of properties. In planning terms that footway is not classified as a public right of way and therefore does not benefit from any degree of protection under the Planning Act.

However, it may well be that access to the rear of neighbouring properties is protected in the title deeds to those properties. In that case the matter would be a private legal one between the two parties.

d) The area is public open space at present and its proposed use as private garden ground would not have any detrimental impact upon the existing levels of amenity enjoyed by the occupants of the neighbouring flatted dwellings. Existing communal amenity space exists for those properties that is unaffected by this proposal.

Concerns have been raised regarding the potential for noise and disturbance resulting from groups of individuals as a result of the proposal. However, any such anti-social behaviour would be unlikely to be increased as a result of the proposal and would, in any event, be controlled under other legislation.

In conclusion, the proposal is in accordance with the Development Plan, it preserves the character and appearance of the surrounding area and it will not have any adverse implications for residential amenity.

It is recommended that the Committee approves this application, subject to a condition requiring the removal of householder 'permitted development' from the site.



Alan Henderson
Head of Planning and Strategy

Contact/tel	John Maciver on 0131 529 3918
Ward affected	A14 - Craigentinny/Duddingston (NEW)
Local Plan	North East Edinburgh Local Plan
Statutory Development Plan Provision	Local Shopping Centre Housing and Compatible Uses
Date registered	6 July 2007
Drawing numbers/ Scheme	01 Scheme 1

Advice to Committee Members and Ward Councillors

The full details of the application are available for viewing on the Planning and Building Control Portal: www.edinburgh.gov.uk/planning.

If you require further information about this application you should contact the following Principal Planner, Graham Dixon on 0131 529 3519. Email: graham.dixon@edinburgh.gov.uk

If this application is not identified on the agenda for presentation, and you wish to request a presentation of this application at the Committee meeting, you must contact Committee Services by 9.00a.m. on the Tuesday preceding the meeting on extension 4229/4239. Alternatively, you may e-mail gavin.king@edinburgh.gov.uk or carol.richardson@edinburgh.gov.uk

Application Type Full Planning Application

Application Address: 19 Lady Nairne Place
Edinburgh
EH8 7LZ

Proposal: Change of use to private garden

Reference No: 07/02877/FUL

Consultations, Representations and Planning Policy

Consultations

Transport

Has no objections to the proposal.

Services for Communities (Parks & Sport)

Has concerns with regard to the perspective of public access.

Closure of this path in itself would not seem to result in loss of a locally important route.

The entire parcel of woodland is in Council ownership and appears to offer potential for future development as a local amenity. The 'loss' of the proposed portion may compromise that potential.

Loss of a section of publicly owned land would result in a reduction of the area of green space which is available for public enjoyment.

Representations

The application was advertised as development on Council owned land on 20 July 2007 and attracted 1 letter of representation. That letter from a neighbour is an objection.

The material points of objection/concern are:

a. Issues of principle, taken account of in assessment (a):

- Subdivision of wider area.

b. Transport issues, taken account of in assessment (c):

- Problems with access to neighbouring property.

c. Residential amenity issues, taken account of in assessment (d):

- Noise and disturbance.

Other points raised are not material.

Full copies of the representations made in respect of this application are available in Group Rooms or can be requested for viewing at the Main Reception, City Chambers, High Street.

Planning Policy

North East Edinburgh Local Plan - The site is within an area allocated for Housing and Compatible Uses, where existing residential character and amenities are to be safeguarded. The site is also defined as a 'Local Shopping Centre'.

Finalised Edinburgh City Local Plan - Urban Area

Relevant Policies:

Relevant policies of the North East Edinburgh Local Plan

Policy E6 (PROTECTION OF OPEN SPACE) presumes against the development on major areas of open space and others of recreational, amenity or nature conservation interest.

Policy E15 (TREE PROTECTION): requires development proposals to show consideration for trees and to ensure their protection and retention.

