

DEVELOPMENT MANAGEMENT COMMITTEE

Report by Development Management Manager

1 DESCRIPTION

Change of use from domestic garage to (class 2) dog grooming business (in retrospect), at 100 Overton Crescent, East Calder EH53 0RH.

2 DETAILS

Reference no.	0620/FUL/10	Owner of site	Mr & Mrs Wm Megarry
Applicant	Mr & Mrs Wm Megarry	Ward & local members	East Livingston and East Calder Carl John Frank Anderson Willie Dunn Dave King
Case officer	George Flett	Contact details	Tel: 01506 775271 Email: george.flett@westlothian.gov.uk

Reason for referral to Development Management Committee: Referred to committee by Councillor King.

3 RECOMMENDATION

- 3.1 Approve temporary conditional planning permission.

4 DESCRIPTION OF THE PROPOSAL AND PLANNING HISTORY

- 4.1 The proposal is to change the use of a residential garage within the curtilage of a residential property, to a dog grooming business, in retrospect. The property is located at the end of a cul-de-sac within a residential area of East Calder. The applicants have made changes to the garage so that it can function as a dog grooming facility, whereby dogs will be washed and groomed. They have installed a desk at the front of the garage, which also contains equipment for the activity.
- 4.2 The applicants have advised that, generally, they only deal with about 3 dogs per day between the hours of about 9am and 5pm.
- 4.3 The proposal includes a paved area at the front of the house where customers delivering their dogs can park. The driveway of the house is also available for parking. Transportation were consulted on this point and made no objection on traffic or parking grounds.
- 4.4 There have been previous planning applications relating to the property. In 1992 an application for a porch and garage was approved. In 2004 an application for a house extension was approved. In 2009 an extension to the garage was approved. Earlier this year the council's planning enforcement section were asked to investigate the use of the garage for an unauthorised use as a dog grooming facility. Upon inspecting the premises they advised Mr

and Mrs Megarry that they would have to apply for retrospective planning consent. This is now the application that is before the council.

5 PLANNING POLICY ASSESSMENT

West Lothian Local Plan	HOU 9 Residential Amenity Development proposals will be assessed against the need to protect the residential and visual amenity of existing residents and other occupiers.	The proposed dog grooming facility is located within a residential area. Given the relatively low intensity of the use and with the use of appropriate conditions the amenity of nearby houses will be retained. A temporary approval is recommended, therefore, the council will retain control over the use of the site in the future.	Yes
West Lothian Local Plan	IMP 10 Noise There is a presumption against developments that are likely to generate significant amounts of noise being located close to housing.	The proposed use is for a facility that will only deal with about one dog at a time. Given that this level of use is no different than that to be found in a domestic situation it is considered that the proposal is not contrary to this policy. The use of appropriate conditions will also help to control the proposal and the use of a temporary approval provides an additional level of control.	Yes

6 REPRESENTATIONS

6.1 Two letters of objection from neighbours have been received. The objections are summarised below. One letter of support from a neighbour has also been received and the comments are summarised below.

	Comments	Response
1.	This is a commercial business operating within a residential area.	The low level of intensity at which the business is operating is not considered to be at a level whereby amenity is reduced to an unreasonable degree.
2.	The proposal will affect the value of neighbouring properties.	Property value is not a material planning consideration.
3.	There will be parking and traffic problems.	Transportation have not objected to the proposal and adequate off street parking exists.
4.	Work has been undertaken to the drainage system.	This is a matter for Scottish Water.
5.	Nuisance and danger from escaping dogs.	Providing the business is properly managed this risk will be mitigated. The temporary consent provides a level of future control for the council.

6.	Has a risk assessment been undertaken, what insurance is there, and how will commercial waste be handled.	These are business matters and matters for other authorities.
7.	Kennelling is being provided.	There is no evidence of kennelling being provided at the property. A condition to prohibit kennelling will be applied.
8.	Operation of the business has blocked access to objector's property.	An off-street parking space for visitors is part of the application.
9.	Does the business meet various health and safety and building regulation standards.	These are matters for the appropriate legislation and authorities. A building warrant is required for the work that has been undertaken.
10.	Title deeds prohibit business use.	This is not a material planning consideration and is a matter for others.
11.	Support for the business in that there has been no huge increase in traffic since the business started.	Noted.
12.	Support for the business in that it is unobtrusive.	Noted.
13.	Support for the business in that there are no additional cars parked due to the business.	Noted.

