

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 2 October 2012

**BY:** Executive Director (Services for Communities)

**SUBJECT:** Application for Planning Permission for Consideration

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*Note: this application was called off the Scheme of Delegation List by Councillor Gillies for the following reasons: Constituents in Gardiners Place have concerns of the impact of the change of use for access and parking in the area. Members should have the opportunity to see the site in question.*

Application No. **12/00577/P**

Proposal Part change of use of open space to form vehicular access, formation of hardstanding areas and erection of garage (part retrospective)

Location **6 Gardiners Place and Coal Neuk  
Tranent  
East Lothian**

Applicant Mr Robert Campbell

Per Colin Findlay

Ward 4

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

This application relates to the detached, two-storey house of Coal Neuk and the garden of the house, the detached single storey house and garden of 6 Gardiners Place, and a small area of grass verge open space to the south of Coal Neuk. The properties of Coal Neuk and 6 Gardiners Place, and the area of grass verge open space are located within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. Those houses and gardens, and the area the subject of the proposed change of use are also within Tranent Conservation Area. The cul-de-sac of Gardiners Place is to the north of the properties.

In August 2010 planning permission (ref: 10/00614/P) was sought by Mr Robert Campbell for the erection of a detached double garage in the northwest corner of the garden of Coal Neuk and for the formation of vehicular access and hardstanding area which would serve to access the garage, with the access taken from Gardiners Place. As it was proposed, access would have been taken over both part of the existing grass verge that separates the road of Gardiners Place from the garden of Coal Neuk, and the car parking spaces serving the neighbouring property of 6 Gardiners Place. Planning permission was sought

part retrospectively as the base of the proposed garage had been formed and was being used to park cars. As there was public objection to application 10/00614/P, it was included in the Council's Scheme of Delegation List of 23 June 2011. On 1 July 2012 application 10/00614/P was refused by the Council, as Planning Authority through the Council's Scheme of Delegation.

The reason for refusal of application 10/00614/P was:

"The new vehicular access would require movement over an existing car parking space which, if occupied would obstruct movement in and out of the proposed garage. As the proposed garage cannot be conveniently and safely accessed the proposed development is contrary to Policy T1 of the adopted East Lothian Local Plan 2008".

The applicant subsequently submitted a notice of review against that refusal to the Council's Local Review Body in August 2011. The Local Review Body dismissed the applicant's notice of review and refused to grant planning permission 10/00614/P. The Local Review Body agreed with the reason for refusal of planning application 10/00614/P and sited it as their reason to dismiss the applicant's notice of review.

Planning permission is now again sought by Mr Robert Campbell for the erection of a detached double garage in the northwest corner of the garden of Coal Neuk and for the part change of use of an area of grass verge open space to form a vehicular access and hardstanding area which would serve to access the garage. Planning permission is again sought part retrospectively as the base of the proposed garage has been formed. The proposed vehicular access would be used to access the proposed garage. It is proposed that the new vehicular access be hardformed in pavior blocks. The proposed garage would be accessed from Gardiners Place at the north side of Coal Neuk, with access being taken over both part of the existing grass verge that separates the road of Gardiners Place from the garden of Coal Neuk, and land in ownership of 6 Gardiners Place. Gardiners Place is a private road.

It is now proposed that the vehicular access be realigned from that previously proposed in application 10/00614/P and that the 2 car parking spaces serving 6 Gardiners Place are also realigned by moving them westwards such that the proposed new vehicular access would not require movement over those existing car parking spaces.

To create the vehicular access a length of the north boundary wall of the applicant's property has been removed. Planning permission is not required for this and thus it does not form part of this application.

The applicant is the owner and occupier of the property of Coal Neuk. However he also owns the residential property of 6 Gardiners Place, although he does not reside there. The applicant's agent confirms in writing that the proposed garage would be for use of the occupiers of 6 Gardiners Place.

As a non-material amendment to the application a revised drawing has been received which correctly states on it that Gardiners Place is a private road and not an adopted road.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policies ENV1D (Regional and Local Natural and Built Environment Interests) and ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV4 (Development Within Conservation Areas) and DP2 (Design) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation area given in Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development that would have a neutral affect upon the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservations area should be appropriate to the character of the conservation area.

