



**DEVELOPMENT MANAGEMENT COMMITTEE**

**Report by Development Management Manager**

**1 DESCRIPTION AND LOCATION**

**Change of use from public open space to private garden ground and erection of a boundary fence at 83 Gowanbank, Ladywell, Livingston**

**2 DETAILS**

<b>Reference no.</b>	0638/FUL/10	<b>Owner of site</b>	West Lothian Council
<b>Applicant</b>	Mr James Stuart	<b>Ward &amp; local members</b>	<b>Livingston South</b>  L Fitzpatrick P Johnston D Logue J Muir
<b>Case officer</b>	Steven McLaren	<b>Contact details</b>	01506 775215 steve.mclaren@westlothian.gov.uk

**Reason for referral to Development Management Committee: Application site is owned by West Lothian Council**

**3 RECOMMENDATION**

Grant planning permission

**4 DESCRIPTION OF THE PROPOSAL AND PLANNING HISTORY**

- 4.1 The applicant seeks permission to incorporate an area of poorly maintained landscaping as an extension to rear garden ground. The application site lies to the north of the applicant's property and is bounded on its length by a public footpath, the remainder of the landscaped area to the east and west, and the applicants existing garden to the south.
- 4.2 The area of ground proposed to be incorporated within the garden measures 7m long by 3m wide and extends from the rear building line of the house to the west. It is proposed that the extended garden ground will be enclosed by a timber fence of similar height and design to the existing fence.
- 4.3 There have been no other planning applications registered at this address and there is no record of similar applications in the immediate vicinity.

**5 PLANNING POLICY ASSESSMENT**

Plan	Policy	Assessment	Conform?
West Lothian Local Plan (WLLP)	COM2 (Protection of open space)	<p>Proposals which result in the loss of urban sports and recreation facilities, or formal or informal open space, will be resisted. These spaces include parks and formal gardens, wildlife habitats, civic space, and allotments. Proposals to develop or change the use of open space areas will be assessed against the following criteria: a. a locational justification for the development; b. the importance of the open space for recreational amenity; c. disturbance and loss of trees, woodlands and wildlife habitats or green corridors; and d. the availability and accessibility of alternative suitable open space, including the suitability of any replacement provision proposed by the developer.</p> <p>The area of ground, which is the subject of this application, does not form part of a park, formal garden, wildlife habitat or open space. A change of use of this land to private garden ground will not result in the loss of habitat or trees and does not impact on the availability of suitable alternative open space or landscaping within the Gowanbank area.</p>	Yes
WLLP	HOU9 (Residential and visual amenity)	<p>Development proposals will be assessed against the need to protect the residential and visual amenity of existing residents and other occupiers. Developments shown to adversely impact on amenity to a significant degree will not be supported.</p> <p>The area of ground is poorly maintained and contains no significant planting. The loss of this piece of land as part of the landscape strip will not be adversely detrimental to the overall landscaping within the Gowanbank area.</p>	Yes

**6 REPRESENTATIONS**

The application was advertised in the local press on 24 September 10 and the period for comments has expired. There have been no representations received on this application.

## 7 CONSULTATIONS

This is a summary of the consultations; the full documents are contained in the application file.

Consultee	Objection?	Comments	Planning Response
External Environment	No (verbal)	Acceptable subject to the extension not extending beyond the rear fence line.	Noted.
Scottish Gas Network	No	Details of gas pipes has been provided for the applicants benefit..	Noted. Correspondent to be forwarded to applicant.

## 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.

### West Lothian Local Plan

- 8.2 Policy COM2 of the WLLP seeks to protect public open space and areas of environmental benefit. The application site does not provide any significant benefit to the area, and in particular in its current condition, therefore the inclusion of this area into private garden ground is acceptable under the terms of this policy.
- 8.3 Policy HOU9 of the WLLP requires the protection of residential and visual amenity of existing residents and other occupiers. Developments shown to adversely impact on amenity to a significant degree will not be supported. In this regard, whilst the area of land does form part of a landscape strip, the ground condition is poor and is devoid of much of the landscaping. The inclusion of this land to private garden ground and the construction of a fence similar to that of the exiting garden is appropriate in terms of this policy.

## 9 CONCLUSION AND RECOMMENDATION

- 9.1 This is a relatively small area of ground which is being considered as an extension to the applicant's rear garden ground. The condition of the land is poor and it does not provide any significant benefit to the area. The proposed fence is to match that of the existing rear garden fence, being in the region of 1.2m high, and in this respect will not impact on the security or safety of the adjacent footpath.
- 9.2 Assessing the proposal on its own merits and in consideration with the policies in section 5, recommendation is to grant planning permission subject to a condition restricting the boundary fence height to 1.2m.