7 CONSULTATIONS

7.1 Transportation made no objection.

Consultee	Objection	Comments	Planning Response
WLC Transportation	No	None.	Noted.
WLC Environmental Health	No	No objection, but condition requiring the installation of a filter to prevent dog hair blocking the drainage system.	Noted.

8 ASSESSMENT

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 8.2 Policy HOU 9 protects residential amenity from any use that may injure the interests of residential amenity. An assessment of this requires a judgement to be made about whether or not the proposed use will injure the residential amenity in this case. On the basis that the facility will only be dealing with a small number of dogs per day and that it is only designed to deal with one dog at a time, on an appointment system, it is considered that the level of intensity of the business is not high enough to cause significant detriment to the amenity of the area. The applicant has provided a parking area at the front of their property for visitors and their driveway is also available. At the level that the business is operating it is not considered that the increased traffic levels would be more than normally expected within a residential area. Transportation have made no objection. Given this analysis, it is considered that the proposal is acceptable in planning terms, provided that appropriate conditions are applied and that a temporary approval of one year is granted. This trial period will allow the council to

assess how well the business has been managed and whether or not it has complied with the conditions on intensity of use and hours of operation, and whether or not any parking or traffic problems are created by the business.

9 CONCLUSION AND RECOMMENDATION

- 9.1 The proposed use as a dog grooming business is considered to be acceptable in planning terms. In view of this, it is recommended that the application be granted a conditional temporary planning permission for one year.

10 ATTACHMENTS

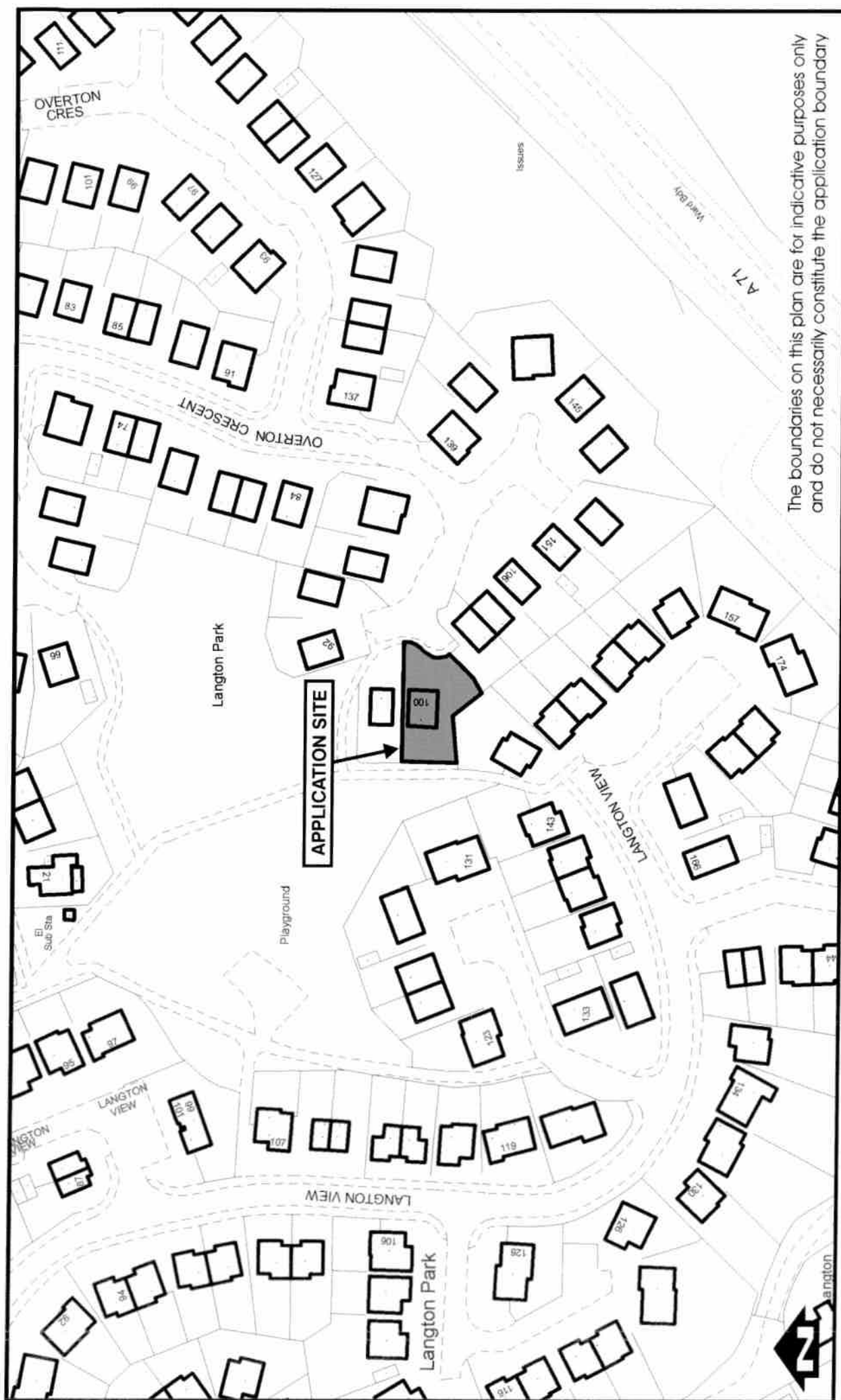
- Location plan
- Site plan
- Letters of objection
- Letter of support
- Draft conditions

