

**Planning Permission 11/02312/FUL  
at  
Land 40 Metres North West Of  
24 East Court  
Edinburgh**

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

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**1 Purpose of report**

To consider application 11/02312/FUL, submitted by Mr Ross. The application is for: **Erection of 2m high timber fence in East Court. (Retrospective application for temporary Planning Permission)**

It is recommended that this application be **REFUSED AND ENFORCED.**

**2 The Site and the Proposal**

**Site description**

The application site is within The Thistle Foundation which lies on the south side of Niddrie Mains Road and is bounded by Greendykes Road, Greendykes Avenue and Craigmillar Castle Avenue. The application site forms the southern half of East Court, which is situated on the eastern side of The Thistle Foundation, between Almond Court and Chapel Court. East Court is an area of grass surrounded by terraced housing. Some housing at the eastern end has been demolished. Almond Court and Chapel Court also have houses surrounding grass areas.

To the north of East Court are listed buildings in the form of the Robin Chapel (Date of listing 14 June 2002, Item number 2746, HB number 48686), 1 - 19 Chapel Court, 1 - 23 West Court and 14 - 18 Queen's Walk (Date of listing 14 June 2002, Item number 2747, HB number 48687).

The houses in The Thistle Foundation have been altered and upgraded and there are proposals to build new housing on the south eastern part of the Foundation's site. Wider redevelopment has taken place in Craigmillar and is still ongoing.

This property is located within the Thistle Foundation Conservation Area.

### **Site History**

The relevant planning history for the application site, which forms part of The Thistle Foundation site is:

13 October 2001 - Permission granted for improvement and upgrading of existing residences at 6 West Court, 14 Queens Walk, 18 West Court Thistle Foundation Estate. 13.10.2004 (Reference: 04/02676/FUL);

22 October 2004 - Permission granted for improvement and upgrading of existing residences at 6 West Court, 14 Queens Walk, 18 West Court Thistle Foundation Estate 22.10.2004 (Reference: 04/02676/LBC);

3 November 2005 - Permission Minded to Grant for mixed residential development and associated garages and parking in outline (Reference: 04/04425/OUT);

8 December 2005 - Permission granted to upgrade houses, security, access etc at 1 to 11 and 14 to 18 Queen's Walk, 1 to 19 Chapel Court, 1 to 18 East Court, 1 to 6 Almond Court, 1 to 23 West Court (Reference: 05/03051/FUL);

29 December 2005 - Permission granted to upgrade houses, remove walkways, improve security and access at 1 to 11 and 14 to 18 Queen's Walk, 1 to 19 Chapel Court, 1 to 18 East Court, 1 to 6 Almond Court, 1 to 23 West Court (Reference: 05/03051/LBC);

10 May 2006 - Permission granted to upgrade house and infill courtyard to provide additional bedroom at 10 + 13 West Court, 11 and 14 Queen's Walk, 14 and 15 Chapel Court, 1 and 18 East Court, 12, 14 and 15 Almond Court (Reference: 06/00814/LBC);

22 - November 2006. Permission granted for a non-material variation to previous consent at 1 to 11 and 14 to 18 Queen's Walk, 1 to 19 Chapel Court, 1 to 18 East Court, 1 to 6 Almond Court, 1 to 23 West Court (Reference: 05/03051/VARY);

14 January 2010 - Permission varied to alter building floor and roof parapet levels at land at The Thistle Foundation Niddrie Mains Road Edinburgh Non-material variation (Reference: 08/03669/VARY);

26 May 2010 - Permitted Development for prior of notification of demolition at 13, 14, 15, 16, 17, 18, 19, 20 Almond Court 19, 20, 21, 22, 23, 24 East Court (Reference: 10/01146/PNT);

16 November 2010 - Permission granted for proposed erection of 34 dwelling units, comprising a mix of houses and flats ranging between two and four storeys at land At The Thistle Foundation 16.11.2010 (Reference: 08/03669/FUL);

12 May 2011 - Enforcement case for alleged unauthorised erection of a fence (Reference: 11/00252/EOPDEV).

Planning applications pending consideration:

Proposals to alter, extend & refurbish existing houses changes from previous consents)at 1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 Chapel Court 1, 2, 3, 4 Almond Court Edinburgh 11, 14 Queen's Walk, 1, 8, 9, 10, 11, 18 East Court Edinburgh 10, and 13 West Court Edinburgh (Reference11/02396/LBC);

Request for non-material variation for alterations to bin stances at 1 to 11 and 14 to 18 Queen's Walk, 1 to 19 Chapel Court, 1 to 18 East Court, 1 to 6 Almond Court, 1to 23 West Court (Reference: 05/03051/VAR2).

