

ITEM: 2

Application Number: 09/01682/FUL

Applicant: Mr Peter Tracey and Ms Julie McDonagh

Description of Application: Continue use of public house garden as part of garden of 10 Elford Drive with associated retaining wall and fence

Type of Application: Full Application

Site Address: LAND REAR OF 10 ELFORD DRIVE ORESTON PLYMOUTH

Ward: Plymstock Radford

Valid Date of Application: 19/11/2009

8/13 Week Date: **14/01/2010**

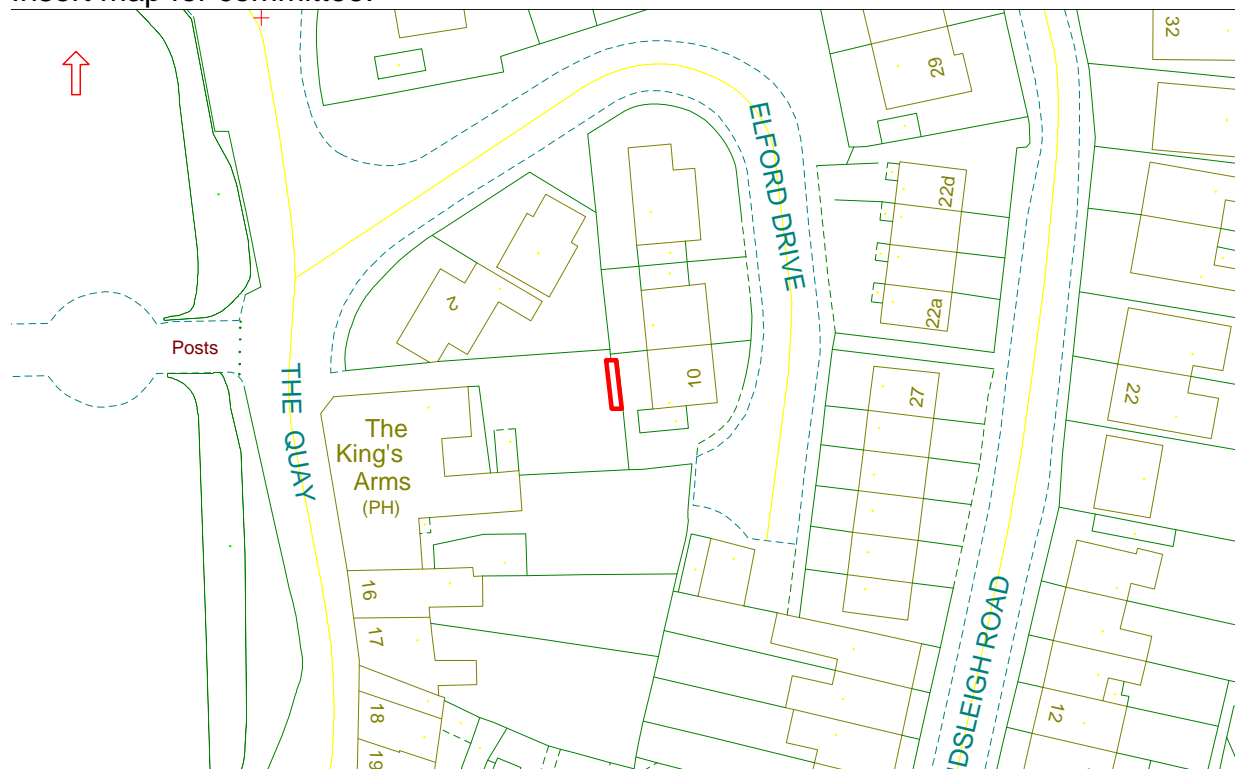
Decision Category: Member/PCC Employee

Case Officer : Kate Saunders

Recommendation: Grant Conditionally

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Insert map for committee.



OFFICERS REPORT

Site Description

The site is a small parcel of land measuring approximately 6 metres wide by 1.5 metres deep, which has been incorporated in to the garden of No.10 Elford Drive. The land was formally part of the curtilage of the adjacent Kings Arms Public House. The area is predominantly residential with the land sloping down towards the river to the south.

