

**Certificate of Lawfulness (proposed) 11/03003/CLP
at
63 Niddrie Mains Terrace
Edinburgh
EH16 4NX**

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

1 Purpose of report

To consider application 11/03003/CLP, submitted by The City Of Edinburgh Council. The application is for: **Application for certificate of lawfulness for proposed mixed use as non-residential institution and business (sui generis).**

It is recommended that the Committee be **MINDED TO GRANT.**

2 The Site and the Proposal

Site description

The proposal site is a mixed use development located on the north side of the junction of Niddrie Mains Terrace and Wauchope Terrace. The proposal site is located in an area of mixed use with residential properties and educational facilities in close proximity.

Site History

2nd February 1994 - Planning permission was granted for the refurbishment and enlargement of the existing to provide additional facilities and to create a new garage block - (C00070/93).

12th July 1995 – Planning permission was granted varying consent (C00070/93) to refurbish and enlarge the existing to provide additional facilities and to create a new garage block - (C00076/93).

Pre-Application Process

None.

Description Of The Proposal

The proposal is for a certificate of lawfulness for a proposed mixed use as a combination of a Class 10 crèche and a Class 4 business (sui generis).

3. Officer's Assessment and Recommendation

Determining Issues

The Committee need to consider whether the proposal is lawful under section 151 of the Town and Country Planning (Scotland) Act 1997.

ASSESSMENT

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

(a) the proposal is lawful under Section 151 of the Town and Country Planning (Scotland) Act 1997.

(a) To address this issue, the Committee needs to decide whether the use or operations described in the application would be lawful if instituted or begun at the time of application.

Planning records show that consent was granted on 2nd February 1994 for the refurbishment and enlargement of the existing community centre and a variation was granted on 12th July 1995. The application drawings describe the various rooms in the building as office, multi-purpose hall, lounge/cafeteria, crèche, exhibition/library and store.

This is equivalent to a grant of planning permission for the building's mixed use and, as there have been no other subsequent grants of planning permission, the mixed use of Class 10 and Class 4 (sui generis) is considered lawful.

Further evidence in support of this view includes a building warrant granted on 23rd September 1994 (ref 93/4836) to alter and extend community centre/offices, and a copy of the lease with effect from 1st April 2002 in which the use was stated as administrative offices, community centre and lock-up garages. The entry for the building in the Valuation Roll states the description as Community Centre.

It is concluded that on the balance of probability sufficient evidence has been submitted to demonstrate that the proposed use, as a combination of a Class 10 crèche and a Class 4 business (sui generis), would not require a further express grant of planning permission, and is therefore lawful.

As the Council is the applicant, the application requires to be determined by Committee.

It is recommended that the Committee request that the Head of Administrative and Legal Services issues a Certificate of Lawfulness.

REASON FOR DECISION

The proposal is lawful in under Section 151 of the Town and Country Planning (Scotland) Act 1997, as a consent was granted on 12th July 1995 which showed the use of the premises to be in a mixed use Class 10 and a Class 4 (sui generis) capacity, such as that proposed. There have been no other subsequent grants of planning permission or intervening issues which alter this position.

John Bury
Head of Planning

Contact/tel	Colin Bryans on 0131 529 4279
Ward affected	57 - Craigmillar (Pre 17 Nov 06)
Local Plan	Edinburgh City Local Plan
Statutory Development Plan Provision	Urban Area
Date registered	9 September 2011
Overall Expiry Date	30.09.2011
Drawing numbers/ Scheme	01-04 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,
Paul Devaney on 0131 529 3519. Email: paul.devaney@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. Contact details can be found in the Committee Agenda papers.

Appendix A



Application Type Certificate of Lawfulness (proposed)
Application Address: 63 Niddrie Mains Terrace
Edinburgh
EH16 4NX

Proposal: Application for certificate of lawfulness for proposed mixed use as non-residential institution and business (sui generis).

Reference No: 11/03003/CLP

Consultations, Representations and Planning Policy

Consultations

None.

Representations

None.

Planning Policy

None.

Appendix B



Application Type Certificate of Lawfulness (proposed)
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Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that the committee be **MINDED TO GRANT** and that the Head of Administrative and Legal Services issue a certificate of lawful use.

End

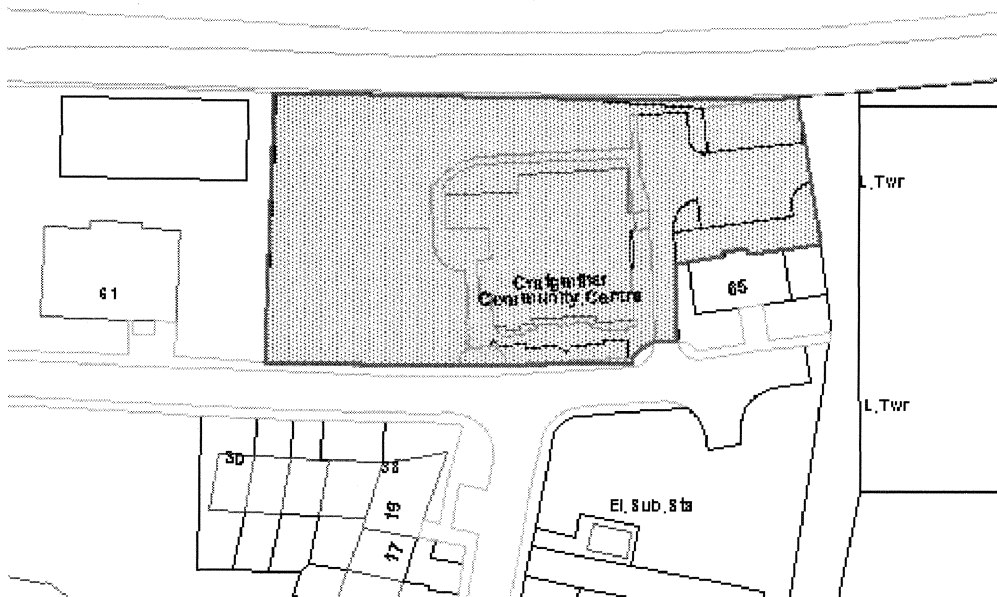
Appendix C



Application Type Certificate of Lawfulness (proposed)

Proposal: Application for certificate of lawfulness for proposed mixed use as non-residential institution and business (sui generis).

Reference No: 11/03003/CLP



Location Plan

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