### **Pre-Application Process**

There is no pre-application process history.

### **Description Of The Proposal**

The proposal is for temporary consent for a 2 metre high timber fence in East Court. The fence is already erected and the application, therefore, seeks retrospective planning permission.

The fence runs parallel to the terrace of houses on the south east side of East Court, at a distance of approximately 10 metres and turns 90 degrees northwards at the eastern end to join up with an existing fence, which incorporates metal gates. The fence is 70 metres long.

The applicant has submitted a Design Statement. It outlines the planning history of the site drawing attention to the Thistle Foundation Masterplan which was Minded to Grant on 3 November 2005 (Ref: 04/04425/OUT) and the refurbishment of the site.

The application has attracted a petition and, therefore, requires to be considered by the Committee as it cannot be dealt with under delegated powers.

### **3. Officer's Assessment and Recommendation**

#### **Determining Issues**

Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of permission.

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) whether the proposal preserves or enhances the character and appearance of the conservation area;
- b) whether the proposal preserves the setting of the listed buildings; and
- c) whether the proposal results in any loss to neighbouring amenity.

a) The Thistle Foundation Conservation Area was designated as a conservation area on 9th March 2007. It occupies a shield shaped area of ground which extends to 7.7ha.

The Thistle Foundation was developed following the Second World War as a garden village for disabled service personnel and their families, with the buildings and their layout designed to cater for wheelchair access. The buildings are laid out in an open fashion around substantial green spaces, and originally had a network of covered walkways linking the terraces of houses and the more formal buildings. The housing is grouped around the perimeter of generously proportioned grassed courts, which are an essential component of the estate.

The essential character includes:

- the historical importance of the estate in terms of the advanced design for its original function and its war memorial status;
- the relative seclusion of the estate from the surrounding area;
- the authenticity of the site which retains its original layout and many of its original architectural features;
- the uniqueness of the estate in terms of its design, function, scale and quality; and
- the importance of the landscape setting formed by the green courtyards and mature trees which complement the architectural interest and reflects the skill of the original design.

The Thistle Foundation Village is covered by HSG9 in Edinburgh City Local Plan. Partial redevelopment is proposed in order to allow the modernisation of the estate and the inclusion of general purpose private housing for sale. Development proposals will retain the listed buildings and protect their setting and will also preserve and enhance the character or appearance of that part of the Thistle Foundation designated as a Conservation Area.

The grass courts are an original feature and integral part of the design layout of the Thistle Foundation. They are key to the feeling of a low density development with lots of open space. The fence does not respect the original design layout and divides up the open grass area in East Court into two unequal sections. The fence detracts from the landscaped design of the Thistle Foundation and upsets the relationship between the housing and the grass open spaces. The housing was planned to be grouped around the grass court and the fence changes this fundamental relationship between the houses and the open space. The fence disrupts the grass court and reduces its contribution to the layout and character of the Thistle Foundation. The fence is a dominant and incongruous feature.

It is accepted that it is the intention to upgrade the site and that there are planning permissions to support this. The Thistle Foundation Village and the wider Craigmillar area are both undergoing redevelopment. The fence is not a key element of the redevelopment of the Thistle Foundation. Although the application seeks temporary approval for the fence, stating that this will be until a long term solution has been implemented, the application has not demonstrated how the fence will preserve or enhance the character and appearance of the conservation area. The application does not specify the long term solution or how it would respect the special qualities of the conservation area. Only the details of the current application can be considered and any future long term solution will be assessed on its own merits in terms of conservation area policies. The principle of the fence in this location within the conservation area is unacceptable as it is a dominant

feature and is detrimental to the character and appearance of the conservation area.