Five written objections to the application have been received. The main grounds of objection are:

- (i) the proposed garage would lead to a loss of light to an objector's property;
- (ii) the proposed garage would by its height, design and massing be out of keeping with the street scene, the development of houses of Gardiners Place and would be detrimental to the Conservation Area and would have a harmful impact on the visual amenity of the area;
- (iii) the proposed garage would be an overdevelopment of the site;
- (iv) the applicant parks commercial vehicles on the constructed garage base and in Gardiners Place;
- (v) increasing the parking capacity of the applicant's property is incompatible with the residential character of the area and the character and appearance of the Conservation Area;
- (vi) the proposed development would lead to increased traffic movements which could lead to consequential road safety issues and increased noise and pollution;
- (vii) issues of the maintenance of the private road of Gardiners Place;
- (viii) the applicant has no right of access over Gardiners Place;
- (ix) there would be a conflict between access to the proposed garage and the parking spaces for 6 Gardiners Place;
- (x) cars parked in Gardiners Place block other parking spaces;
- (xi) the proposed driveway will be used to park cars;
- (xii) a taxi business is being run from the applicant's house;

(xiii) conditions of the grant of planning permission for the Gardiners Place development prohibits the open parking of vehicles other than private cars, motorcycles or cycles;

(xiv) the applicant is in breach of numerous conditions of his missives;

(xv) the proposed development would be incompatible with the residential character of the area, would be detrimental to the character of the Conservation Area and would not protect or enhance residential amenity;

(xvi) the application does not mention the proposed change of use of a grass verge and driveway;

(xvii) the application drawings state Gardiners Place is an adopted road and this is not the case.

Whether or not the applicant parks commercial vehicles on the private road of Gardiners Place is not a material consideration in the determination of this application.

The applicant's agent confirms in writing that the proposed garage would be for use of the occupiers of 6 Gardiners Place. Thus the use of the proposed garage would be incidental to the residential use and enjoyment of the occupiers of the house of 6 Gardiners Place and such use to be made of it would not harm the residential amenity of the area.

As the proposed garage is to serve the existing residential property of 6 Gardiners Place such use is unlikely to give rise to increased traffic, noise, or pollution. Nor would the proposed garage and vehicular access in themselves result in an unacceptable road safety hazard.

Matters concerning breaches of conditions on missives, maintenance of a private road and rights of access are not material considerations in the determination of an application for planning permission.

There is no evidence to suggest a business is being run from the applicant's house of Coal Neuk. In any event such a matter would be for the Council's planning enforcement officer to investigate as a separate matter.

Planning permission 01/00127/FUL was granted in May 2001 for the development of the houses of Gardiners Place. Contrary to what is stated by one of the objectors, there is no condition imposed on the grant of planning permission 01/00127/FUL that prohibits the open parking of vehicles other than private cars, motorcycles or cycles.

The application forms, the application description and the application drawings clearly state and show it is proposed to part change the use of a small area of grass verge open space to form the proposed new vehicular access.

As stated above a revised drawing has been received which correctly states on it that Gardiners Place is a private road and not an adopted road.

The proposed garage would have a rectangular footprint and would be single storey in height with a pitched roof. Its walls would be finished in render to match the walls of the applicant's house and its pitched roof would be clad in red pantiles. It would have a large roller door installed in its north elevation and a painted timber door installed in its east elevation. It would measure some 7m in length, 6m in width and 4m in height to the ridge of its roof.

The applicant's property of Coal Neuk occupies a prominent corner location on the public road of Coal Neuk. However the proposed garage would be positioned at the northwest corner of the rear garden of Coal Neuk and would be well contained within the house plot. There would still remain ample garden ground to serve that house. In such a position the proposed garage would be mostly concealed in public views from Coal Neuk and would only be readily visible from the cul-de-sac of Gardiners Place. As such and due to its lower height the proposed garage would appear as a subordinate structure in relation to the house of Coal Neuk and in addition due to the limited public views of it would not be an overly prominent or obtrusive structure in the rear part of the garden of that house. It would not dominate or impose itself upon the house. Thus, and although it would be 4 metres high to the ridge of its roof, the proposed garage would not harmfully dominate the neighbouring properties to the west and north. Therefore although the proposed garage would have a relatively large footprint, it would sit comfortably within the garden of the house of Coal Neuk and would not be an overdevelopment of the garden of that house. By virtue of its size, height, form, proportions, positioning and materials the proposed garage would not be inappropriate to its setting and would not harm the setting of the existing house of Coal Neuk or of neighbouring houses or the character and appearance of the Conservation Area.