Redacted - personal information



CHRIS NORMAN
Development Management Manager

Date: 17 November 2010



DM COMMITTEE LOCATION PLAN

Date : 17/11/10

Application No. : 0620/FUL/10

Scale : 1 : 1250



West Lothian
Council

DRAFT DECISION - APPLICATION 0620/FUL/10

- 1 The business shall only operate from 9am to 5pm, Monday to Friday, and shall not operate at weekends and public holidays. The business shall operate on an appointment only basis.

Reason *In the interests of the amenity of the area.*

- 2 The business shall deal with a maximum of 5 dogs in any one day, and only 2 dogs will be permitted in the business premises at any one time.

Reason *In the interests of the amenity of the area.*

- 3 Customers of the business, dropping off or collecting dogs, shall park either in the allocated monoblocked area at the front of the house or in the driveway of the house.

Reason *In the interests of the amenity of the area and to prevent parking and access problems.*

- 4 There shall be no kennelling of dogs on the property.

Reason *in the interests of the amenity of the area.*

- 5 A filter system for the dog washing bath shall be installed and maintained.

Reason *To prevent blockages in the drainage system.*

NOTE *Notification of the Start of Development:*

It is a legal requirement that the person carrying out this development must notify the planning authority prior to work starting on site. The notification must include full details of the name and address of the person carrying out the development as well as the owner of the land and must include the reference number of the planning permission and the date it was granted. If someone is to oversee the work, the name and contact details of that person must be supplied. A form is enclosed with the planning permission which can be used for this purpose. Failure to provide the above information may lead to enforcement action being taken.

Notification of Completion of Development:

The person who completes this development must, as soon as practicable after doing so, give notice of completion to the planning authority. A form is enclosed with the planning permission which can be used for this purpose.