The fence does not preserve or enhance the character and appearance of the conservation area.

b) East Court is located to the south east of the listed buildings, i.e. Queen's Walk and the Robin Chapel. The fence cannot be readily seen from the listed buildings and the listed buildings cannot be easily seen from the area occupied by the fence.

The fence does not have a detrimental impact on the setting of the listed buildings.

c) The fence does not cause any undue loss of amenity on existing neighbours in terms of overshadowing or privacy. The petition states there is no objection to the fence as it provides security for residents. The need for security does not over-ride the conservation and design policies in place to protect or enhance the special characteristics of conservation areas. The fact that the application seeks temporary permission is not in itself a reason to grant permission and is not a key issue, especially given the uncertainty over other development or redevelopment proposals. The fence is either acceptable in principle or it is not acceptable. Improving security does not justify applying lesser weight to preserving or enhancing the key special qualities of the Thistle Foundation Village Conservation Area.

The fence does not result in an unreasonable loss of neighbouring amenity.

In conclusion, the fence does not comply with the development plan or the non statutory policy guidelines. It results in a dominant feature and changes the relationship of the housing to the grass courts which is a key design component of the conservation area. It does not detrimentally affect the setting of the listed buildings and does not result in an unreasonable loss of residential amenity. There are no other material considerations that outweigh this conclusion.

It is recommended that Committee refuses this application and authorises enforcement action to remove the fence.

## **REASON FOR DECISION**

The fence does not comply with the development plan or the non statutory guidelines. It results in a dominant feature and changes the relationship of the housing and the grass courts which is a key design component of the conservation area. The setting of the listed buildings are not adversely affected and there is not an unreasonable loss of residential amenity.

**John Bury**  
Head of Planning

<b>Contact/tel</b>	Jackie McInnes on 0131 469 3731
<b>Ward affected</b>	A17 - Portobello/Craigmillar
<b>Local Plan</b>	Edinburgh City Local Plan
<b>Statutory Development Plan Provision</b>	Conservation Area, Housing Site, Urban Area.
<b>Date registered</b>	15 July 2011
<b>Drawing numbers/ Scheme</b>	01 - 03 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](http://www.edinburgh.gov.uk/planning).

If you require further information about this application you should contact the following Principal Planner,

If this application is not identified on the agenda for presentation and you wish to request one at the Committee meeting, you must contact Committee Services by 9.00a.m. on the Tuesday preceding the meeting. Contact details can be found in the Committee agenda papers.

**Application Type** Planning Permission  
**Application Address:** Land 40 Metres North West Of  
24 East Court  
Edinburgh

**Proposal:** Erection of 2m high timber fence in East Court. (Retrospective application for temporary Planning Permission)

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## **Consultations, Representations and Planning Policy**

### **Consultations**

No consultations undertaken.

### **Representations**

The application was advertised on 29 July 2011. Three letters of representation, one with a petition commenting with 20 signatures have been received. The other two letters are objections. They raised the following issues:

#### Conservation

- grass court integral and fundamental part of The Thistle Foundation Village;
- houses designed around grass courts; their setting protected in conservation area status;
- open space gives a unique landscape setting and part of original design; and
- more efforts needed by Housing Association to safeguard the memorial village by enhancing its green space character and setting.

#### other comments:

- purpose of fence/ use of area behind it;
- support fence - no objection - gives residents a sense of security.
- oppose future residential development along line of fence - it breaks integrity of court; and
- fence not intended as a temporary installation.

***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 application site is in The Thistle Foundation Village Conservation Area and is a Housing Proposal Site (HSG9) in Edinburgh City Local Plan. It is also in the Urban Area of the Local Plan.

### **Relevant Policies:**

#### **Relevant policies of the Edinburgh City Local Plan.**

Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

Policy Des 2 (Co-ordinated Development) establishes a presumption against proposals which might compromise the effective development of adjacent land or the wider area.

Policy Des 5 (External Spaces) sets criteria for assessing landscape design and external space elements of development.

Policy Env 6 (Conservation Areas Development) sets out criteria for assessing development in conservation areas.

Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

Policy Hou 1 (Housing Development) supports housing on appropriate sites in the urban area, and on specific sites identified in the Plan.

