

Lorn Macneal Architects.
3 St Vincent Street
Edinburgh
EH3 6SW

Mr Forrester
45 Inverleith Row
Edinburgh
EH3 5PY

Decision date: 23 December 2020

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Enlargement of an existing opening within the low stone boundary wall and the introduction of an automated electric gate and a single car parking space with electric vehicle charging point.

At 45 Inverleith Row Edinburgh EH3 5PY

Application No: 20/04514/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 19 October 2020, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

Reasons:-

1. The proposals are contrary to relevant Edinburgh Local Development Plan policy, as interpreted using non-statutory guidance, as the proposed access would interfere with a bus stop and visibility is obstructed. This would have an adverse effect on road safety.

Informatives

It should be noted that:

1. This consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01-05, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposed formation of a vehicle access is not acceptable and is contrary to the Edinburgh Local Development Plan and the Council's non-statutory guidelines. The proposals would detrimentally impact on road safety. Transport Planning also object to the application and refusal is therefore recommended. There are no material considerations which outweigh this conclusion.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Adam Gloser directly at adam.gloser@edinburgh.gov.uk.



Chief Planning Officer

PLACE

The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

**Application for Planning Permission 20/04514/FUL
At 45 Inverleith Row, Edinburgh, EH3 5PY
Enlargement of an existing opening within the low stone boundary wall and the introduction of an automated electric gate and a single car parking space with electric vehicle charging point.**

Item	Local Delegated Decision
Application number	20/04514/FUL
Wards	B05 - Inverleith

Summary

The proposed formation of a vehicle access is not acceptable and is contrary to the Edinburgh Local Development Plan and the Council's non-statutory guidelines. The proposals would detrimentally impact on road safety. Transport Planning also object to the application and refusal is therefore recommended. There are no material considerations which outweigh this conclusion.

Links

<u>Policies and guidance for this application</u>	LEN06, LDES01, LDES12, LTRA02, NSHOU, NSLBCA, CRPINV,
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Report of handling

Recommendations

1.1 It is recommended that this application be Refused for the reasons below.

Background

2.1 Site description

The property is a semi-detached Georgian villa. It was listed category B on 27.10.1965 ref.29178. It has been split such that the basement level forms an independent flat and the lower flat has a rear extension on the garden.

This application site is located within the Inverleith Conservation Area.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description Of The Proposal

This application seeks planning permission for the formation of a vehicle access and parking space for one car. Additionally, the works require a new opening the boundary wall and a dropped kerb.

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.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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, it needs to be considered whether:

- a) the proposals will preserve or enhance the character appearance of the conservation area and the Listed Building;
- b) the proposals will adversely affect road safety;
- c) the proposals will result in an unreasonable loss of neighbouring amenity; and
- d) any public comments raised have been addressed.

a) Conservation area and Listed Building]

Whilst traditional in design and appearance, the section of the wall to be removed is in poor condition and its railings are modern additions; the loss of historical fabric is minor. Although the works also result in the loss of a section of soft landscaping, the proposed alterations are acceptable given the similar driveway arrangement for the neighbouring property and the use of flagstones and matching railings for the gate constitute an appropriate use of materials, providing a congruous and modest addition to the listed building. The use of railings and the retention of the pedestrian entrance will continue to provide a visual connection to the surrounding properties, and it will assist in the integration of the works within their historical context.

Overall, these works form a sympathetic addition and have no adverse effect on the character and appearance of the conservation area or on the character of the listed building

b) Road Safety

The proposed new opening would open on to the main road and its location will involve access and egress through a bus box. The introduction of a vehicular access at this location will have an adverse impact on the safety of pedestrians and the unobstructed flow of public transport services. This is due to its vicinity to the signalised junction, access through a bus box, and impeded visibility.

The non-statutory Guidance for Householders states that access must not be formed *where it would interfere with pedestrian crossings, bus stops, street lighting or existing street furniture* or *where visibility would be obstructed*. The proposals are contrary to these criteria. Transport Planning was consulted and objected to the proposals, recommending the application be refused.

c) Neighbouring Amenity

The proposal will not significantly impact on privacy or noise levels from traffic. Therefore, the proposals will not result in an unreasonable loss of neighbouring amenity

d) Public Comments

Material Representations - Objections

- Character of the conservation area and listed building. Addressed in section 3.3a)
- Road safety. Addressed in section 3.3b)
- Amenity. Addressed in section 3.3c)
- Privacy. Addressed in section 3.3c)

Conclusion

The proposals would detrimentally impact on road safety. There are no other material considerations which outweigh this recommendation. It is recommended that the application be refused.

It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons/informatives

Reasons:-

1. The proposals are contrary to relevant Edinburgh Local Development Plan policy, as interpreted using non-statutory guidance, as the proposed access would interfere with a bus stop and visibility is obstructed. This would have an adverse effect on road safety.

Informatives

It should be noted that:

1. This consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.

Risk, Policy, compliance and governance impact

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

Equalities impact

5.1 The equalities impact has been assessed as follows:

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

Consultation and engagement

6.1 Pre-Application Process

There is no pre-application process history.

6.2 Publicity summary of representations and Community Council comments

Five letters of representation have been received. Four letters are in objection to the application, and one letter is in support of the proposal. Two letters have been sent in from the same individual and shall be counted as a single entry. The material comments have been summarised and addressed in the assessment section of this report.

Background reading / external references

- To view details of the application go to
- [Planning and Building Standards online services](#)

Statutory Development

Plan Provision Edinburgh Local Development Plan

Date registered 19 October 2020

Drawing numbers/Scheme 01-05,
Scheme 1

David R. Leslie
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Adam Gloser, Assistant Planner
E-mail:adam.gloser@edinburgh.gov.uk

Links - Policies

Relevant Policies:

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

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

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

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

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

The Inverleith Conservation Area Character Appraisal emphasises the predominance of Georgian, Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of public and private open space. The villa streets are complemented by a profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas are in a considerable variety of architectural styles, unified by the use of local building materials.

Appendix 1

Consultations

Transport Planning's response:

The application should be refused.

Reasons:

1. The proposed access/driveway will compromise the operation of the bus stop and safety of pedestrian using the bus stop particularly the disabled.

Should you be minded to grant the application the following should be added as condition or informatives

2. Any off-street parking space should comply with the Council's Guidance for Householders dated 2018
http://www.edinburgh.gov.uk/info/20069/local_plans_and_guidelines/63/planning_guide
lines including:
 - a. Off-street parking should be a minimum of 6m deep and a maximum of 3m wide;
 - b. Access to any car parking area is to be by dropped kerb (i.e. not bell mouth);
 - c. A length of 2 metres nearest the road should be paved in a solid material to prevent deleterious material (e.g. loose chippings) being carried on to the road;
 - d. Any gate or doors must open inwards onto the property;
 - e. Any hard-standing outside should be porous;
 - f. The works to form a footway crossing must be carried out under permit and in accordance with the specifications. See Road Occupation Permits
<https://www.edinburgh.gov.uk/roads-pavements/road-occupation-permits/1>

END

Comments for Planning Application 20/04514/FUL

Application Summary

Application Number: 20/04514/FUL

Address: 45 Inverleith Row Edinburgh EH3 5PY

Proposal: Enlargement of an existing opening within the low stone boundary wall and the introduction of an automated electric gate and a single car parking space with electric vehicle charging point.

Case Officer: Adam Gloser

Customer Details

Name: Not Available

Address: Not Available

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Inverleith Society is a local organisation with a large membership in the area which aims to protect and enhance the amenity of the Inverleith Conservation Area.

The Society is generally opposed to the creation of car parking in the front gardens of properties in the area. This is especially damaging where, as on the West side of Inverleith Row, the visual amenity and historic character of the street derives from the well-ordered continuity and urban pattern of the C19 villa developments.

The application refers to the precedent of the recently granted permission for a parking space at 43 Inverleith Row. However, the application for No 43 proposes the use of a car turntable - a solution which is both more elegant and more practical from a safety point of view than the simple run-in proposed at No 45. Electric gates are slow and will inevitably hold up the traffic as vehicles wait to be able to move on to the drive from the road.

The application requires a new opening to be made in the front boundary wall which the applicant suggests is not original. However the wall does in fact appear to be original C19 stonework so that any decision to make an opening in the wall would entail the removal of original fabric.

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Case Officer: Adam Gloser

Customer Details

Name: Mr Ian Hooper on behalf of the Inverleith Society

Address: 3 Inverleith Row, Edinburgh EH3 5LP

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Inverleith Society is a local organisation with a large membership in the area which aims to protect and enhance the amenity of the Inverleith Conservation Area.

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Case Officer: Adam Gloser

Customer Details

Name: Not Available

Address: Not Available

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Further to my previous comments on this planning application.

I am greatly distressed by the prospect of this happening to the point of feeling suicidal. Access to my door will be restricted by this and I worry that my mother with her wheeled walking aid may not be able to negotiate this and will be unable to visit me.

Deliveries of bulky items of furniture will be made difficult ,for example a new sofa.

I have seen models of cars where the charging cable sticks out at the side of the car near the drivers door, a further obstacle to be negotiated.

If the gate is locked I will find it impossible to get off the road without stopping my bike in the bus lane making me vulnerable as my lights will then be off and retrieving a remote to open the gate with a bulky pair of motorbike gauntlets on.

