

# Development Management Sub Committee

Wednesday 12 August 2020

**Application for Planning Permission 20/01336/FUL  
at 9 Marchbank Grove, Balerno, EH14 7ES.  
Change of use from open space to private garden ground,  
and retrospective erection of a 2 metre high fence to the  
southern boundary (as amended).**

**Item number**

**Report number**

**Wards**

B02 - Pentland Hills

## Summary

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The development is largely in accordance with the Edinburgh Local Development Plan. There is a minor infringement of Policy Env 18 on Open Space but this is offset by the provision of a privet hedge which will provide screening and promote biodiversity. The proposals are acceptable and have no adverse impact on amenity and are compatible with the existing property and the surrounding area. There are no material considerations which outweigh this conclusion.

## Links

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[Policies and guidance for this application](#)

LDPP, LEN18, LHOU07, LDES12, NSG, NSHOU, OTH, OSS1,

# Report

## **Application for Planning Permission 20/01336/FUL at 9 Marchbank Grove, Balerno, EH14 7ES. Change of use from open space to private garden ground, and retrospective erection of a 2 metre high fence to the southern boundary (as amended).**

### **Recommendations**

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1.1 It is recommended that this application be Granted subject to the details below.

### **Background**

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#### **2.1 Site description**

The property is a single storey, detached bungalow dwelling. Located within an established residential area, the southern boundary of the site borders onto a large open green space. Balerno village centre lies to the north of the property and Mansfield Road lies to the east.

The area of land in question is part of a large green space and was purchased by the applicant from the Council. This area of the green space is sheltered by mature trees and hedgerow to the east and two trees to the southern boundary of the site. The site in question sits back from the principal elevations of Marchbank Grove as a turning circle lies to the front of the site.

The large green space is part of a wider network of open space which includes Marchbank Park. The land, by nature of its layout and location, forms a green corridor between Mansfield Road and Cockburn Crescent. There is a public footpath connecting the two roads across this area of land. The character of the land can be described as a maintained open green space. It is primarily grassed but interspersed with mature trees. There are no formal recreational facilities located on the land.

## 2.2 Site History

14 March 2007 - Planning permission granted for the erection of a conservatory (Application reference 07/00076/FUL),

26 March 2008 - Planning application for the erection of a double garage was withdrawn (Application reference 07/05263/FUL),

25 October 2019 - Planning application for change of use from open space to garden ground, form parking space in garden and erect a 2.0m high fence to the side boundary and to the back of the parking was withdrawn (Application reference 19/04061/FUL),

29 January 2020 - Enforcement investigation: alleged change of use of open space to residential and erection of a 2m fence (Enforcement reference: 20/00070/EOPDEV).

## Main report

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### 3.1 Description of the Proposal

This is a retrospective application for the change of use of a segment of land located along the southern boundary of the property from open space to private garden ground and the erection of a two metre high fence to the southern boundary.

As amended, the application proposes the introduction of a privet hedge to the front elevation as well as the proposed hedge to the south elevation. The addition of this planting acts as a screen to the development, to offset the visual impact of the development.

### 3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

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?

### 3.3 Assessment

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

- a) The change of use is acceptable in principle;
- b) The scale, form and design are acceptable;
- c) There is no adverse impact on amenity and
- d) Any comments raised have been addressed

a) Change of use

The application for a change of use from open green space to residential use is subject to demonstrating the proposal aligns with Policy Env 18 (Open Space Protection) of the Local Development Plan. The policy aims to protect all open spaces, both publicly and privately owned to ensure they contribute to the amenity, recreational needs and landscape of the city. The policy highlights five criterion a) to e). Consideration must be given to criterion a) to c) and, d) or e).