On the foregoing design considerations the proposed garage does not conflict with Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV4 and DP2 of the adopted East Lothian Local Plan 2008 or with Scottish Planning Policy: February 2010.

Policy DP2 of the adopted East Lothian Local Plan 2008 requires, amongst other considerations, that the design of all new development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

As there would be no windows in the proposed garage there would no loss of amenity to neighbouring residential properties through overlooking from it.

Application of the sunlight and daylight tests given in "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair demonstrates that owing to the form, position and orientation of the proposed garage, it would not give rise to a harmful loss of sunlight or daylight received by the neighbouring residential property of 2 Coal Neuk Corner to the west, or any other neighbouring residential property.

On the considerations of overlooking and overshadowing the proposed garage is consistent with Policy DP2 of the adopted East Lothian Local Plan 2008.

On the north side of the proposed garage within the rear garden of Coal Neuk it is proposed to lay an area of Marshalls Brindle pavior blocks. This proposed paved area would be extended northwards over an area of grass verge open space and part of the front garden of 6 Gardiners Place. This proposed new pavior blocks area would provide for vehicular access to the proposed garage from Gardiners Place. To enable the proposed garage to be accessed without movement over the existing car parking spaces serving 6 Gardiners Place it is proposed to realign those car parking spaces by moving them a small distance westwards towards the house of 6 Gardiners Place.

The small area of grass verge open space the subject of the proposed change of use to use as part of the new vehicular access is a small irregular shaped area of grassed verge measuring some 8.7 square metres. Due to its small size and that there otherwise would remain a larger portion of the grass verge to the east, the loss of this small area of grass

verge to use as part of the vehicular access to the proposed garage would not be harmful to the character, appearance and residential amenity of the area, or the character and appearance of the Conservation Area.

The proposed pavior block hardstanding area would be a relatively minor form of development that would not harm the setting of the existing house or of the neighbouring houses or the character and appearance of the Conservation Area. Similarly the proposed realignment of the existing car parking spaces serving 6 Gardiners Place would be appropriate in their relationship with that existing residential property and would not harm the setting of the existing house or of the neighbouring houses or the character and appearance of the Conservation Area.

The proposed change of use of the land, the formation of the proposed driveway and the realignment of the existing car parking spaces are consistent with Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV4 and DP2 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: February 2010.

Although the applicant's agent advises in writing that it is the intention the proposed garage would be for use of the occupiers of 6 Gardiners Place, there is no guarantee this would be the case, as at any time the applicant could sell the property of 6 Gardiners Place and retain the proposed garage for his own use.

Even if this were that case, then due to the proposed realignment of the existing car parking spaces serving 6 Gardiners Place westwards, the proposed vehicular access driveway to the proposed garage would have uninterrupted access to the proposed new garage, and access would not have to be taken over either of the realigned car parking spaces provided for the use of the occupiers of 6 Gardiners Place. However to ensure those realigned car parking spaces for 6 Gardiners Place remain unobstructed and available for use it should be made a condition on the grant of planning permission that no cars shall be parked on the new vehicular access driveway that would serve to access the proposed garage and that it remains free from obstruction at all times.

Subject to the imposition of this condition and to the realignment of the existing car parking spaces serving 6 Gardiners Place, the Council's Transportation service raise no objection to the proposed garage, vehicular access and hardstanding area.

#### CONDCTIONS:

- 1 Prior to any use being made of the vehicular access driveway and garage hereby approved the two parking spaces serving 6 Gardiners Place shall be realigned as shown on docketed drawing no.1112/PL01 Revision B and thereafter the two parking spaces shall be retained in place for such parking use.

Reason:  
In the interests of road safety.

- 2 The vehicular access driveway hereby approved shall at no time be used for the parking of vehicles and shall remain free from obstruction to use to access the garage hereby approved at all times, unless otherwise approved in writing by the Planning Authority.

Reason:  
In the interests of road safety.