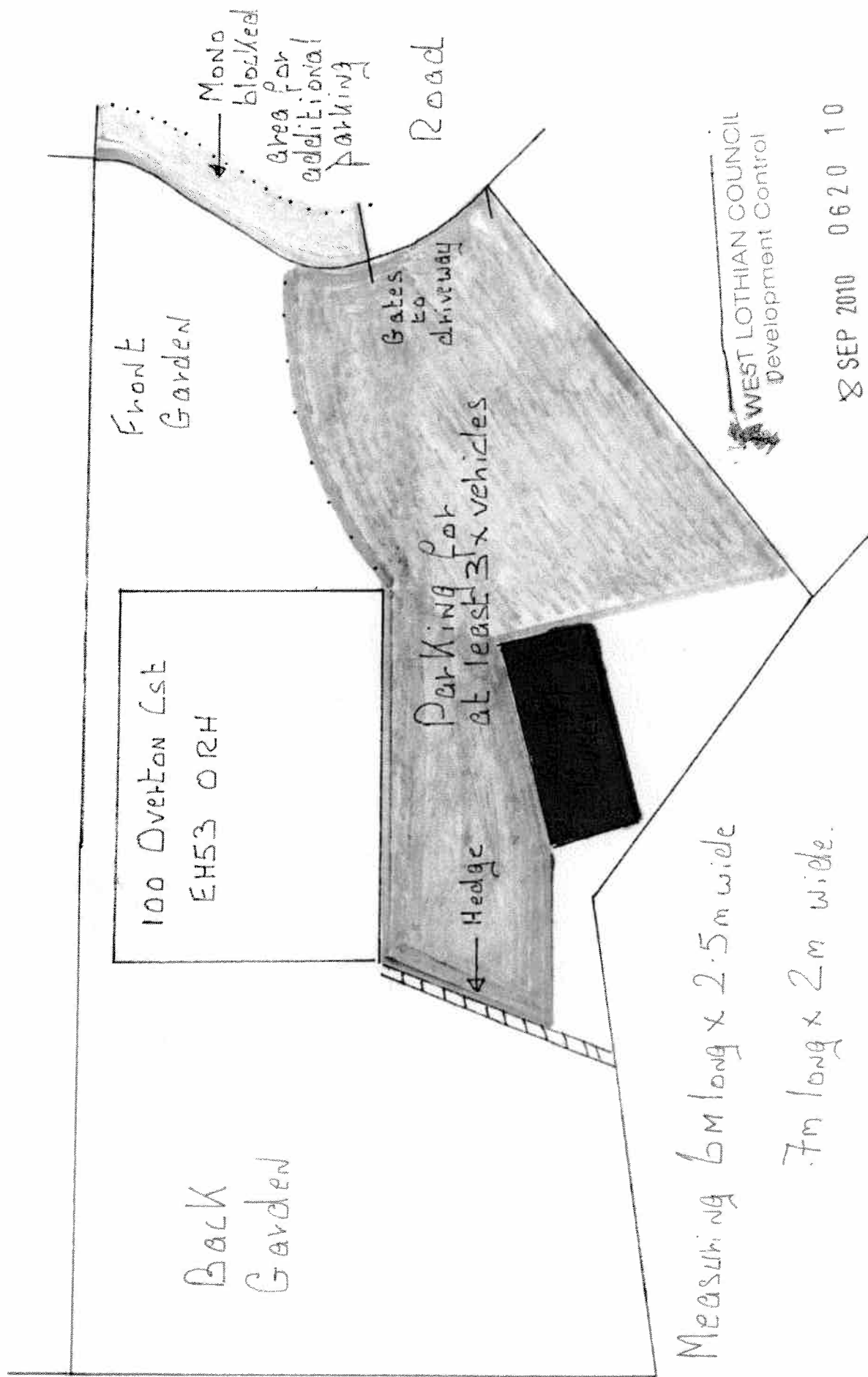
NOTE *Advisory Note to applicant:*

As the proposed development is within an area which could be subject to hazards from current or past coal mining activity, the applicant is advised to liaise with the Coal Authority before work begins on site, to ensure that the ground is suitable for development.

Any activities which affect any coal seams, mine workings or coal mine entries (shafts) require the written permission of the Coal Authority. Failure to obtain such permission constitutes trespass, with the potential for court action. The Coal Authority is concerned, in the interest of public safety, to ensure that any risks associated with existing or proposed coal mine workings are identified and mitigated.