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Case Officer: Adam Gloser

Customer Details

Name: Not Available

Address: Not Available

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this on a number of grounds. 1. The existing gate in question I had installed and the area landscaped with my neighbour's then enthusiastic approval in December 2009 (planning application 09/02648/LBC) on police advice to have off-street parking for my scooter which had been stolen and vandalised while parked with a permit on Goldenacre Terrace. The area at my front door was a jungle at the time and I was at great pains to make sure the materials (slabs, edging etc) used matched with what was already there. I have also maintained the front garden as my neighbour has no interest in doing so. I have before and after photos I can send you if needed. 2. I doubt I will be able to turn my bike in what looks like a very small space. It also looks like I would have difficulty moving my 3 bins from beside the door to the street especially if I have to drag them over a power cable (if in fact there will be room for them). 3. To get to his front door from his car my neighbour would have to walk in front of my 2 bedroom windows, which I feel would compromise my privacy. 4. There is a bus stop outside and I believe a lowered pavement would cause difficulty to all the residents of the 2 blocks of retirement flats in Goldenacre Terrace and the one at 49 Inverleith Row. Especially from the new buses with the exit halfway along. 5. I have little confidence in my neighbour's home improvements as his last building venture, replacing the staircase at the back of his house, resulted in his new stair encroaching in to my garden and saw his workmen damaging my garden fence. If you need further clarification on any of this please do get in touch. Mhairi

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Case Officer: Adam Gloser

Customer Details

Name: Not Available

Address: Not Available

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The AHSS Forth & Borders Cases Panel has examined the proposals for this parking space, and have the following comments:

- 1) We regret the continuing degradation of setting in these properties through the erosion of gardens for parking spaces.
- 2) The parking space issue must not be clouded by the inclusion of an electric charging point. It is perfectly possible to use an electric vehicle without a home charging point, as the AHSS Cases Panel chair has been doing for nearly two years. Therefore the parking space decision should be made without reference to an electric vehicle charging point.
- 3) The front of a B listed house is not an appropriate mounting point for an electric vehicle charging point. These are modern in design, and should be discretely mounted hidden to one side, mounted flush in the ground, or in a small box in the garden, perhaps halfway between the house and the road. The latter is also more practical as electric cars do not have standard socket locations, and the proposed location on the house would force the car to always enter the drive either nose or tail first to charge, depending on its socket location. This could cause road safety issues if the car always had to manoeuvre to enter the driveway in one orientation. A flexible location would be better, should this development be permitted.

Additionally, charging point infrastructure is at a period of rapid development and change, much like smart meters (with which they interact) and therefore any charging point is likely to change on a regular basis over coming decades. This would cause considerable damage to the material of

the house, and therefore it should not be mounted on the house.

In conclusion, we object to the proposed mounting of the charging point on the house which also has road safety implications, we regret the potential loss of character caused by this driveway, and note that provision of a charging point is not necessary for ownership of an electric car and is therefore not a material planning consideration in determination of whether a driveway is appropriate in this site.

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Case Officer: Adam Gloser

Customer Details

Name: Mr Kim Catechis

Address: 44 Inverleith Row Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:I register my support for this application. The more electric vehicles we have the better

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Case Officer: Adam Gloser

Customer Details

Name: Ms Mhairi MacDonald-Greig

Address: 45B Inverleith Row Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this on a number of grounds. 1. The existing gate in question I had installed and the area landscaped with my neighbour's then enthusiastic approval in December 2009 (planning application 09/02648/LBC) on police advice to have off-street parking for my scooter which had been stolen and vandalised while parked with a permit on Goldenacre Terrace. The area at my front door was a jungle at the time and I was at great pains to make sure the materials (slabs, edging etc) used matched with what was already there. I have also maintained the front garden as my neighbour has no interest in doing so. I have before and after photos I can send you if needed. 2. I doubt I will be able to turn my bike in what looks like a very small space. It also looks like I would have difficulty moving my 3 bins from beside the door to the street especially if I have to drag them over a power cable (if in fact there will be room for them). 3. To get to his front door from his car my neighbour would have to walk in front of my 2 bedroom windows, which I feel would compromise my privacy. 4. There is a bus stop outside and I believe a lowered pavement would cause difficulty to all the residents of the 2 blocks of retirement flats in Goldenacre Terrace and the one at 49 Inverleith Row. Especially from the new buses with the exit halfway along. 5. I have little confidence in my neighbour's home improvements as his last building venture, replacing the staircase at the back of his house, resulted in his new stair encroaching in to my garden and saw his workmen damaging my garden fence. If you need further clarification on any of this please do get in touch. Mhairi

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In conclusion, we object to the proposed mounting of the charging point on the house which also has road safety implications, we regret the potential loss of character caused by this driveway, and note that provision of a charging point is not necessary for ownership of an electric car and is therefore not a material planning consideration in determination of whether a driveway is appropriate in this site.

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Case Officer: Adam Gloser

Customer Details

Name: Ms Mhairi MacDonald-Greig

Address: 45b Inverleith Row Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Further to my previous comments on this planning application.

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Deliveries of bulky items of furniture will be made difficult ,for example a new sofa.

I have seen models of cars where the charging cable sticks out at the side of the car near the drivers door, a further obstacle to be negotiated.

If the gate is locked I will find it impossible to get off the road without stopping my bike in the bus lane making me vulnerable as my lights will then be off and retrieving a remote to open the gate with a bulky pair of motorbike gauntlets on.

From: Ian Hooper
Sent: Wed, 17 Mar 2021 13:53:50 +0000
To: Local Review Body
Subject: 45 Inverleith Row EH3 5PY - Review of 20/04514/FUL

This review relates to an application for

enlargement of an existing opening within the low stone boundary wall and the introduction of an automated electric gate and a single car parking space with electric vehicle charging point.

I am writing on behalf of the Inverleith Society, a local organisation whose aim is to preserve and improve the amenity and environment of the Inverleith Conservation Area. I am a member of the Executive Committee of the Society and have dealt with planning matters on behalf of the society for the past eight years.

The Society submitted a reasoned objection to this application.

In addition to the content of that objection we would wish the Review Body to take into account related points set out in our correspondence with local councillors about the general questions raised by this application and other applications for the creation of parking spaces in front gardens within the Conservation Area and which did not appear to have received proper attention either in this case or in related recent development control decisions.

As explained at greater length in our comments to local councillors, our view is that approval of this and similar applications would be contrary to sound planning principles as well as being inconsistent with relevant policies adopted by the Council.

The Annex below includes the substantive content of email correspondence with our ward councillors.

Ian Hooper

ANNEX

Email sent to Cllr Mitchell and Cllr Osler on 14 December 2020

The Committee of the Inverleith Society discussed a couple of recent planning applications in which owners of listed properties had applied for permission to create off-road parking in front of their houses. We were particularly surprised that permission had been given for the creation of a parking space in the front garden of No 43 Inverleith Row.

In the past it has been our understanding that the Council was opposed to the creation of off-street parking spaces in the front of houses especially on busy roads with bus routes like Inverleith Row. Has there been a change of policy and if so what is the justification

for that?

There seem to be very good grounds why permission should be refused for developments of this kind across the whole of the conservation area but most particularly on Inverleith Row.

1 As a general principle, permitting developments of this kind seems inconsistent with Council policies for promoting sustainable transport since it both facilitates and encourages private vehicle use.

2 New openings cut through the front boundary walls of properties conflict with the character of the conservation area and are particularly detrimental to the historic character and integrity of listed historic buildings. The frontages of a significant number of C19 villa properties along the west side of Inverleith Row have already been badly disfigured by unsympathetic alteration works carried out in the past including the removal of front boundary walls and the creation of car parking in front of properties. This is highly detrimental to the general appearance and civic amenity of the street and should surely provide a clear warning against permitting further developments of this kind.

3 Vehicles manoeuvring into and out of parking spaces like these must give rise to safety concerns both in relation to pedestrians using the footway and through the disruption to traffic on the roadway. These issues are of course still more acute on Inverleith Row. Pedestrians walking along Inverleith Row are already disadvantaged by footways which are much too narrow while the road carries a large (too large!) volume of traffic and is also a bus route.

4 The planning application for the vehicle parking space at No 43 Inverleith Row included the provision of a vehicle turntable, new railings and an electrical vehicle charging point. As things stand none of these have been provided but the new opening has been cut through the front boundary wall and cars now use the run-in which has been created. How will the Council ensure that these elements are completed?

5 It has emerged that the dimensions of the parking space at No 43 Inverleith Row do not comply with the relevant Highways guidance. That guidance was presumably developed with particular concerns for the kind of safety issues referred to above. Why is compliance with that guidance not treated as an essential condition of any approval for this type of development?

Response from Cllr Mitchell on 15 December 2020

Thank you for your email. I can understand why you and The Inverleith Society are concerned.