## 10 ATTACHMENTS

- Location plan
- Draft conditions

Redacted - personal  
information

CHRIS NORMAN  
Development Management Manager

Date: 17 November 2010

## DRAFT DECISION - APPLICATION 0638/FUL/10

- 1 The proposed boundary fence for the garden extension hereby approved, shall match the height and style of the existing garden boundary fence, unless otherwise agreed in writing with the Development Management Manager.

Reason *In the interest of visual amenity.*

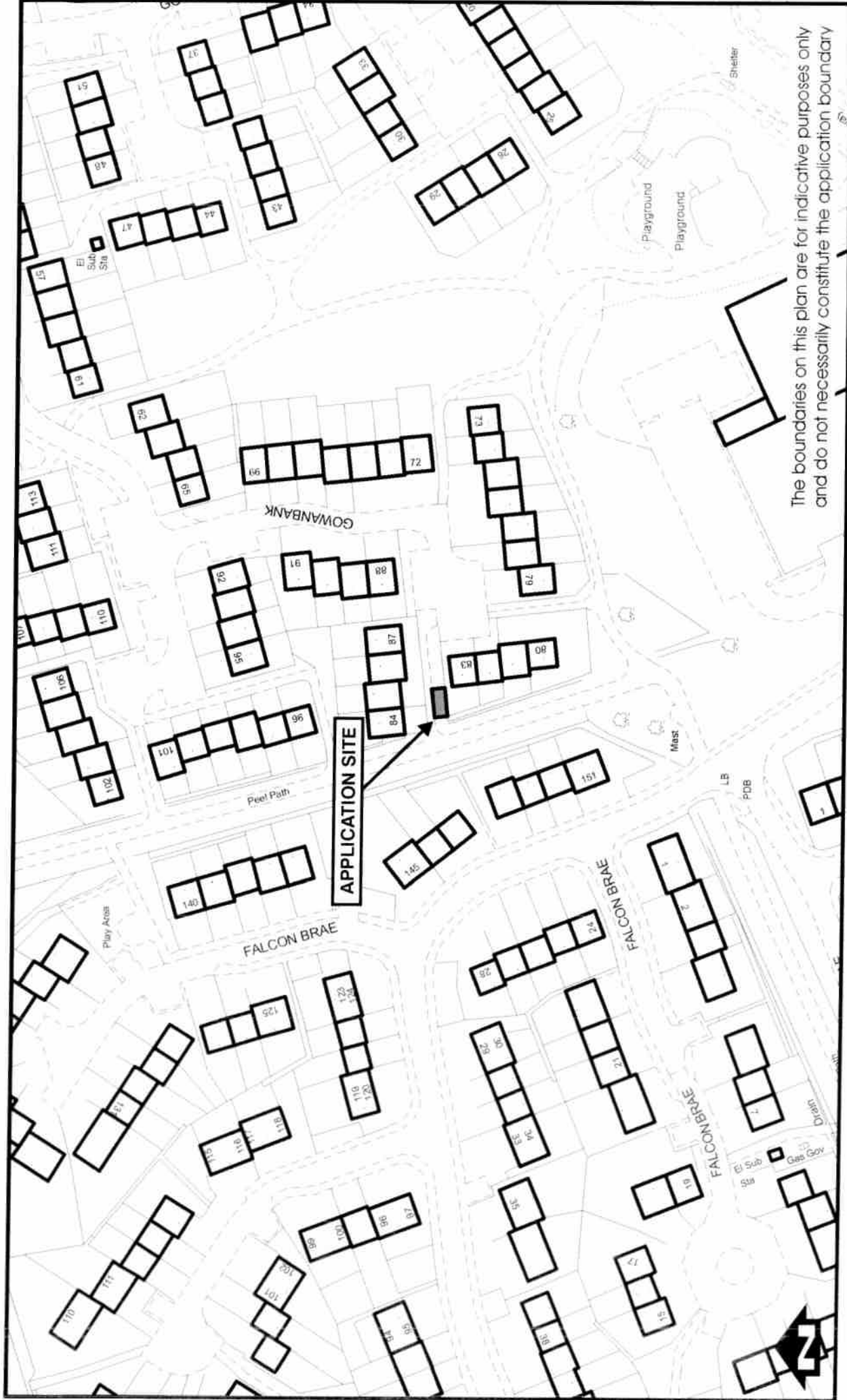
**NOTE** *This planning permission lapses on the expiration of a period of 3 year (beginning with the date on which the permission is granted) unless the development to which the permission relates is begun before that expiration.*

**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.*



# DM COMMITTEE LOCATION PLAN

Date : 17/11/10

Application No. : 0638/FUL/10

Scale : 1 : 1250



West Lothian Council