#### **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** 'The Craigmillar Urban Design Framework' sets out a vision and principles for development of the Craigmillar area.

**Non-statutory guidelines** on the 'SETTING OF LISTED BUILDINGS' supplement local plan conservation and design policies, providing guidance for the protection and enhancement of the setting of listed buildings.

**Non-statutory guidelines** 'DAYLIGHTING, PRIVACY AND SUNLIGHT' set criteria for assessing proposals in relation to these issues.

#### **Other Relevant policy guidance**

The Thistle Foundation Village Conservation Area Character Appraisal emphasises the uniqueness and historical importance of the conservation area in terms of the advanced design for its original function and its war memorial status, its relative seclusion, its authenticity in terms of the retention of its original layout and many of its original architectural features, the importance of the Robin Chapel as a local landmark, and the importance of the landscape setting formed by the green courtyards and mature trees.

## Appendix B



**Application Type** Planning Permission  
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### **Conditions/Reasons associated with the Recommendation**

#### **Recommendation**

It is recommended that **REFUSED AND ENFORCED** for the reasons below.

#### **Reasons**

1. The fence does not comply with Edinburgh City Local Plan Policy Env 6 Conservation Areas - Development as it is a dominant and incongruous feature which does not respect the special designed landscaped layout of the Thistle Foundation Village to the detriment of character and appearance of the conservation area.

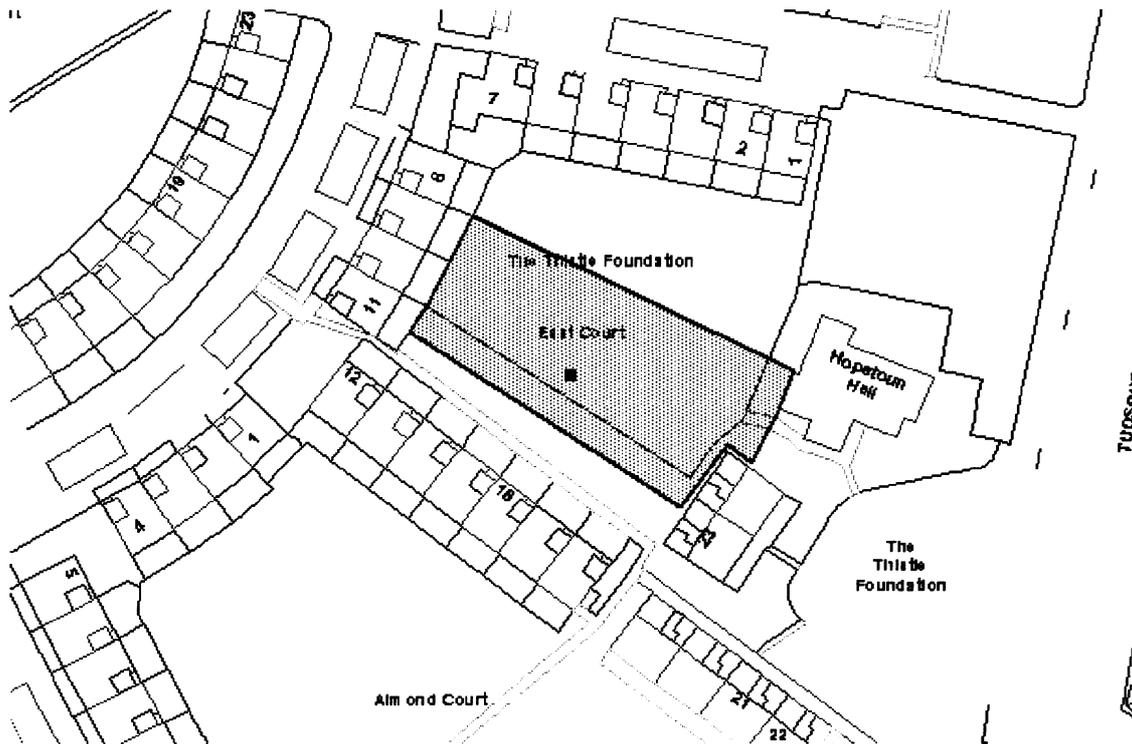
**End**

## Appendix C

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### Location Plan

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