I have just read over the FUL and LBC reports associated with this address. They are short and should shine a light on the case officer's rationale for approving. They can be accessed with these links: http://citydev-portal.edinburgh.gov.uk/idoxpa-web/files/0E7DED1FF7BF8166311FB2DD89251A6F/pdf/20_01754_FUL-HANDLING_REPORT-4614322.pdf
http://citydev-portal.edinburgh.gov.uk/idoxpa-web/files/0993B7013FBD4E797604CDD9AC6B1767/pdf/20_01755_LBC-HANDLING_REPORT-4614325.pdf

In terms of policy changing, they haven't changed recently though we are currently in the process of looking at the next development plan called City Plan 2030. The guidance is updated more regularly though this is non-statutory unlike the development plan. In the Edinburgh Design Guidance for Householders it says, "Parking in front gardens will not normally be allowed in conservation areas or listed buildings, where loss of original walls or railings and the creation of a hard surface would have an adverse effect on the character and setting of the area, or a listed building and its special architectural or historic interest... Materials must be of a high quality and appropriate for the house and the area... Gates should be of appropriate design and open inwards." The full detail can be found here on page 19: <https://www.edinburgh.gov.uk/downloads/file/27026/for-householders>.

With any application each one is assessed on its own merits and in this case it appears the case officer felt this complied with policy and the guidance. This address receiving planning permission doesn't create a precedent.

I have written to the Planning Dept to ask about points 4 and 5. I've looked at the drawings and cannot see the measurements so it's difficult to comment. I believe point 4 would be a matter for the enforcement team but if they have started the work then the permission becomes 'enacted' - I've asked for clarity on this. I've also asked for any additional comments beyond the reports of handling regarding your points 1-3.

I hope this is helpful in understanding the case officer's decision. I will come back to you when I hear from the department about the additional information requested though if you have another question or another issue in the meantime please do let me know.

Email sent to Cllr Mitchell on 15 December 2020

Thanks for the swift response.

I had previously looked at the Handling Report. Unfortunately it did little to reassure me that the matters had received proper consideration.

in fact the Report seems to me to raise a number of questions.

I am not sure on what basis the Report asserts that the front boundary wall is not original. This assertion coupled with the statement that the wall is not in good condition (was it incapable of repair?) is regarded as a justification for not treating the work as deleterious to the listed building or to any significant elements of original structure. However it is surely indubitable that creating a large new opening in the front boundary wall represents a significant alteration to the original design intentions and to the historic configuration of a listed building.

I was also surprised that the report states that the impact of the development on road safety is not a material consideration - is this a correct statement of the legal position? It would be very concerning if consideration of risks to pedestrian safety did not feature in development control decisions or in the highways advice which feeds into that process.

The report states that the dimensions and design of the parking space “should comply” with the relevant guidance but it is a matter of fact that there is not sufficient space to achieve a parking space which would comply with the guidance. When I contacted the Planning Department to query this I was told that compliance with the guidance was not a condition of the planning permission but merely advisory. So what is the point of the guidance? Surely the decision officer should have referred to this in the Report and offered some powerful reasoning to justify disregarding the guidance in this case?

As you say the Design Guidance for Householders seems to make it clear that this kind of development “will not be allowed” in conservation areas or when it affects a listed building. This seems to be a pretty clear statement of Council policy and an indication of how the Council will be predisposed to react to applications. Hence our difficulty in understanding how seemingly ad hoc departures from that statement of policy, can be justified.

In order to recommend that permission be granted, the Handling Report must of course contain the standard (rather empty) rubric that the development will **preserve and enhance the character of the Conservation Area**. This is not an opinion which will be universally shared. A key point in the relevant section of the Report is that the design and materials proposed for the vehicle platform and for the railings are sympathetic to and compatible with the character of the building and the conservation area. However, as matters stand, the development consists only of an opening cut through the front boundary wall (quite probably part of the original historic construction of the property.)

So it would seem highly unsatisfactory if it turns out there is no satisfactory means of compelling the owners to complete the development as in their planning application and specifically to undertake those elements which supposedly justified the decision to permit the development. Given the plentiful examples along the west side of Inverleith Row of ill-considered interventions of this kind it seems to be irresponsible to permit anything of this sort without some assurance about the outcome.

I hope that you might support whatever measures are needed to achieve a more robust approach in preventing these kinds of development from being approved in the conservation area.

Response from Cllr Mitchell on 21 December 2020 with comments from Planning Team

Thank you for your patience whilst I got in touch with the Planning Department. One of the team leaders has responded to your points and I paste them below for clarity.

“Completion of development: the planning legislation allows for a development to be initiated within three years of the date of permission, but there is no requirement for it to be completed provided it has been initiated timeously. If the works that have been undertaken so far deviate from what was approved, an enquiry could be submitted to Planning Enforcement to determine if a breach of planning control has taken place.

Principle of Development: Although the Council is seeking to encourage more sustainable forms of transport, the determination of applications such as this must be proportionate and reasonable. The formation of a means of access is often permitted development, whereby permission is not required from the Council, and it could be viewed as unreasonable to refuse an application such as this on the basis of an aspiration to encourage other forms of transport.

Other examples: The assessment of this proposal included regard to the surrounding streetscape and it was acknowledged that the street is, to a degree, characterised by driveways. Although some of them may be less sympathetic to the appearance of the area than others, those that are lawful form part of the established character of the vicinity and it is necessary to take them into consideration when coming to a determination.

Width of driveway: The Council, a planning authority, is entitled to have regard to guidance, but it is not necessary to comply with every aspect of guidance. The driveway is 2.75m in width and was assessed by colleagues in Transport as being acceptable.

Road safety: This aspect was included in the report of handling. The formation of the access was considered by Transport colleagues and held to be an acceptable addition in terms of road safety. I note your concerns in relation to a reference in the report of handling stating that representations regarding road safety were non-material. I regret that this was added in error to this report; road safety is a material consideration and it was for that reason that my colleagues in Transport were consulted in respect of this application. Reference is made in the assessment that following the consultation, there were no concerns about road safety and I apologise for the confusion caused by the conflicting statement in the report.

I regret that I am unable to clarify what steps the officer took to ascertain that the wall was not original, as he is no longer with the Council. From looking at photographs of the wall, it would appear to be of a considerable age, but in poor condition. Notwithstanding this, the principle of the works was considered in detail in the report of handling, and I am satisfied that the assessment considered the correct elements as part of the determination.”

Although I realise this does not change the outcome of the decision, I hope it provides an explanation for the decision taken by the Planning Department and assures you that a proper assessment was carried out. If you have any further questions or points you'd like me to raise please do let me know.

Email to Cllr Mitchell and other ward councillors on 11 January 2021

Thanks for obtaining this explanation.

It would be helpful if we could all agree that the decision on No 43 was something of an aberration.

Although there are powers to do so I assume that there is little prospect of remedying matters in relation to the permission which has been granted for No 43. The more pressing concern must be that in seeking to defend a poor decision, the planning team will increase the likelihood that other similar applications could be approved in future - something which would appear to us to be highly undesirable and damaging to the character and amenity of the area.

I have provided some further comments below in an attempt to bring out what seem to us to be the key issues and which we hope might better shape policy and decisions in future. Any support you or fellow councillors can give for our position would be very welcome.

Soon after the application for No 43 was approved, another similar application was submitted for the creation of a similar parking space at No 45. The application quoted the decision on No 43 as a precedent. We were pleased to see that the application for No 45 has been refused. However, we were concerned that the main justification for refusal of the application seemed to be the conflict with the adjacent bus stop. The report appears to suggest that the other issues we have raised were not regarded as particularly significant considerations - a position which we believe needs to be reconsidered.

The Inverleith Conservation Area was designated more than 40 years ago (in 1977). In significant measure this was a response to concerns about the number of unsympathetic alterations which had taken place to historically important and characterful properties such as those comprising the continuous sequences of (Grade A and B listed) Georgian

and Victorian villas on the west side of Inverleith Row. There are 57 properties on the west side of Inverleith Row. Of these only 14 (including the recently permitted No 43) have been altered to provide parking spaces. Almost all of these alterations were undertaken in the 1960s and 1970s prior to the designation of the Conservation Area in 1977. (By my estimation the only exceptions are the recent permission for No43 and one, or possibly two, others which somehow slipped through the net as part of more comprehensive refurbishment schemes.) The numbers speak for themselves - inevitably the decision to grant permission for the parking space at No 43 looks to most people like a significant change of policy.

Parking Space Dimensions - I noted in my previous comments that parking spaces such as the one permitted at No 43 cannot hope to comply with the Council's guidelines on dimensions because there is nowhere near enough space in front of the houses on Inverleith Row to accommodate a properly sized parking space. Most particularly, there is insufficient depth between the house fronts and the front boundary of the properties. This is not a nit-picking point; it has real practical consequences which planning decisions should surely take into account. On recent occasions when I have walked past No 43 the vehicle occupying the newly permitted space projects beyond the front boundary wall - demonstrating very tangibly that there is insufficient depth in front of the house to provide a parking space for a modern vehicle within the curtilage of the property. (This is why I speculated that the owner may decide not to proceed with the turntable and gate arrangements which formed part of the application and which might have made it seem a more acceptable proposition.) This is also an issue with vehicles parked in front of other properties on the west side of Inverleith Row. Considering that this an important route for pedestrians as well as vehicle traffic, the footways along most of Inverleith Row are already extremely narrow (in several sections the footway is less than 1.8 metres wide). So, apart from the negative visual impact, it seems highly undesirable that vehicles parked in front of houses intrude into an already very restricted pedestrian zone and even more undesirable that the development control system should facilitate that.