To contact the Coal Authority to obtain specific information on past, current and proposed coal mining activity you should contact the Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com.

NOTE *This planning permission lapses on the expiration of a period of 3 year (beginning with the date on which the permission is granted) unless the development to which the permission relates is begun before that expiration.*



Measuring 6m long x 2.5m wide

7m long x 2m wide.

Parking for at least 3x vehicles
* 93 sq.m of mono block used

0620/FUL/10

COM / OBJ

LOCAL

OBJECTION TO CHANGE OF USE (In Retrospect)

Please scan

West Lothian Council
Planning Services
Development Management

Ref 309100666920
100 Overton Crescent East Calder EH53 0RH

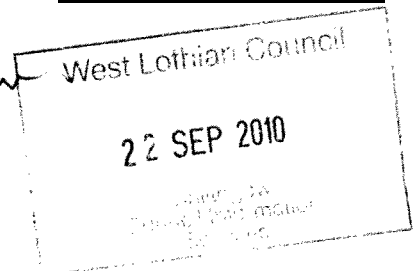
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information

23/7/10

Dear Mr Sheehan

I am objecting to the proposed change of use on the grounds that,

*Alleen
11-35am*



1. Prior application to extend the garage facilities at 100 Overton Crescent were not carried out to the original application and at no time indicated that a commercial business was to operated from what I have in writing is deemed a residential area, Land register of Scotland burdens section (copy enclosed).
2. The close proximity of my house to the entrance of the proposed business has on several occasions denied me access to my garage and forced me to park on a street that was primarily designed to have of road parking, the absence of foot paths within the cul-de-sac does not make it safe for pedestrians and in particular children to walk and play when the street is full of cars, the walkway between 98 and 92 is particularly busy with children and dog walkers and would not suit an increase in traffic.
3. The business has been running for at least three months and I would be interested to know if the premises meets local authority fire regulations, health and safety standards, and has arrangements for the transport and uplift of commercial waste been arranged? As the business premises is using shared domestic waste pipes, has the authorities done a risk assessment to assure local residents that COSHH regulations are being observed? Taking in to account that the original application for a garage extension at no time referred to the need to dig up and tap into the domestic waste system I would suggest not.
4. The very nature of the proposed business would suggest that the safety of locals and in particular children would be at risk, the introduction to the cul-de-sac of dogs with unknown backgrounds must increase the threat of unprovoked attack, I myself have on two separate occasions had dogs stray on to not only my property, but my living room. The added inconvenience and of the proposed business offering kennelling facilities will obviously increase noise pollution and detract from the area. (Advert enclosed)
5. After consultation with a local Estate Agent I was informed that resale values of the properties adjoining and opposite the proposed business would be effected dramatically my property being in so close proximity and the fact that we share a common drive will be particularly effected, It was pointed out that families with young children could be put of buying due to the negative publicity in the media regarding dog attacks.

6. There are many available and more suitable shop units for hire in the local village, a business of this nature is not suited for a residential housing scheme.

In conclusion I strongly object to what I feel is a blatant under hand attempt to covertly establish and run a private business from a residential area designed for housing young families, the original application to extend the garage was never completed, instead a full alteration to accommodate the proposed business was carried out with no planning permission, the health and safety of the residents should be the primary consideration of the planners and the council regarding this proposal.

I look forward to hearing your thoughts and would appreciate an answer to my questions.

Yours Sincerely

Redacted - personal
information

Scruff Busters Dog Grooming Salon Tel: 01506 209 974 Mob: 07912 434 381 City & Guilds qualified Home boarding available New hydro bathspa bath Local pick up and drop off service available 100 Overton Crescent, East Calder, EH53 0RH	10% off your first visit 
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LAND REGISTER OF SCOTLAND



TITLE NUMBER MID4864

D 2

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

individual purchasers (who and their successors as proprietors of the said dwellinghouses and others are hereinafter referred to as "the proprietors") THEREFORE WE DO HEREBY PROVIDE, SET FORTH AND DECLARE but without prejudice to the real burdens conditions and others already affecting the said subjects, as follows, videlicet:-