The policy states that proposals involving the loss of open space will not be permitted unless the following criterion are met:

*a) There will be no significant impact on the quality or character of the local environment and*

*b) The open space is a small part of a larger area or of limited amenity or leisure value and there is a significant over-provision of open space serving the immediate area and*

*c) The loss would not be detrimental to the wider network including its continuity or biodiversity value and either*

*d) There will be a local benefit in allowing the development in terms of either alternative equivalent provision being made or improvement to an existing public park or other open space or*

*e) The development is for a community purpose and the benefits to the local community outweigh the loss.*

Criterion a) The Council's Open Space Strategy 2021 identifies the green space as a 'large green space' as it exceeds the threshold of two hectares or more. The Strategy identifies the space as meeting the standards required of a 'large green space' and is of 'good play value'. The Strategy goes on to highlight:

*Every neighbourhood should benefit from a large park to provide the space for the whole community to enjoy their free-time. It's the place to play sports and informal games; walk the dog or go for a run; come together for local events; watch wildlife and scenery through the seasons; and experience natural open space.*

The large open space does add to the quality and character of the local environment, adding to the semi-rural setting of Balerno. It is important that this sense of open space is protected and retained. Whilst the proposed change of use will involve the loss of a section of grassed area and will reduce the level of open space, it is considered that the loss of this section to residential use will have a minimal impact. The quality and character of the area will be unchanged by this reduction due to the level of green space remaining.

Criterion b) According to the Open Space Audit 2016 and 'Edinburgh's Open Space Map', Marchbank Park occupies an area of approximately six hectares. The site in question occupies 141 sqm, approximately 0.24% of the overall footprint of the green space. It is therefore a very small part of a larger area.

The Open Space Strategy 2021 states that 'all homes should be within 800m walking distance of an accessible green space of at least 2 hectares'. Whilst the proposal does incur a loss of green space which would not normally be acceptable; the area retains a large amount of open space which is well in excess of the Council's open space standards.

The space in question has amenity and leisure value as an open area of grass but given it is part of a much larger area, the change of use of this space does not prevent these uses continuing.

Criterion c) The proposals involve the removal of a small proportion of the large green space but the continuity and biodiversity value of the green corridor at this particular location is still retained. The site lies along a section of the corridor which is relatively wide. As a result, the proposal avoids creating a narrowing of the corridor. There is no impact on the wider open space network that forms part of the character of the area.

The proposals involved the removal of a section of grass and a minor tree but this is compensated for by the ecological contribution that will be made by the new hedge and the planting of shrubbery and vegetation within the new garden space. Importantly, the two more significant mature trees adjoining the site in the green corridor are retained. The change of use is not detrimental to biodiversity value. The proposal therefore accords with criterion c).

Criterion d) or e) There is no community purpose or benefit relating to this proposal so it is not supported by criterion e). In terms of criterion d), the Local Development Plan states that improvements should usually relate to identified actions for open space and parks in the area. In this instance, there are no such improvements identified in the relevant Open Space Action Plan for south west Edinburgh and it would not be proportionate for a smaller proposal to deliver a full action itself. Consequently, it is not reasonable to expect this proposal to meet this criterion in the typical manner. Instead, a smaller scale of improvement would be appropriate in instances such as this. In particular, this proposal's provision of a linear hedgerow is considered sufficient given it provides a degree of biodiversity and visual improvement compared to the previous boundary fence that had no such planting. The proposal is therefore a minor infringement to criterion d) of the policy. However, this is justified by the provision of a linear hedgerow.

Overall, it is considered that the change of use meets the requirements of Policy Env 18.

#### b) Scale, Form and Design

The application includes the erection of a two metre high timber fence around the boundary of the site and as amended, the development incorporates a privet hedge, planted to the front and side elevations of the boundary fence. The non-statutory Guidance for Householders 2019 states that:

*Walls and fences to the street frontage should harmonise with the street and the house. They should not be so high as to be intimidating or reduce security overlooking from there is a prevailing size already established in the neighbourhood.*

In this respect, the development forms a minor departure from the Guidance. However, due to the set-back location of the fence and the planted privet hedge, the visual impact is reduced and is therefore considered an acceptable minor departure from the Guidance. Given the high boundary fence and lack of planting to the original southern boundary of the site, the integration of the new fence with the use of planting will soften the appearance of the development. As the site matures, combined with the two trees to the south, the development will preserve the green character of the area and will have a limited impact on the visual amenity of the area.