Listed Building Considerations - In common with the application for No 43, the application for No 45 asserted that the front boundary wall was not original. In our opinion this is (in both cases) incorrect. It is therefore disappointing that the decision officers in both cases appear to have accepted the applicants' assertions without question and then repeated the statement in their handling reports as if it were a proven fact. (It also looks as though this section of the report on No 45 has been copied and pasted from the report on No 43.) The existence of an original element of construction such as this should be a material consideration in dealing with the listed building consent element of the application. It is also surprising that the supposedly poor state of repair of the wall (again based on an assertion made by the applicant) is regarded as a mitigating factor. This contradicts the more ordinarily accepted view that this should not provide justification for alterations or demolition involving a listed building unless the original fabric is damaged to such a degree that it would be beyond reasonable repair - which was clearly not the case here.

Conservation Area Considerations - References in the handling reports to the conservation area considerations appear to focus mainly on materials (for example the use of stone etc). This suggests an unreasonably narrow understanding of the key features of the conservation area which seems to contradict the intentions behind the designation by ignoring some of the features which are most important to its character. In particular it seems surprising that there is no recognition that regularity and uniformity in the design and layout of building frontages and boundary walls as conceived by the C18 and C19 developers of Inverleith Row plays a key role in defining the character of areas such as Inverleith.

As I explained at the outset of this correspondence, the Committee of the Society has not been looking at this issue in isolation. From our point of view this is not just about the built environment aspects of conservation and amenity. Competing pressures on Inverleith Row clearly present a wide variety of challenges raising questions about how to integrate the planning and development control processes with other important policies for example those aimed at improving the pedestrian environment, reducing traffic impacts and air pollution. All of these impact on local amenity and the lives of local residents. We would be interested to know whether you (and our other ward councillors) have any thoughts about how to achieve a more joined-up and better communicated approach to these matters.



Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100381090-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Pritchett Planning Consultancy		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Phil	Building Name:	PO Box
Last Name: *	Pritchett	Building Number:	
Telephone Number: *	07901557484	Address 1 (Street): *	8052
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH16 5ZF
Email Address: *	phil@pritchettplanning.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Chris"/>	Building Number: <input type="text" value="45"/>
Last Name: *	<input type="text" value="Forrester"/>	Address 1 (Street): * <input type="text" value="Inverleith Row"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="EH3 5PY"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="45 INVERLEITH ROW"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH3 5PY"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="675816"/>	Easting	<input type="text" value="324714"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Planning application 20/04514/FUL for enlargement of an existing opening within the low stone boundary wall and the introduction of an automated electric gate and a single car parking space with electric vehicle charging point.

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

see attached review statement and supporting documents

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Refusal Decision Notice, Access Technical Note, Location Plan, Existing Plan, Existing Elevations, Proposed Plan, Proposed Elevations, Officer Report of Handling, Local Review Body Statement March 2021

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

20/04514/FUL

What date was the application submitted to the planning authority? *

19/10/2020

What date was the decision issued by the planning authority? *

23/12/2020

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Phil Pritchett

Declaration Date: 16/03/2021

Enlargement of an Existing Opening within the Low Stone Boundary Wall and the Introduction of an Automated Electric Gate and a Single Car Parking Space with Electric Vehicle Charging Point – Access Technical Note

Introduction

1. ECS Transport Planning Ltd has been commissioned by Mr Chris Forrester to consider the transportation aspects of the proposals which seek the formation of a vehicle access and parking space for one car by introducing a new opening on the boundary wall and a dropped kerb access to the Inverleith Row footway.
2. City of Edinburgh Council (CEC) considered the planning application and refused it on the following transportation related grounds:

“1. The proposals are contrary to relevant Edinburgh Local Development Plan policy, as interpreted using non-statutory guidance, as the proposed access would interfere with a bus stop and visibility is obstructed. This would have an adverse effect on road safety.”

3. The above reason for refusal was informed by CEC's Transport Planning Department's consultation response which can be summarised as follows:

“The application should be refused.

Reasons:

1. The proposed access/driveway will compromise the operation of the bus stop and safety of pedestrian using the bus stop particularly the disabled. Should you be minded to grant the application the following should be added as condition or informatives.”

4. This Technical Note considers the reasons for refusal and whether the proposals result in a material impact on road safety and/or the operation of the bus stop. The note has been informed by a site visit, review of relevant guidance and consideration of similar proposals in the wider area.

Access Proposals

5. The proposals seek to introduce a 3m break in the boundary wall which would allow access to a single car parking space in addition to a dedicated 1.2m access path to No. 45B Inverleith Row. The access path would benefit from a segregated gate while the parking space would be accessed via a bifold electric gate.
6. The parking area is 4m x 6.7m which is considerably larger than the minimum parking space which is 2.5m x 5m and therefore meets the requirements of CEC's relevant guidance. The parking space would be accessed via a dropped kerb footway crossing which is standard for drive way access throughout the city.

-
7. The proposed parking space and access is indicated on the Lorn MacNeil Architects drawing no. 20.21/L(PL)004(D) contained within *Appendix A*.

Reason for Refusal

8. The Report of Handling to the Planning Committee details the following transportation issues under the heading of road safety:
- Pedestrian safety;
 - Impact on flow of public transport services;
 - Vicinity to signalised crossing;
 - Visibility is obstructed; and
 - Access through a bus box.
9. It should be noted that CEC's Transport Planning Department, the council's transportation experts, only raised the operation of the bus stop and safety of pedestrians using the bus stop as concerns. The various other issues raised have clearly been introduced by other interested parties which it is assumed do not have a transportation or road safety qualification.
10. The following section will consider each of the points raised by CEC in turn:

Pedestrian Safety

11. Driveway access via a dropped kerb arrangement is common place throughout the city and is not considered a safety risk to pedestrians. Vehicles accessing / egressing a driveway via a dropped kerb arrangement have to do so at very low speeds which ensures they can react to pedestrians and are clearly visible by pedestrians.
12. No. 43 Inverleith Row, the neighbouring house to the application site, recently received planning consent to implement a driveway access similar to the proposals being considered. The only difference between the sites is the proposed site takes access through a bus box, as such, it is evident that any comments on pedestrian safety must relate solely to the operation of the bus stop or the council would not be implementing a consistent approach.
13. The proposed access is circa 4m from the bus stop flag where bus passengers will wait for the bus to arrive and disembark when it stops. It is evident that 4m is a considerable length for a number of pedestrians to queue, however, it should also be noted that there is no obstruction to passengers queueing on the north side of the stop. As a result, it is evident that the driveway access would not restrict the required space available for passengers to queue or access the bus at the stop.
14. Furthermore, the proposed driveway will not reduce the width of the footway and the introduction of dropped kerb access does not present any barrier to the disabled or mobility impaired as demonstrated by the neighbouring property.

Impact on Flow of Public Transport Services

15. It is unclear from the council's Report of Handling what impact the proposed driveway is likely to have on the flow of public transport services. A car entering the driveway from the either direction will do so expediently with no delay to bus services on the route. A right turn

manoeuvre in to the site will clearly not block the bus and the manoeuvre can only be undertaken when there is no bus at the stop.

16. The left turn in to the driveway is no different to the recently consented manoeuvre into No.43 which is located within the bus lane. It is evident that the proposed driveway is similar to numerous examples throughout the city and would therefore not represent any material impact on the flow of bus services.
17. Nevertheless, a review of the industry standard TRICS database has been undertaken to understand what vehicle movements can be expected from a property in an city centre location. The database has limited surveys for a city centre location therefore a flatted development has been selected as the most representative example. The TRICS outputs are included within *Appendix B* for reference but these highlight that the proposed house is likely to generate 2 vehicle movements per day, on average.
18. Bus Services 8, 23 and 27 pass the site and result in a maximum of 10 buses passing within an hour during the busiest peak hours. This represents 1 bus passing the site every 6 minutes on average which clearly gives ample time for a vehicle to manoeuvre in / out of a driveway safely and efficiently.
19. There are various examples of bus stops adjacent to driveways on Inverleith Row and on ferry Road which is a markedly busier road and bus route. The bus stop and shelter outside the driveway to No.23 Ferry Road is a clear example that a driveway will have no impact on bus services.
20. In conclusion, the proposed driveway will not result in any material impact on the operation of the bus stop and will not restrict the flow of services as is demonstrated by No. 44 Inverleith Row.

Vicinity to Signalised Crossing

21. The proposed drive way is located in excess of 35m from the proposed crossing and outwith the 'zig zag' markings which are placed on the carriageway to restrict any parking on approach to the crossing and ensure the operation of the crossing is not impeded.
22. The proposed driveway in no way impacts on the safe operation of the crossing or impedes visibility to pedestrians using the crossing. Indeed, Inverleith Row is suitably wide to allow vehicles to pass turning traffic ensuring that vehicles waiting to turn in to driveways or junctions do not impede straight through traffic movements which removes any potential for vehicles to queue back toward the crossing.
23. If the driveway were considered to be too near to the crossing the bus stop would surely be considered to be in an inappropriate location as it is nearer to the crossing facility. It is evident that there is no technical reason why the crossing would be considered to be too near to the crossing and this is evidenced by CEC Transportation not raising this as an issue.

Visibility is Obstructed

24. It is not clear from the Report of Handling what visibility would be obstructed by the proposed driveway as no detail is provided. However, the proposed driveway will not impede visibility to the bus stop or the pedestrian crossing.