(FIRST)

The said subjects shall be used for the purpose of the erection thereon of dwellinghouses either detached, semi-detached, terraced or in blocks of flats in such numbers and on such conditions as may from time to time be approved by the Local Authority, with offices, garages, car ports or other suitable accommodation for at least one car, and insofar as not used for the erection of such dwellinghouses and others and relative garden ground, the said subjects shall be used in terms of Condition (TENTH) hereof

(SECOND)

Each dwellinghouse shall be occupied by one family only and shall not be subdivided; no additions shall be made to the said dwellinghouses, offices or garages in front of the front building line, and no other additions or alterations to the said dwellinghouses, offices or garages shall be made or other buildings erected on the said subjects without the prior written consent of the adjoining proprietors, which consent shall not be unreasonably withheld; it shall not be lawful to erect any building used or to be used in connection with or to carry on upon the said subjects any trade, profession or business or any manufacture of any kind or to deposit materials on the said subjects or to lay any nuisance or obstruction on any of the roads on the said subjects or to do any other act which may injure the amenity of the said subjects or the neighbourhood and the proprietors shall not be permitted to use or allow to be used any building erected or to be erected on the said subjects as premises for the sale of excisable liquor;

(THIRD)

The garden ground pertaining to each of the said dwellinghouses shall so far as not occupied by the buildings be used as ornamental or garden ground in front and to the sides and as greens for bleaching and drying clothes or as a vegetable garden at the rear all in connection with the said dwellinghouses and for no other purpose

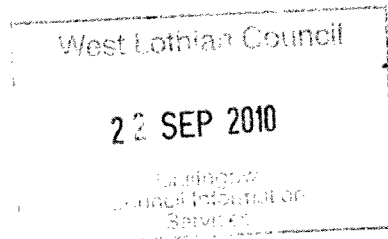
WEST LOTHIAN DISTRICT COUNCIL : DEPARTMENT OF PLANNING

IMPORTANT NOTE

The issue of a planning permission does not authorise a developer to commence work on a site or building until:-

- 1 Consent has been obtained from the owner of the land or buildings.
- 2 A separate application for consent under the terms of the Building (Scotland) Acts 1959 and 1970 has been approved. The necessary application forms can be obtained from the Building Control Officer, County Buildings, Linlithgow, EH49 7EZ.
- 3 If the drainage outfall is other than to a public sewer, a separate application in respect of that outfall has been approved by the Forth River Purification Board, Heriot Watt Research Park, Riccarton, Edinburgh, EH14 4AP.
- ④ Detailed plans of the development showing the proposed arrangement for water supplies, both temporary and permanent, have been approved by the Director of Water and Drainage, Lothian Regional Council, Edinburgh.
- ⑤ A separate application has been made, if applicable, for the storage of petroleum spirit, paint or printing ink, under the Petroleum Consolidation Act 1928 and subsequent regulations made thereunder, to the Divisional Consumer Protection Officer, Whitehill Industrial Estate, Bathgate, West Lothian.
- 6 Gas services or mains must be diverted at the developers' expense before construction begins. For further details, please contact British Gas plc (Scotland), Central and South-West District, Bothwell Road, Uddingston, G71 7TW.
- 7 Electricity services or mains must be diverted at the developers' expense before construction begins. For further details, please contact ScottishPower, Central District, 99 Glasgow Road, Camelon, Falkirk, FK1 4JE.

It should also be noted that this permission does not include a mineral clearance of the site in question, and it is the developers' responsibility to satisfy themselves that the site is not liable to subsidence due to past or proposed mineral working. The appropriate British Coal Office will be pleased to assist.