Fences to front and side elevations of properties form part of the character of the area. The boundary treatments of gable ends of properties onto the green space include a variety of high fences and mature hedges. In terms of design, there are numerous examples of similar developments which form boundary treatments onto the green space. Properties to the south model similar high fences to the gable of properties at Threipmuir Place. As proposed, the timber fence sits behind a planted pivot hedge. In time, as the timber and the hedge mature, the visual impact of the development will soften and integrate into its natural surroundings. Therefore, the development offers a more sympathetic design than existing neighbouring boundary treatments and therefore is acceptable.

The scale of the development is subservient to the host property and integrates well with the existing boundary treatments within the surrounding area and is therefore acceptable.

### c) Residential and Public Amenity

The application was assessed in terms of neighbouring amenity in line with the Guidance for Householders. The development does not have an impact on sunlighting, daylighting or privacy.

The front and side boundary elevations remain publicly visible from properties on the western side of Marchbank Grove and properties on the southern side of the green space at Threipmuir Place. Therefore, the form of the development will not have a significant impact on the safety and security of users of the green space and is therefore acceptable.

Policy Hou 7 (Inappropriate Uses in Residential area) states that 'developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted'. The proposed change of use of the site to residential use does not propose a 'new' use for the area as the site is forming an extension to the garden at the property. The proposed use will not impact on the living conditions of the surrounding residential properties.

Overall, there is no impact on amenity.

#### d) Public comments

##### **Material representations - Objection**

- Loss of community amenity space / loss of public park land with high amenity value; this is addressed in sections 3.3a);
- Negative impact on visual amenity; this is addressed in section 3.3c);
- Impact on the character and setting of the local area; this is addressed in section 3.3a);
- Contrary to Policy Env 18 Open Space Protection, no community benefit; this is addressed in section 3.3a);
- Damage to mature trees and so contrary to Policy Env 12 Trees of the LDP; this is addressed in section 3.3a);
- Concern for impact to neighbouring amenity; this is addressed in section 3.3c); and
- Concern for safety and security of park users particularly after dark; this is addressed in section 3.3c).

##### **Material representations - Support**

- Hedge benefits biodiversity and wildlife;
- Non-detrimental to public amenity;
- Development is of high standard;
- Hedge improves visual amenity of the area;
- No impact to neighbouring amenity;
- No impact to parking;
- An improvement to an overgrown piece of land; and
- A good use of the space that has no formal purpose.

##### **Community Council comments**

Although not a statutory consultee, Balerno Community Council has a policy of supporting public park lands; it is therefore opposed to any loss of such areas

##### **Non-material representations**

- If development is not acceptable, this should have been highlighted at time of purchase this is not a material planning consideration;
- Ceased littering and dog fouling - this is not a material planning consideration;
- Land was prone to flooding - this is not relevant to this application;
- A dangerous precedent - this is not a material planning consideration;
- Object on the principle of selling this land as 'surplus to the council's operational requirements' and lack of local consultation - this is not a material planning consideration;
- Retrospective nature of the works - retrospective planning applications are permitted by planning legislation;

- City of Edinburgh Council have not consulted local residents about this sale and has shown little respect for the public interest or the established planning procedures - this is not a material to the assessment against the Development Plan;
- Initial advice at term of sale incorrect and not privy to the planning process - this is not a material planning consideration;
- Previous applications withdrawn - this is not a material planning consideration.

## Conclusion

In conclusion, the principle of the change of use of the land from open green space to private residential land, is compliant with Policy Hou 7 and whilst a minor infringement of Policy Env 18, it does not compromise the function of the wider green space to deliver the standards required of a 'Large Green Space', as set out in the Open Space Strategy 2021. Due to the large provision of open green space in this area, all properties within the wider area will continue to benefit from the amenity value of the open green space.