25. The driveway access is located on a straight section of carriageway with excellent visibility in both directions therefore approaching vehicles will be able to see and react to a vehicle entering / exiting the driveway.
26. A vehicle reversing out of the driveway will be visible to pedestrians walking on the footway given the introduction of new fencing and gate which promotes increased visibility. The removal of part of the boundary hedge will further increase visibility and the hedge could be reduced in height to further increase visibility if considered beneficial.
27. It should be noted that the driveway to No.43 Inverleith Row is flanked on both sides by a hedge which was considered acceptable to the council. It is evident that the proposals for No.45 Inverleith Row far exceed the visibility for the neighbouring property, therefore, it is considered that consistency of approach should be applied.
28. Again, it should be recognised that visibility was not raised by CEC Transportation as a concern.

Access Through a Bus Box

29. It is not prohibited for a property to take access through a bus box and this is evidenced throughout the city and, locally, on Inverleith Row and Ferry Road. No. 106 and 107 Inverleith Row, some 225m to the south, both take access through a bus box. No.23 Ferry Road, as previously mentioned, would also take access through a bus box to name two local examples.
30. The council's non-statutory Guidance for Householders 2019 states the following which is referred to in the council's Report of Handling:

"For road safety reasons, an access must not be formed:

- *within 15 metres of a junction;*
- *where visibility would be obstructed; and*
- *where it would interfere with pedestrian crossings, bus stops, street lighting or existing street furniture."*

31. The above extract has clearly influenced the Report of Handling and perhaps explains the additional transportation comments over and above the observations from the CEC's Transportation observations. The first two bullet points are either not an issue or have previously been addressed. Interaction with the pedestrian crossing has also already been considered leaving the primary consideration being whether the driveway interferes with the bus stop.
32. The proposed driveway will not require the bus stop to be altered or moved, will not restrict passengers from queuing to board the bus and will not impede the operation of the service on the route. As a result, there is no evidence that the proposed driveway will interfere with the bus stop in any way.
33. It should be noted that the above Guidance does not state that access to a driveway cannot be taken through a bus box. It explicitly states that the access would be required to interfere with a the bus stop and, therefore, its operation, for it to be prohibited. This is not the case at No.45 Inverleith Row.
34. The bus box is simply a visual interpretation of the traffic regulation order which prevents on-street parking at the bus stop. The on-street order is to ensure that the bus can access / egress

the stop and it is evident that the proposed driveway will not impact on this order or the ability of the bus to access the stop.

35. Photo's 1 & 2, below / overleaf, present driveways which take access via a bus box in the vicinity of the site. Photo 1 illustrates No. 106 / 107 Inverleith Row with Photo 2 showing No. 23 Ferry Road.

Photo 1: No. 106 / 107 Inverleith Row



36. A review of crashmap.co.uk has indicated that there has been no accidents in the last 5 years at either No. 106 / 107 Inverleith Row or No. 23 Ferry Road. Crashmap provides the following information and is therefore a comprehensive review of accident results:

“Crashmap records relate only to personal injury accidents on public roads that are reported to the police, and subsequently recorded, using the STATS19 accident reporting form. Information on damage-only accidents, with no human casualties or accidents on private roads or car parks are not included in this data. Very few, if any, fatal accidents do not become known to the police although it is known that a considerable proportion of non-fatal injury accidents are not reported to the police. Figures for deaths refer to persons killed immediately or who died within 30 days of the accident.”

Photo 2: No. 23 Ferry Road



Summary and Conclusions

37. It is evident that the proposed driveway at No.45 Inverleith Row reflects numerous driveways in the wider area which operate from the route with no impact on pedestrian or vehicle safety. The proposals do not materially differ from the recently consent driveway at No. 43 Inverleith Row with the exception of the bus box.
38. The proposed driveway will not require the bus stop to be altered or moved, will not restrict passengers from queuing to board the bus and will not impede the operation of the service on the route. As a result, there is no evidence that the proposed driveway will interfere with the bus stop in any way.

39. There are various examples of residential driveways taking access within a bus box without impact to the bus service or safety of pedestrians. It is considered that the application has been refused simply because the driveway is located within a bus box rather than considering whether it actually impacts on the operation of the bus stop as is suggested by the relevant guidance. It is considered that this review has demonstrated that the proposed driveway does not impact on the operation of the bus stop or pedestrian safety and is therefore consistent with guidance.

Lorn Macneal Architects.
3 St Vincent Street
Edinburgh
EH3 6SW

Mr Forrester
45 Inverleith Row
Edinburgh
EH3 5PY

Decision date: 23 December 2020

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Enlargement of an existing opening within the low stone boundary wall and the introduction of an automated electric gate and a single car parking space with electric vehicle charging point.

At 45 Inverleith Row Edinburgh EH3 5PY

Application No: 20/04514/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 19 October 2020, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

Reasons:-

1. The proposals are contrary to relevant Edinburgh Local Development Plan policy, as interpreted using non-statutory guidance, as the proposed access would interfere with a bus stop and visibility is obstructed. This would have an adverse effect on road safety.

Informatives

It should be noted that:

1. This consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01-05, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposed formation of a vehicle access is not acceptable and is contrary to the Edinburgh Local Development Plan and the Council's non-statutory guidelines. The proposals would detrimentally impact on road safety. Transport Planning also object to the application and refusal is therefore recommended. There are no material considerations which outweigh this conclusion.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Adam Gloser directly at adam.gloser@edinburgh.gov.uk.



Chief Planning Officer

PLACE

The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



**ENLARGEMENT OF EXISTING OPENING TO FORM CAR PARKING SPACE
AND ACCESS WITH AUTOMATED GATE, 45 INVERLEITH ROW**

LOCAL REVIEW BODY SUBMISSION

PLANNING APPLICATION 20/04514/FUL

FOR MR C FORRESTER

**Pritchett Planning Consultancy Ltd
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Email: phil@pritchettplanning.co.uk**

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1.0 INTRODUCTION

- 1.1 This submission is in respect of a request to the City of Edinburgh Council Local Review Body to reconsider a delegated decision by the Head of Planning in respect of application 20/04514/FUL. The application was for the enlargement of an existing opening within the low stone boundary wall and the introduction of an automated electric gate and a single car parking space with electric vehicle charging point at an existing established semi-detached dwelling house at 45 Inverleith Row, Edinburgh.
- 1.2 The delegated decision notice is document 1. The reason for refusal is noted as follows:
- 1. The proposals are contrary to relevant Edinburgh Local Development Plan policy, as interpreted using non-statutory guidance, as the proposed access would interfere with a bus stop and visibility is obstructed. This would have an adverse effect on road safety.*
- 1.3 It should be noted that listed building consent has been granted to form the opening in the boundary wall so the physical alteration to the curtilage of the listed building has been supported and approved. LBC number 20/04515/LBC refers.
- 1.4 This submission puts forward a case in response to this reason for refusal and explains why the proposal can be supported and planning permission granted. Given that the recommendation for refusal was based on comments submitted by the transportation service, the appellant has sought expert independent advice from an experienced transportation consultant. This Technical Review Note is document 2.
- 1.4 This review is accompanied by documents submitted with the application including the following:
- Document 3 Location Plan
Document 4 Existing Plan
Document 5 Existing Elevations
Document 6 Proposed Plan
Document 7 Proposed Elevations
Document 8 Officer Report of Handling
- 1.5 The officer report noted that the physical effect of building the driveway and forming the opening would be acceptable, hence the granting of listed building consent. There are numerous driveways along Inverleith Row
-

and this helps to ensure that residents can readily and safely access their houses. It also reduces on street car parking demands. The officer report has concluded that the proposal is contrary to the development plan and non-statutory guidance. The following section of this submission refers to development plan policy, material considerations and also the onstreet evidence and previous decision making of the council in the vicinity. It is concluded that planning permission should be granted.

2.0 PLANNING POLICY ASSESSMENT

General Justification

- 2.1 The application has been assessed by the planning officer and considered suitable in respect of its physical effect on the listed building and overall residential amenity. The proposal is for a high quality opening and driveway to be formed which will enhance the enjoyment of the dwelling house.
- 2.2 It is worth noting that this residential neighbourhood has difficulties in accommodating the number of cars generated from the relatively dense residential surroundings. There is also no infrastructure locally to accommodate electric vehicle charging on street. Residents who are trying to reduce their carbon footprint and act in a sustainable manner are disadvantaged by not having access to electric charging. This material consideration was not considered in the officer report. With the tenements opposite there is a high demand for on street parking. The formation of this driveway will not reduce any on street parking spaces but will free up space on street by removing car demand from this house from the local demand for spaces.
- 2.3 Given the lack of available on street parking in the vicinity it is often the case that the applicant has to park more than ¼ mile away from the house. There is therefore no ability in the vicinity to charge an electric vehicle overnight. This proposal will solve this issue for the applicant at his own expense. There are no residents parking bays on Inverleith Row with all on street parking subject to restrictions and pay and display on side streets.
- 2.4 It is accepted that the proposed access will be located within the painted boundary of an existing bus box and the effects of this have been assessed in the attached Transportation and Access review. The bus box is a visual aid to motorists to indicate the position of a bus stop and to discourage parking or stopping on the street. It is important to note that the actual stopping point of the bus identified by the bus flag is located around 4m to the north of the proposed access point. This is a significant distance which allows for any queuing of people or to accommodate disabled passengers. It should also be noted that this particular stop is not a heavily used stop as it is not on a nodal point in the bus routing and is for passengers heading out of the city centre. Its usage is therefore very low with no more than two or maximum three passengers alighting or disembarking at any one time. There is a maximum of 10 buses passing
-

the stop every hour. For a dwelling house driveway the likely number of movements is around two per day. The level of any conflict with buses is insignificant.

