



Item no
Report no

14

**Planning Permission 09/02644/FUL
at
33 South Gyle Gardens
Edinburgh
EH12 7SA**

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

DEPARTURE FROM THE DEVELOPMENT PLAN

This development proposed by this application is a departure from the development plan:

Whilst the proposed loss of open space is contrary to the adopted Local Plan, there will be no significant impact upon the local environment. The area of open space is small in relation to the overall supply within the area where there is no identified need for compensatory alternative provision. The open space did not bring great community benefits and it would be unreasonable require equivalent provision elsewhere.

1 Purpose of report

To consider application 09/02644/FUL, submitted by S Kelly + W Forrest. The application is for: **Change of use from amenity ground to private garden with erection of timber fence (in retrospect)**

It is recommended that **MIXED DECISION AND ENFORCEMENT ACTION**

2 The Site and the Proposal



Site description

The site consists of an end terraced dwelling house and garden set in a staggered arrangement with neighbouring properties at the entrance to South Gyle Gardens, a wholly residential area. The property and neighbouring properties along South Gyle Gardens have rear gardens bounding South Gyle Road that are delineated by tall fencing. The subject of this planning application is an area of open space to the side of 33 South Gyle Gardens occupying 110 square metres. The area contains three trees and was previously bounded by a dwarf wall. The space fronts onto the corner of South Gyle Gardens and South Gyle Road.

Site History

There is no relevant planning history for this site.

Pre-Application Process

There is no pre-application process history

Description of the Proposal

The proposal is retrospective and involves a change of use of approximately 110 square metres of public open space to private amenity space. A timber fence has been erected on the boundary with the pavement and road.

3. Officer's Assessment and Recommendation

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 the change of use is acceptable
- b) there is a detrimental effect on the visual amenity of the area.
- c) there implications for the recreational and conservation value of the site
- d) there are any transport concerns.

a) The area of land was a small area public green open space of little amenity value surrounded by dwarf walls containing a small group of trees. Although it is not specifically identified within the proposals map of the Edinburgh City Local Plan as open space, Policy OS1 is applicable and states that the loss of open space will not be permitted unless it is demonstrated that the proposals comply with a set of criteria which includes:

- There shall be no significant impact on the quality or character of the local environment;
- that the loss would not be detrimental to the wider open space network including its continuity or biodiversity value;
- and there will be a local benefit.

The area of land was bounded by a small dwarf wall and was not readily accessible to the public and did not have any recreational value. The proposal changes the appearance of the site. However, within the wider estate, corner garden plots are in private ownership and delineated by fences, walls and hedges. The loss of this open space to garden ground is not considered to be significant in terms of the quality or character of the local environment. The open space is not within an area which is deficient in the quantity of open space.

b) Although the change of use from public to private green space is considered acceptable in principle, the site affords a significant level of visual amenity value within the area. The site's, prominent open position helps provide visual relief to the high boundary treatment that exists along the rear garden areas of South Gyle Gardens whilst allowing for a soft landscape setting at the entrance to this section of the estate. The tall fence screens the open space, only allowing partial views of trees within the site. The fencing surrounding the site detrimentally impacts upon the visual amenity of the site and surrounding area to an unacceptable degree.

c) With regard to community benefit, given that other criteria of policy OS1 have been satisfied and that this open space does not bring great benefits to the local community provision at present, it is unreasonable to require equivalent provision elsewhere. An infringement of this aspect of the policy is considered to be justified in this location.

d) The 2.0 metre high fence does not interfere with vehicle driver sightlines to a degree to which road safety would be compromised. Transport Planning are satisfied with this aspect to the proposals.

In conclusion, the proposals are considered to be acceptable as a minor departure from the development plan. The loss of open space to private garden ground will not adversely affect the quantity and quality of open space within the wider area. However, the tall fencing surrounding the site detrimentally impacts upon the openness and visual amenity afforded to this specific area.

It is recommended that a mixed decision be issued, granting the change of use and refusing the boundary fencing.

REASON FOR DECISION

With regards to the loss of open space and the development plan, the infringement in relation to community benefit and alternative equivalent provision is considered justified in this instance. The fencing is contrary to the development plan and non-statutory guidelines and is unacceptable.



John Bury
Head of Planning

Contact/tel	Daniel Lodge on 0131 529 3901
Ward affected	A03 - Drum Brae/Gyle
Local Plan	
Statutory Development Plan Provision	
Date registered	14 October 2009
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,
Helen Martin on 0131 529 3517. Email: helen.martin@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 Gillian.ferrier@edinburgh.gov.uk or jack.dunn@edinburgh.gov.uk

Appendix A



Application Type Planning Permission
Application Address: 33 South Gyle Gardens
Edinburgh
EH12 7SA

Proposal: Change of use from amenity ground to private garden with erection of timber fence (in retrospect)

Reference No: 09/02644/FUL

Consultations, Representations and Planning Policy

Consultations

Transport Planning (DEVELOPMENT CONTROL)

Raise no objections to the application

Representations

Two letters of representation have been received objecting to the proposal. One was received from neighbouring resident and one was received from the local community council. The grounds of the objections are:

1. Character and appearance.
(Addressed in section (a) of the assessment)

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

The proposal lies within an area allocated for residential purposes in the North West Edinburgh Local Plan area where existing residential character and amenities are to be protected. The site is similarly allocated in the Finalised Edinburgh City Local Plan.