Proposal Description

Continue use of public house garden as part of garden of 10 Elford Drive with associated retaining wall and fence

Relevant Planning History

07/01307/FUL - Develop side garden by erection of dwellinghouse attached to side of existing house (existing parking space to be retained, existing garage to be removed) – Granted conditionally

09/01681/FUL - Continue use of public house garden as part of 12 Elford Drive with associated retaining wall and fence – Under consideration

Consultation Responses

Health and Safety Executive – No objections

Representations

One letter of representation received from No.4 Elford Drive. The letter raises various points relating to the land previously, the construction of the house and the surrounding area. The only point which really needs to be considered as part of the proposal is that the fence is considered to be overbearing and to cause a loss of winter sun from the rear garden of No.4.

Analysis

This application is being brought before Planning Committee as one of the applicants is a Plymouth City Council employee.

The main issues to consider as part of this proposal are: the effect on the amenities of neighbouring properties and the impact on the character of the area.

The principle of the change of use is considered acceptable. The proposal only involves a small area of land and the public house retains a large amenity and parking area. The change of use does not prejudice the character of the area.

The main issue to consider is the impact of the retaining wall and fence associated with the change of use on surrounding residential properties. The wall and fence were required as the land slopes away to the south. The retaining wall measures approximately 2.3 metres high with the fence adding an additional 1 metre in height. The wall and fence are a noted addition to the area particularly when viewed from the rear gardens of Nos. 2 and 4 Elford

Drive. The garden of the subject property previously was relatively open with little boundary screening; the proposal does therefore limit overlooking of surrounding dwellings.

The retaining wall is particularly unsightly at present as it has not been rendered. If the wall was finished to a higher standard this would vastly improve the overall look of the structure. It is noted that the application forms state that the wall will be rendered and painted to match the house. A condition could be imposed to ensure this was done within a certain period of time.

The fence associated with No.10 is located within 3 to 4 metres of the rear garden of No. 4 Elford Drive. The fence and wall are a notable addition and made all the more prominent at present by the poor quality finish of the wall. No.4 is situated at a far lower ground level than No.10 Elford Drive due to the sloping nature of the site. The rear garden of No.4 feels fairly enclosed due to the surrounding higher level properties, which already limits the amount of light the garden receives. Even if the fence were to be removed in its entirety, which would be likely to raise overlooking issues, the new house at No.12 Elford Drive does limit light, and furthermore the yard is north-facing. Therefore, although the fence does add to the confined nature of the garden, its impact is not considered significant enough to warrant refusal of the application.

The fence is similar in design to the fence associated with the neighbouring public house beer garden and therefore does not appear out of character. Although a lattice work fence may be less dominating, the existing fence is in keeping and creates a more uniformed appearance.

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities & Diversities issues

No equality and diversity issues to be considered

Conclusions

The proposal will not be detrimental to neighbours' amenities or the residential quality of the area and is therefore recommended for approval.

Recommendation

In respect of the application dated **19/11/2009** and the submitted drawings, **Location plan, Plan "A", Photograph 1, Photograph 2, Photograph 3, and accompanying Design and Access Statement** , it is recommended to:
Grant Conditionally

Conditions

FINISHING OF WALL

(1) The retaining wall hereby approved shall be rendered and painted to match the house within 3 months of the date of this decision notice.

Reason:

In order to protect the residential amenity of the area in accordance with Policy CS34 of the adopted City of Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: effect on neighbouring properties and the residential amenity of the area, the development is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified condition, the development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy, (b) non-superseded site allocations, annex relating to definition of shopping centre boundaries and frontages and annex relating to greenscape schedule of the City of Plymouth Local Plan First Deposit (1995-2011) 2001, and (c) relevant Government Policy Statements and Government Circulars, as follows:

CS34 - Planning Application Consideration
SPD1 - Development Guidelines