- 2.5 It is noted in the council's guidance on the location of bus stops that these require to be located at intervals of around 400m. As bus routes by their very nature route through and around residential neighbourhoods throughout the city, it is inevitable that stops will be in close proximity to existing driveways. As the attached technical note confirms, the two nearest bus stops to the application site both have driveways entering through bus boxes. The nearest bus box to the south at numbers 106/107 Inverleith Row has been painted over existing driveways which was presumably a choice made by the council to ensure reasonable spacing between stops. The existence of this bus stop has been specifically chosen by the council at this point when there is space to the south towards the city centre around only 40m away where there are no driveways. The council has therefore purposefully positioned a bus box over existing driveways when an alternative location was available with no driveways. This suggests that the council did not consider the existence of driveways to be an important material safety or operational factor in locating the bus box. An assessment of crash data suggests that there have been no reportable incidents in this area.

Development Plan Policies

- 2.5 The officer report has referred to development plan policies and non-statutory supplementary planning guidance. Policy Des1 is referred to which relates to design quality and context. Listed building consent has already been granted for the removal of the wall and the physical nature of the works have been considered to be acceptable. There are numerous examples of drives and accesses being formed in this area and as noted the existing railings are non-original. A new high quality gate and new paving would not harm the setting of the building. The neighboring semi-detached property already has driveways serving each house.
- 2.6 The officer has also referred to Des 12 which refers to alterations and extensions. The officer has concluded that the proposed drive and access will conform to this policy as the impact of the drive on the street scene is satisfactory.
- 2.7 The officer report refers to policy Tra 2 Private Car Parking. The policy states that planning permission will be granted for development where proposed car parking provision complies with and does not exceed
-

- parking levels set out in council guidance. For an existing house which currently has no parking provision and where there is constrained and limited on-street supply of spaces, it is reasonable for a householder to seek to enhance the functionality and enjoyment of a dwelling house by installing a driveway. At a time when the council is encouraging the use of electric vehicles, this car parking space is specifically designed to accommodate an electric vehicle charging point which is not available locally. This is a material consideration and positive aspect of the proposal.
- 2.8 The attached Technical note relating to access is referred to for its reference to the council's non-statutory guidance on parking and accesses and the reference made in the transport officers comments relating to accesses positioned where they will compromise the operation of a bus stop.
- 2.9 The technical note states that the two closest bus stops to the application site have driveways at closer points to the actual bus stop and driveways which exit through bus boxes. In the case of 23 Ferry Road the bus stop also has a shelter which impinges on the sightlines when exiting the driveway. This is not an uncommon occurrence in the city. Given the very infrequent use of driveways and the benefits that they can bring to residents and in reducing pressure for on-street car parking, it is evident that driveways are generally beneficial and supported. Evidence locally and across the city suggests that driveways do not compromise the operation of existing bus stops as by their nature buses using such stops are arriving at very slow speeds and users of driveways are entering and existing at similarly slow speeds and very infrequently.
- 2.10 It should also be noted that the bus box only indicates to drivers where the bus stop is generally located. In this instance the actual bus stop is around 4m from the proposed driveway. Bus passengers will not therefore be near to the proposed driveway and as the bus stop is adjacent to the no parking zone attached to the nearby pedestrian crossing, this part of the street is free of parked cars so visibility is clear in both directions. It is in fact a very safe location in which to position a driveway as there are no parked cars on the street, visibility is good in both directions, there will be gaps in traffic as the pedestrian crossing slows or stops traffic at regular intervals and the bus box curtails the parking of cars in the area. Given the infrequent use of the proposed driveway, the impact of this use on the functionality of the bus stop will be insignificant.
-

- 2.11 The transport officer has noted in his response to the application that the driveway would compromise the safety of pedestrians using the bus stop particularly the disabled. It is not clear how this conclusion has been reached as the bus stop is 4m away from the proposed drive. Driveways are common along this stretch of Inverleith Row and the other examples in this submission suggest that there are no operational issues with other bus boxes where there are existing driveways. The transport officer also provides a commentary on the proposed condition to be attached to a consent should planning permission be granted. It is noted that this proposed condition is the same as that which was imposed on the permission for the driveway on the neighbouring semidetached house at number 43. The applicant would accept this condition in this instance.

3.0 CONCLUSIONS

- 3.1 This application is for a driveway which will enhance the functionality of the dwelling house and will provide an electric charging point. There are no electric charging points locally. On street parking is heavily used due to the dense nature of the residential environment. A driveway will reduce pressure for on-street parking.
- 3.2 Listed building consent has been granted for the works to remove the stone wall. The physical works comply with development plan policy.
- 3.3 Bus boxes are indications of where bus stops are located and stop the parking of vehicles to aid passenger pick up and drop off. The bus stop at this location is 4m north of the proposed driveway. The driveway will not impact on the use of the actual bus stop. There are numerous examples of driveways entering through bus boxes. The two nearest stops in this location have driveways in the defined bus box. There is also a bus shelter at the stop on Ferry Road which is close to an existing driveway. City of Edinburgh Council has identified stops in locations where there are existing driveways and where alternative locations could have been identified where no driveways existed. This suggests that bus boxes are not compromised by driveways. The very intermittent use of driveways is insignificant and has no material bearing on the use of bus boxes. This proposed driveway does not impinge on the bus stop itself.
- 3.4 For the reasons set out in this submission and in the attached Technical Access Review it is requested that the Local Review Body overturn the officer decision and grants planning permission for application 20/04514/FUL.

March 2021

Proposal Details

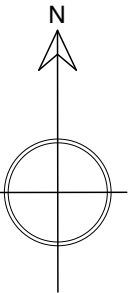
Proposal Name	100381090
Proposal Description	Review of refusal of planning application 20/04514/FUL for enlargement of an existing opening within the low stone boundary wall and the introduction of an automated electric gate and a single car parking space with electric vehicle charging point.
Address	45 INVERLEITH ROW, EDINBURGH, EH3 5PY
Local Authority	City of Edinburgh Council
Application Online Reference	100381090-001

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

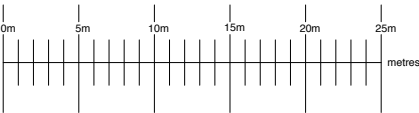
Attachment Details

Notice of Review	System	A4
Refusal Decision Notice	Attached	Not Applicable
Access Technical Note	Attached	Not Applicable
Document 3 Location Plan	Attached	A0
Existing Site Plan	Attached	A0
Existing Elevations	Attached	A0
Proposed Plan	Attached	A0
Proposed Elevations	Attached	A0
Officer Report of Handling	Attached	Not Applicable
Local Review Body Applicant Statement	Attached	Not Applicable
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0



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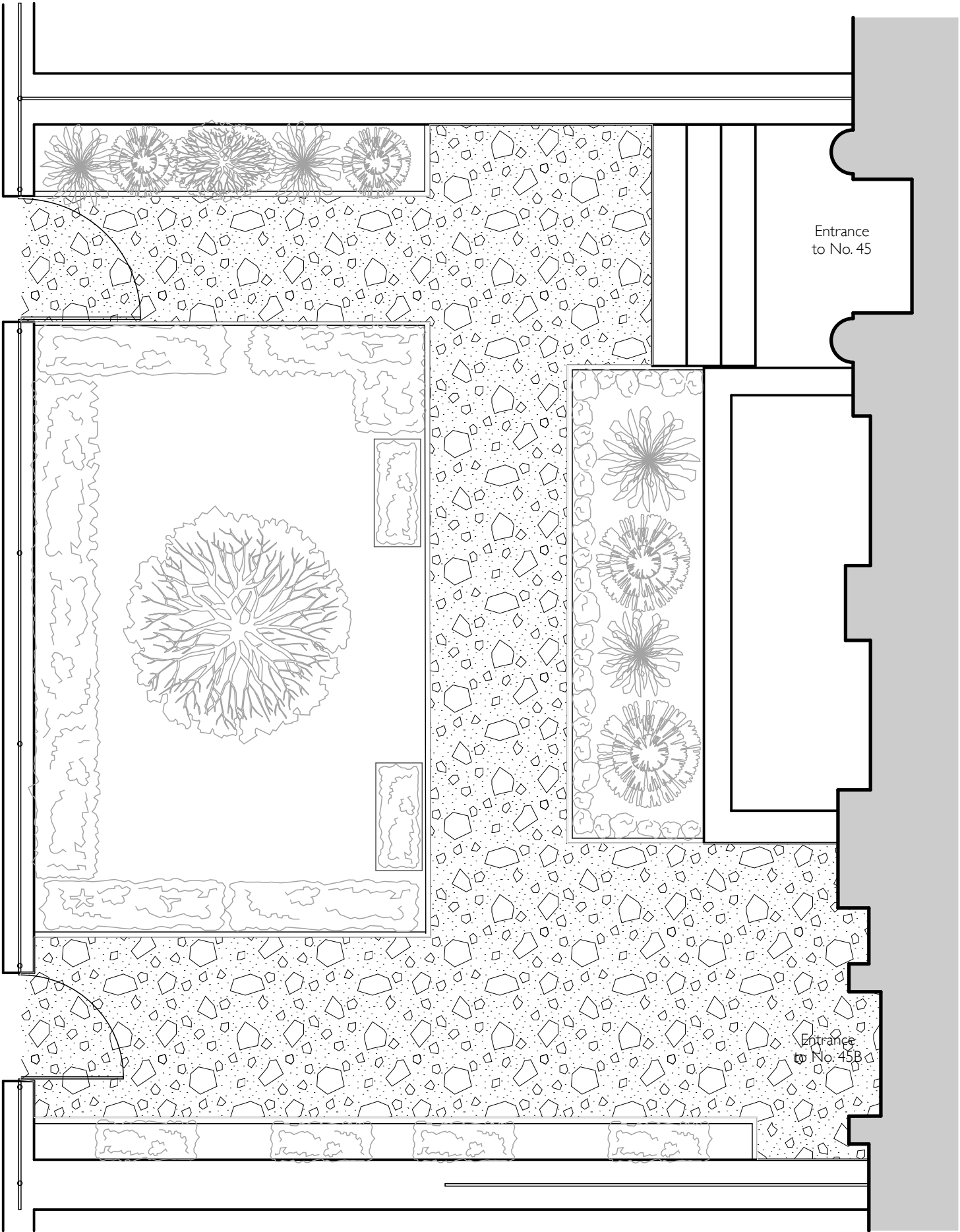