Relevant Policies:**Relevant policies of the Edinburgh City Local Plan**

Policy Des 3 (Development Design) sets criteria for assessing development design.

Policy Os 1 (Open Space Protection) sets criteria for assessing the loss of open space.

Relevant Non-Statutory Guidelines

Non-statutory guidelines on 'HOUSE EXTENSIONS AND ALTERATIONS' set out the design principles against which proposals will be assessed.

Appendix B

Application Type Planning Permission
Application Address: 33 South Gyle Gardens
Edinburgh
EH12 7SA

Proposal: Change of use from amenity ground to private garden with erection of timber fence (in retrospect)

Reference No: 09/02644/FUL

Conditions/Reasons associated with the Recommendation**Recommendation**

It is recommended that **MIXED DECISION AND ENFORCEMENT ACTION**

Conditions

1. This permission relates to the change of use from public to private open space only.

Reasons supporting Conditions of Approval

1. This is a part approval.

Reasons for Refusal

1. The timber fencing is contrary to Des 3 of the Edinburgh City Local Plan and to the Non-Statutory Guidelines on 'House Extensions and Alterations' as the fencing detrimentally impacts upon the openness and visual amenity of the site and surrounding area as a whole.
2. The refusal relates to the timber fencing surrounding the site only.

INFORMATIVES

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

End

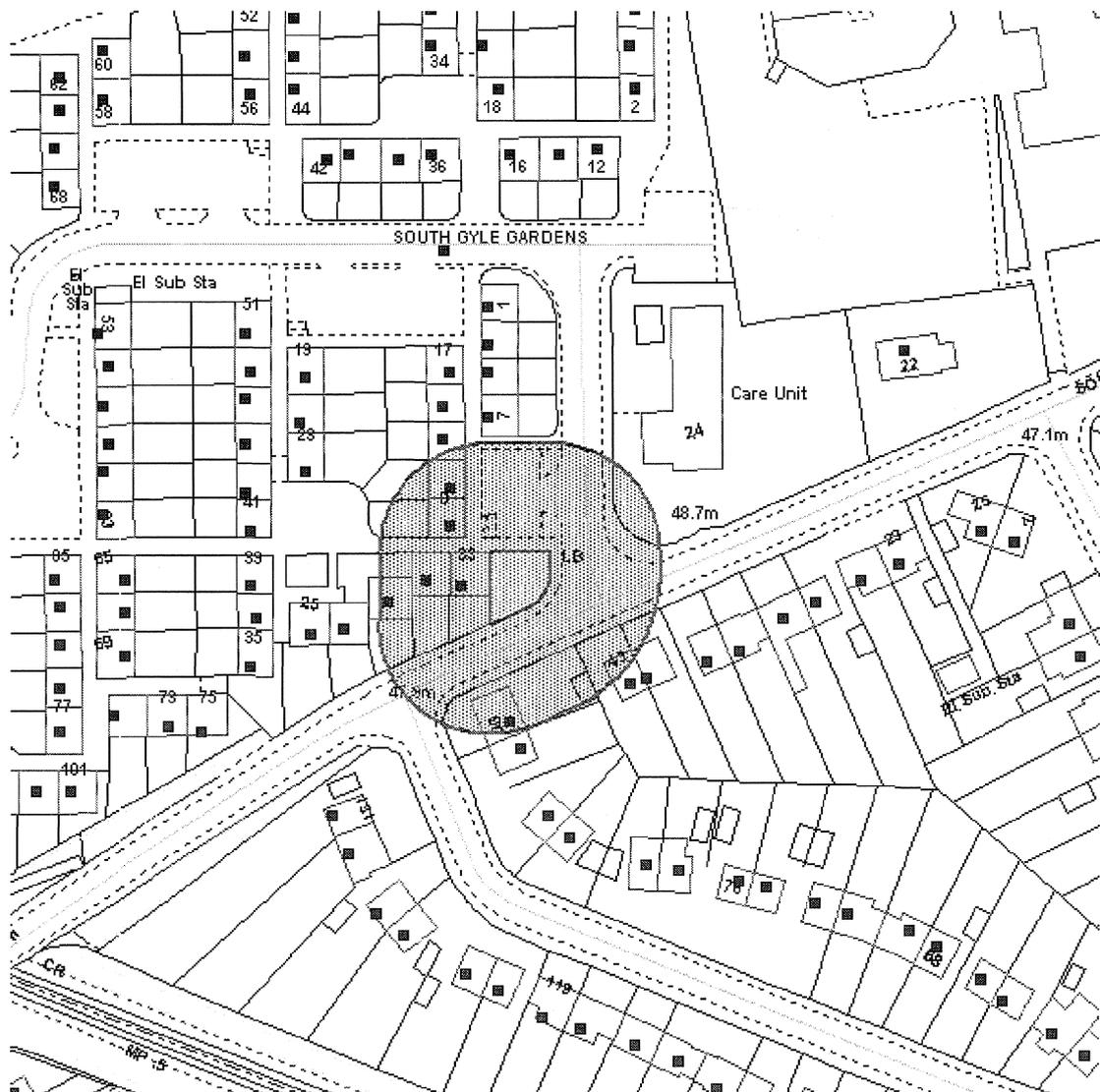
Appendix C



Application Type Planning Permission

Proposal: Change of use from amenity ground to private garden with erection of timber fence (in retrospect)

Reference No: 09/02644/FUL



Location Plan

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