Relevant policies of the Edinburgh City Local Plan

Policy Env 11 (Trees) sets out tree protection requirements for new development.
Policy Os 1 (Open Space Protection) sets criteria for assessing the loss of open space.

Relevant Non-Statutory Guidelines

Non-statutory guidelines on 'OPEN SPACE REQUIREMENTS IN NEW DEVELOPMENT' set the required standards for open space provision.

Non-statutory guidelines on 'TREE PROTECTION' supplement local plan green environment policies, and support the retention of healthy trees of landscape or amenity significance, encourage new tree planting wherever appropriate within new development and promote a substantial renewal of the city's woodland resource.

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Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that this application be **GRANTED**

Conditions

1. The development hereby permitted shall be commenced no later than five years from the date of this consent.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, there shall be no development either within the curtilage of the dwelling house (Part 1) or sundry minor operations (Part 2) on the site which is the subject of this application. Construction of development within the above Parts of the Order (specifically Classes 1 to 5; 7 and 8) cannot be carried out without planning permission being granted on an application made to the planning authority.

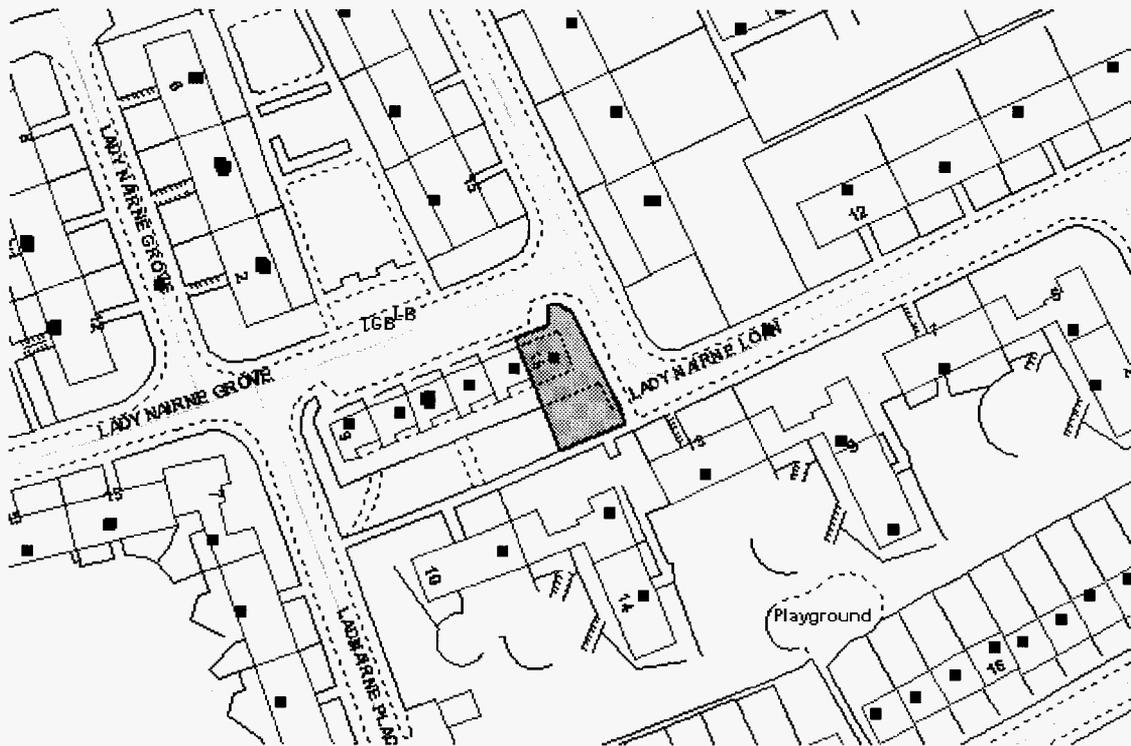
Reasons

1. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.
2. In order to maintain the open appearance of the site area as approved and to enable the planning authority to exercise appropriate future control over these forms of development.

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Location Plan

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