The erection of a boundary fence is a minor departure from the non-statutory Guidance for Householders. However, the inclusion of planting mitigates the visual impact of the development and promotes biodiversity and does not have a significant impact on the setting or the character of the wider area. The development is therefore compliant with policy and is acceptable.

It is recommended that this application be Granted subject to the details below.

## **3.4 Conditions/reasons/informatives**

### **Informatives**

It should be noted that:

1. Please note that this application is retrospective and as such no conditions and reasons are applicable in this instance.

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

## **Risk, Policy, compliance and governance impact**

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5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

## **Equalities impact**

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### **6.1 The equalities impact has been assessed as follows:**

The application has been considered and has no impact in terms of equalities or human rights.

## **Sustainability impact**

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### **7.1 The sustainability impact has been assessed as follows:**

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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### **8.1 Pre-Application Process**

Pre-application discussions took place on this application.

### **8.2 Publicity summary of representations and Community Council comments**

The application was advertised on the 4 April 2019. Eighty two representations were received, forty eight representations in support of the application, thirty three representations objecting to the proposal and one representation offered a general comment.

A full assessment of the elements raised can be found in the assessment section.

## **Background reading/external references**

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- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

## **Statutory Development**

### **Plan Provision**

The Edinburgh Local Development Plan.

### **Date registered**

17 March 2020

### **Drawing numbers/Scheme**

01, 02A,

Scheme 2

## **David R. Leslie**

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Luke Vogan, Planning Officer

E-mail: [luke.vogan@edinburgh.gov.uk](mailto:luke.vogan@edinburgh.gov.uk)

## **Links - Policies**

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### **Relevant Policies:**

#### **Relevant policies of the Local Development Plan.**

LDP Policy Env 18 (Open Space Protection) sets criteria for assessing the loss of open space.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

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

**Non-statutory guidelines** 'GUIDANCE FOR HOUSEHOLDERS' provides guidance for proposals to alter or extend houses or flats.

## **Other Relevant policy guidance**

Open Space Strategy- The strategy helps to protect and develop the city's open spaces. It sets standards that will be expected to meet when making decisions on open spaces.

# Appendix 1

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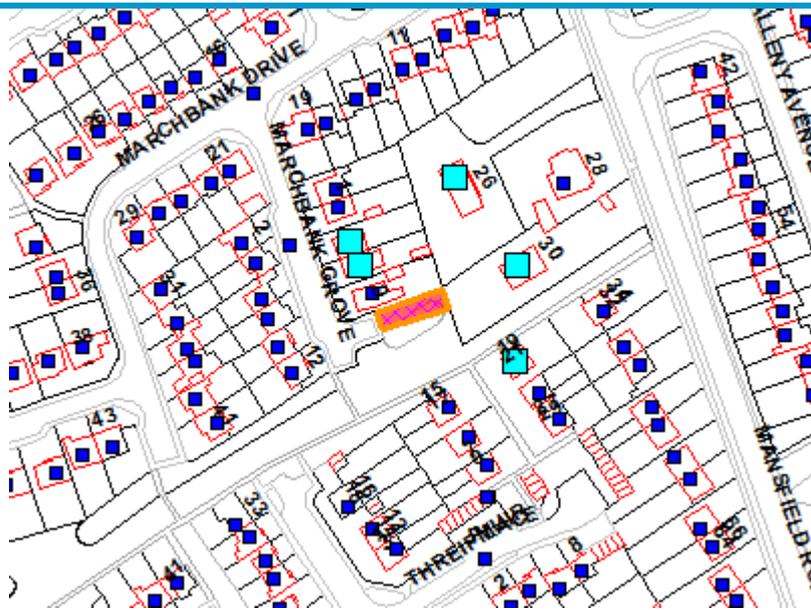
## Consultations

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No consultations undertaken.

## Location Plan

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