Redacted - personal
information

23/9/10

RE : CHANGE OF DOMESTIC GARAGE TO DOG GROOMING BUSINESS - 100 OVERTON CRESCENT
REF : 0620/FUL/10

Dear Mr Norman,

We would like to raise our objections to the above plan ;

1. The business is up and running without the due consent of the surrounding neighbours as the 1st planning application was only for an extension to the existing garage. At no point was to be modified for a commercial business.
2. In response to the Parking, the parking has been diabolical since this business has opened (cars are left parked either at 90 degrees to the additional monoblocking or right in the street) and parking for 'at least 3 x vehicles' within the existing driveway at best over exaggerated and the additional monoblocked area is normally used by their own vehicles. We regularly have to reverse into No 98 Overton Crescent's drive to get out of our own drive or we would have to reverse all the way up the street to the opening before turning . We were told that there would be a drop off and pick up service for the dogs to stop the additional traffic coming into the cul-de-sac this also has not happened.
3. Once the work was started we were extremely concerned to see their existing drive being dug up and were tapping into the main drainage system for the street. The drain sits at the bottom of our drive and also have 2 storm drains in our garden resulting in us being liable for any blockages or repairs due to the additional pipes being used.
4. Neighbours and ourselves have seen firsthand dogs escaping and either ending up within the neighbours houses causing undue stress and shock and also only last week we personally had to emergency stop coming up the street or would have knocked down a dog in their care who was running amock back and forward on the road.
5. Have seen a minor within their property out walking dogs in their care and as a family with 3 children under 10 who play in the surrounding park area at the back of the houses, we feel that if one of these dogs were to attack anyone never mind a child or another animal they cannot possibly be in a position to fend the dog off.
6. As we have never be given the correct information in regards to this business we are not aware what risk assessments and working method statements have been done what insurances eg public liability are in place.
7. What about the waste that will inevitably be being produced ? How is this being removed as it will be business waste not domestic which we pay our council tax towards. The garage is an outbuilding on its own but I presume it has water and

electricity tapped from the house again if this is the case no business rates are being paid.

8. We have been told from one of their clients that there is kennelling facilities too which is a major concern as well due to noise and additional safety factors and this has been advertised within the Konnect brochure.
9. Having a running dog business right opposite obviously will have an effect on the value of our property and make it unattractive if we choose to sell. These houses were built only for private and domestic use for families and within our missives we are restricted to what is acceptable. There are house numbers missing from the surrounding houses because in 1991 when the houses were built they had numbered the houses first and then permission for planned flats on the park area at the back of us was refused as this did not meet the criteria of the council at that time.

We have no issue with anyone wishing to work for a living but we don't want it right opposite us and if we had have been given the correct information it would not have come to this. For example there are empty shop units on the front of East Calder main street so there would have been alternatives rather than in our residential street but at no time were we ever consulted .

Yours Sincerely,

Redacted - personal information



Norman, Chris

Redacted - personal information

Sent: 28 October 2010 20:43

To: Norman, Chris

Subject: Request for plans to be put to Committee of Councillors

Redacted - personal information

28/10/2010

FAO: Chris Norman - Chief Planning Officer.

RE: Scruff Busters 100 Overton Crescent, East Calder. Change of Use in Retrospect 309100666920

Dear Mr Norman,

I was given your name from our local councillor Mr Dave King after speaking to him in regards to the above business, I wish to state from the beginning that I along with Redacted - personal information wish for the decision on this plan to be brought in front of The Committee of Councillors.

I do not know if you are aware of the situation regarding this but will outline the details to bring you up to speed. Originally we were given neighbour notification for the said premises to have an extension added to the garage (1st submission of plans). The work then started and the garage was converted into a dog grooming business which has been up and running for some time now. After calls to the Duty Planning Officer back in March of this year and then more recently in September to the planning office I was reassured that the correct procedures had been adhered too and that everything was correctly carried out in line with council recommendations. It was only when I further questioned this was it brought to light that it had not been correctly carried out and a 2nd set of plans were to be sent out. This is where the Change of Use in Retrospect comes into play.

I, along with my partner Cameron Jones put in writing within the set time frame objections to this plan and I have attached a copy for you. As you can see we have a number of serious concerns regarding the business including ; the safety aspect within the cul-de-sac not only for the 8 children directly affected by this (within 3 of the neighbour notification houses)but also the vastly increased level of traffic coming to the business as well. At the same time Mr O'Hagan also in writing raised his objections to the proposals and again have attached these for your reference.