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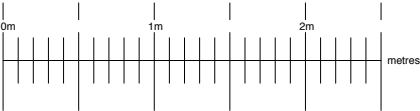
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	45 INVERLEITH ROW EDINBURGH EH3 5PY LOCATION PLAN
Scale: 1:500 @ A3	Date 13/10/2020
Drawing No. 20.21 / L(PL)100	
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INVERLEITH ROW

sign indicating
existing parking
restrictions



SCALE 1:50



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45 INVERLEITH ROW
EDINBURGH EH3 5PY
EXISTING GARDEN PLAN

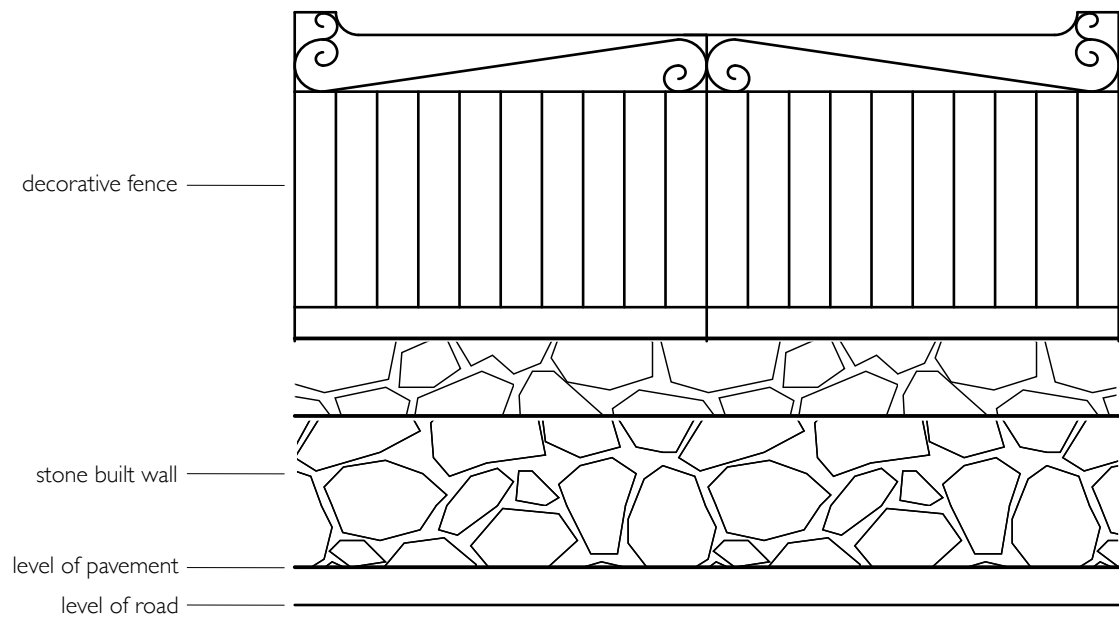
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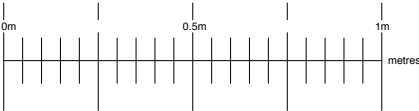
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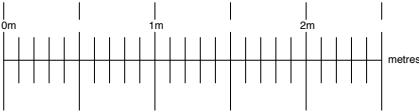


DETAIL OF TYPICAL EXISTING FENCE PANEL
1:20

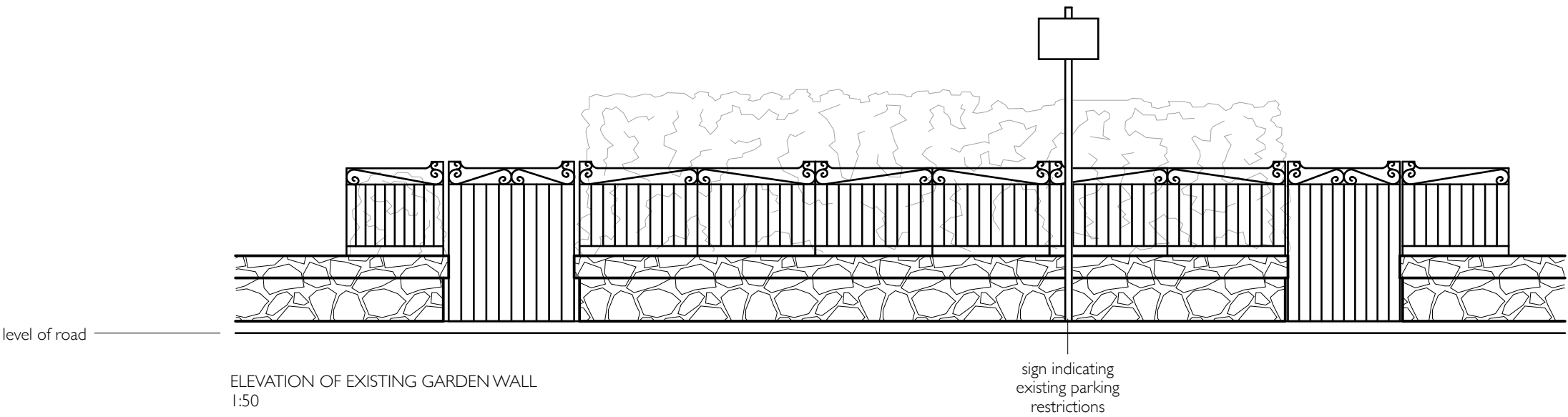
SCALE 1:20



SCALE 1:50



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ELEVATION OF EXISTING GARDEN WALL
1:50

sign indicating
existing parking
restrictions

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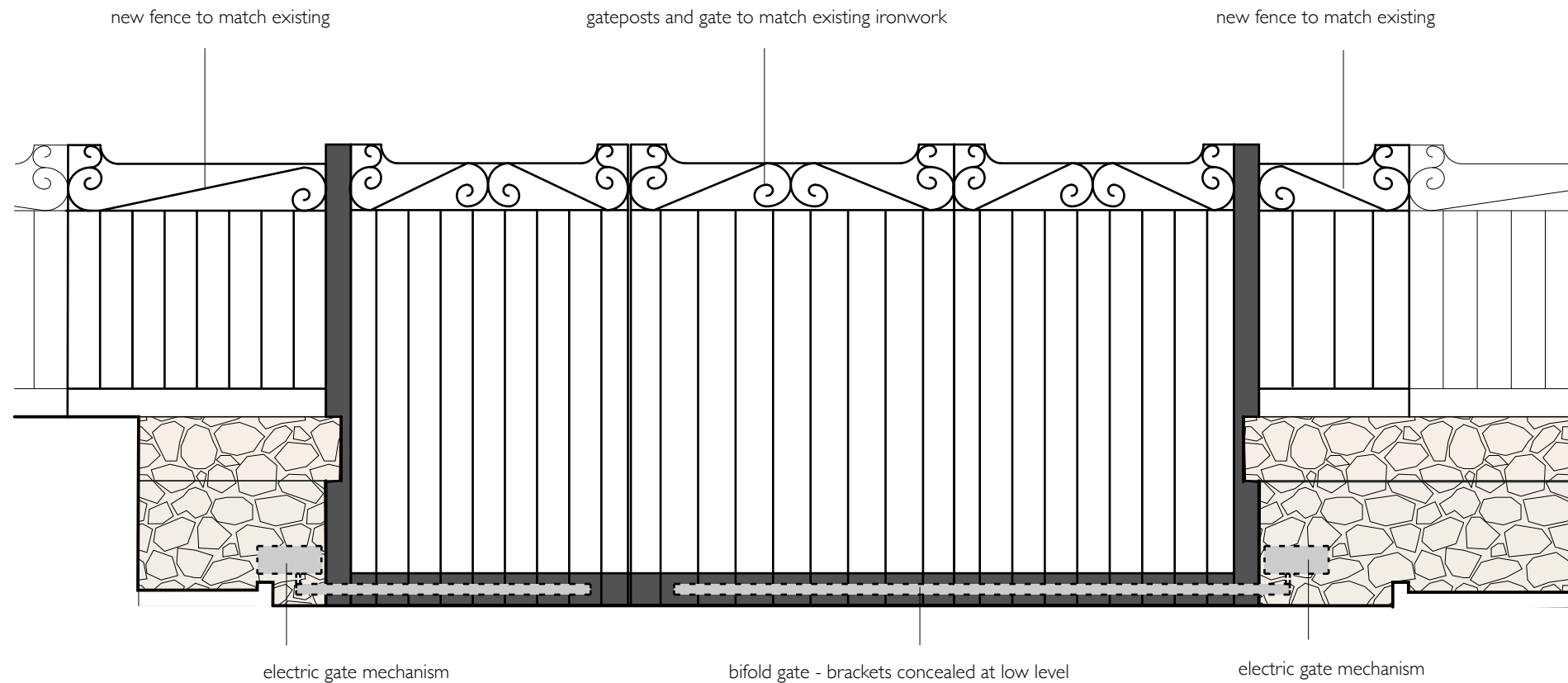
45 INVERLEITH ROW
EDINBURGH EH3 5PY
**EXISTING BOUNDARY
WALL ELEVATIONS**