Throughout this whole time I have collated some questions I would like to have clarified by yourself or any other related department of the council:

1. My partner and I were advised from Mrs Megarry after the 2nd set of plans were issued that the council had held up their hands and admitted liability in regards to misadvising in regards to setting the business up initially and what was required of them.

2. As Scruff Busters has an advertised landline is it being charged from their provider on business not domestic rates?
3. If this is the case then as far as I am led to believe it legally ties them into business council tax rates as well.
4. If we then are looking onto a business which is paying such rates are we as home owners not then entitled to a reduction in our council tax?
5. Is there a price list on show within the said premises as this too then requires them to be paying business council tax rates?
6. It is also my understanding that being a domestic property they are not allowed to store any products used for the business e.g. cleaning products, shampoos etc. So how can the converted garage then be used for this purpose?
7. According to the highways and byways you are not allowed to have even a temporary sign up in regards to parking areas for their clients and even though the road is owned by the council it is not a public highway and therefore should not be treated as one.
8. Surely the 15ft hedge at the side of the property (which is being used to almost hide the front of the business) obscures vision not only for us reversing out of our drives but also the cars dropping off and picking up their dogs, is this not a major concern for the council.
9. According to highways and byways should the hedge not be 30ft away from the edge of the road?
10. When their drive was lifted and excavated to run the new plumbing and drainage into the existing street pipes can you tell me if this photographed at each stage to prove the correct size of pipes were used, correct filters are in place and that we have conformation that what was done will not at any time cause additional strain on the streets drainage?
11. A building warrant surely is required, what are the councils required standards to have this passed?
12. I know that if this was a council tenant and they did this they would be evicted so with the tightening up legislation to homeowners how can this still be allowed?
13. If this plan is passed is the council not aware of the precedence that this then allows every single homeowner within Overton Crescent to have a working business (not a registered office) from their domestic property?

I do not want this to appear as if we are trying to be awkward and it really couldn't be any further from the truth but I have young children who I brought to live in a quiet residential area 9 years ago and it now cannot be classed as that. I have been advised from a conveyancing lawyer that if the house was valued there would be a good reduction to reflect that the house now has a commercial business directly opposite.

I am fully aware that some of the points raised do not directly affect your planning office but all these issues are related to the council umbrella and as a council tax payer within West Lothian we are entitled to have our objections and concerns heard and answered.

Kind Regards,

Redacted - personal
information

McLucas, Steve

From: Flett, George
Sent: 09 November 2010 15:47
To: McLucas, Steve
Subject: FW: 0620/FUL/10 support for this application - FAO George Flett

Redacted - personal information

Sent: 05 October 2010 12:15

To: Flett, George; Christie, Linda

Redacted - personal information

Subject: 0620/FUL/10 support for this application - FAO George Flett

Hi George

I tried to add comments via the website without success, I also tried to phone but you were not available.

My house is located at the entrance of the cul-de-sac where the grooming salon is based and therefore I am aware of the traffic flow in and out of the cul-de-sac.

I have not witnessed a huge increase in the volume of cars accessing the cul de sac and the issues I have relating to the drivers of cars driving in/out of the cul de sac, relates to speed rather than volume and refers to those living in the cul de sac rather than those visiting the houses there.

I find this facility to be totally unobtrusive as it is set back and almost hidden by trees - someone even stopped me in the cul de sac to ask where it was as they couldn't find it.

I have witnessed no additional cars in the area that I can attribute to the dog grooming salon - most of the cars parked outside drives belong to the home owners there, who prefer to park in the street rather than use their drives - some of these vehicles are commercial and can be obstructive. I walk through this cul-de-sac at least 3 times a day to access the park.

I do have dogs and have used this facility, therefore you may find my comments a little biased, but my point is that I can walk there and I know of other dog owners who also use the facility but walk rather drive.

I am happy to discuss further via email or you can contact me /husband (Alex) on 01506 881182

I would totally support this proposal.

Redacted - personal information

09/11/2010