Scale: as indicated @ A3 Date 06/10/2020

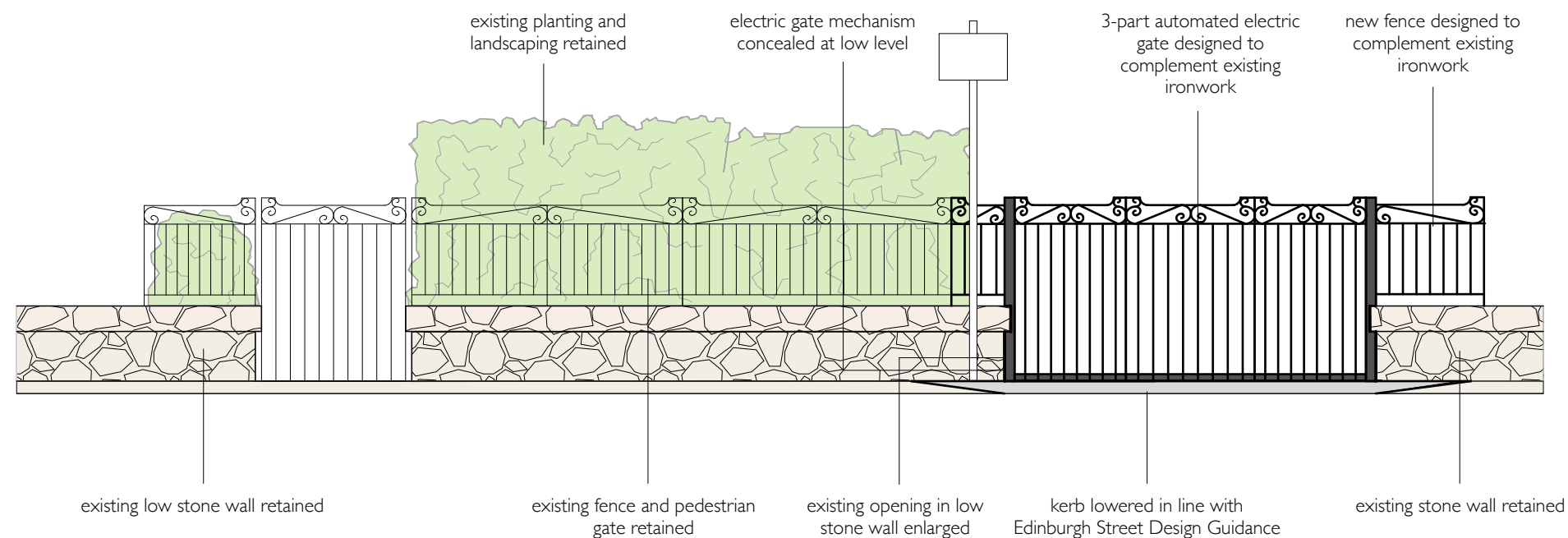
Drawing No. 20.21 / L(PL)002

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REAR ELEVATION OF WALL SHOWING PROPOSED GATE AND FENCE
1:20



ELEVATION OF GARDEN WALL SHOWING PROPOSED GATE
1:50

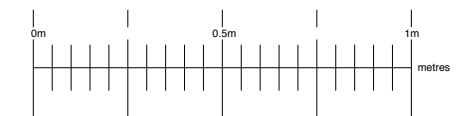


existing stone wall

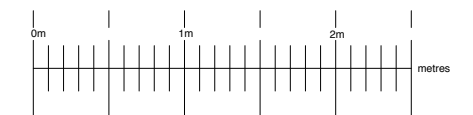


ironwork to match existing

SCALE 1:20



SCALE 1:50



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**WALL ELEVATIONS WITH
PROPOSED CHANGES**

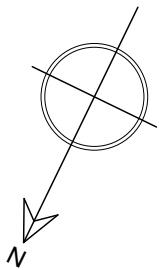
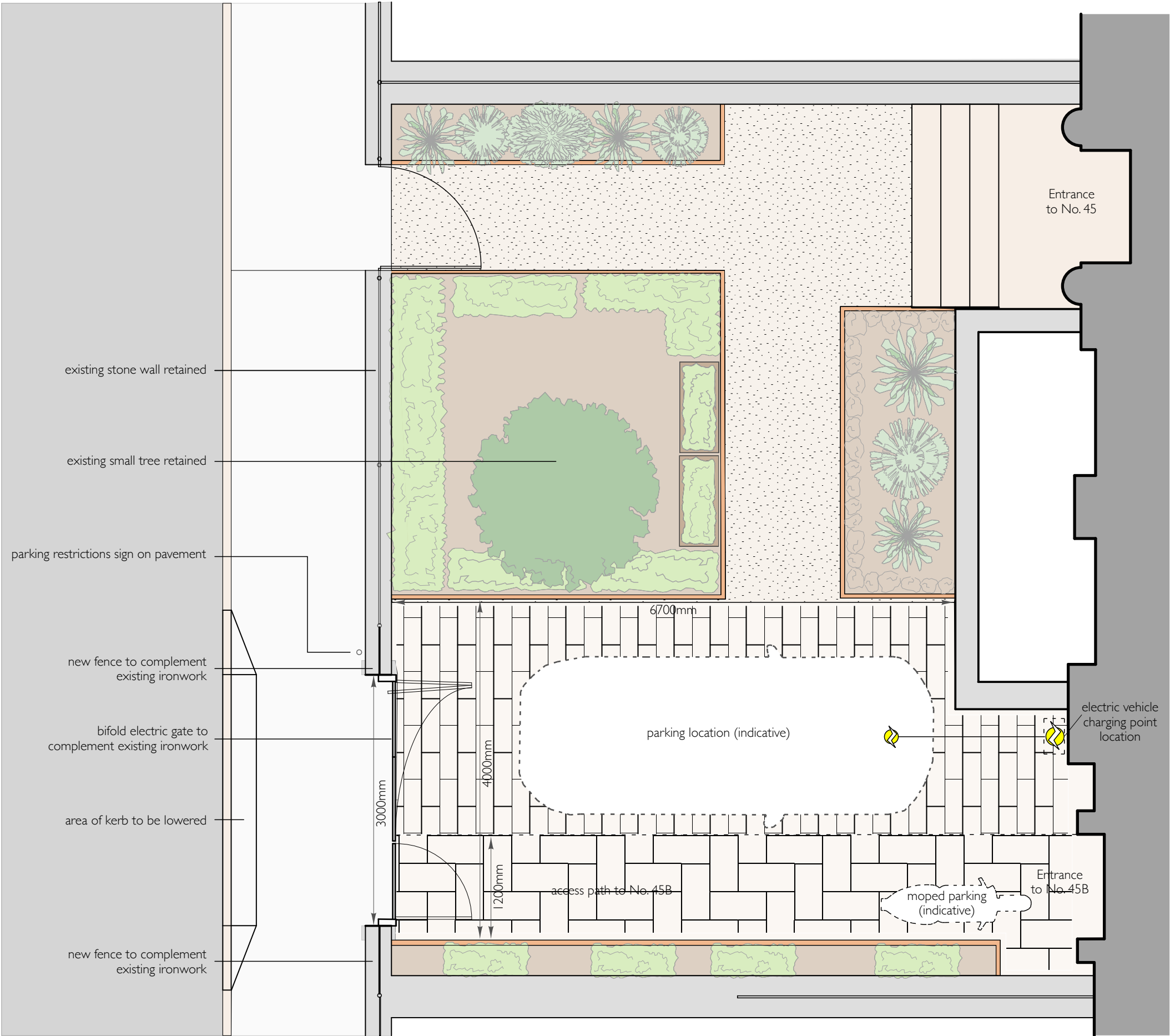
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Date 14/10/2020

Drawing No. 20.21 / L(PL)005

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proposed natural stone cobbles

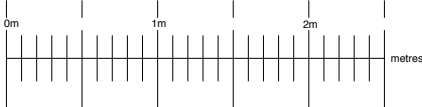


existing paving retained



existing decorative gravel retained

SCALE 1:50



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45 INVERLEITH ROW
EDINBURGH EH3 5PY
**PROPOSED DRIVEWAY
ALTERATIONS**

Scale: 1:50 @ A3 Date 06/10/2020

Drawing No. 20.21 / L(PL)004(D)

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