

Calum Duncan Architects.  
Officer's Club, The Drill Hall  
30 Dalmeny Street  
Edinburgh  
EH6 8RG

Mrs Cerdan  
42 Arden Street  
Edinburgh  
EH9 1BW

**Decision date: 22 February 2022**

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

The proposals extend the existing main door flat in the private garden to the rear. Alterations open up the existing kitchen and utility to create a larger kitchen dining family space. (Resubmission relating to 21/04981/FUL).  
At 42 Arden Street Edinburgh EH9 1BW

**Application No: 21/06704/FUL**

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 21 December 2021, 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 proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as the works are not compatible with the character of the building and conservation area amenity.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the works will not preserve or enhance the character of the existing building or conservation area. The works are inconsistent with the Marchmont, Meadows and Bruntsfield character appraisal.

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 proposals do not comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and do not comply with LDP policy Env 6 and Des 12 and the overall objectives of the Development Plan. The proposals will not preserve or enhance the character of the building or the conservation area.

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 Laura Marshall directly at [laura.marshall@edinburgh.gov.uk](mailto:laura.marshall@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](http://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](mailto: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  
42 Arden Street, Edinburgh, EH9 1BW**

**Proposal: The proposals extend the existing main door flat in the private garden to the rear. Alterations open up the existing kitchen and utility to create a larger kitchen dining family space. (Resubmission relating to 21/04981/FUL).**

**Item – Local Delegated Decision  
Application Number – 21/06704/FUL  
Ward – B10 - Morningside**

## **Recommendation**

It is recommended that this application be **Refused** subject to the details below.

## **Summary**

The proposals do not comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and do not comply with LDP policy Env 6 and Des 12 and the overall objectives of the Development Plan. The proposals will not preserve or enhance the character of the building or the conservation area.

## **SECTION A – Application Background**

### **Site Description**

The application site is a main door ground floor flat that forms part of a four-storey tenement building and is located on the west side of Arden Street. The property has its own rear garden which overlooks/back onto communal greens.

The site is located within the Marchmont, Meadows and Bruntsfield Conservation Area.

### **Description Of The Proposal**

The application seeks planning permission to extend the ground floor flat to the rear of the building to achieve a new kitchen and dining space. The footprint of the new space would measure approximately 17 sqm and it would have a mono pitched roof, measuring between 3.5 and 4 metres high. An area of decking is to be included to the side of the new extension, measuring approximately 11 sqm.



The treatment finishes includes timber cladding (unspecified wood type), metal standing seam roof and gutter, glazed painted timber doors and windows.

## **Supporting Information**

-Design and Access Statement

## **Relevant Site History**

21/04981/FUL

The proposals extend the existing main door flat to the rear to form a new garden room. Alterations open up the existing kitchen and utility to create a kitchen dining space.

withdrawn

23 November 2021

## **Consultation Engagement**

No Consultations.

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 22 February 2022

**Date of Advertisement:** 14 January 2022

**Date of Site Notice:** 14 January 2022

**Number of Contributors:** 2

## **Section B - Assessment**

### **Determining Issues**

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

## **Assessment**

To address these determining issues, it needs to be considered whether:

### **a) The impact on the character and appearance of the conservation area is acceptable?**

*Marchmont was developed by Sir George Warrender, the mid-19th Century owner of Bruntsfield House and the surrounding estate, as a middle-class tenement suburb from the 1870s. After 1900, Spottiswoode Road and Street, Arden Street and Lauderdale Street were built in a more standardised style*

*Marchmont is a high-density area of tenements and terraces. The spatial structure of the area is overwhelmingly characterised by a rectilinear grid structure. Communal back greens to tenements comprise an essential component of the spatial character of the area. The communal back greens; often tightly enclosed on all sides by adjoining tenements and largely unadorned with additional ancillary buildings/structures or rear extensions to ground floor level flats retain their green and tranquil green space and character setting to the rear of tenements. Maintaining these areas as open green spaces for the communal benefit of residents not only preserves the special character and appearance of the area, but, provides a much-valued level of amenity for residents away from the hustle and bustle experienced from the streets.*

The proposals will not affect the appearance of the conservation area as it will not be publicly visible in this rear side location.

The proposal will affect the character of the conservation area as it will not preserve or enhance the special qualities attributing to its character.

The application is a resubmission of a previously withdrawn application (application number 21/04981/FUL) for the same proposal with no change. Only the Design and Access Statement was updated with reference to other applications approved in the nearby area, including 19 Thirlestane Road (14/02844/FUL) and 105 Marchmont Road (21/02844/FUL). The document also included an ownership analysis of the back-greens and aerial images of outshot's and extensions within Marchmont Crescent. Owing to the individual circumstances of the application site, little weight can be attached to other planning decisions or characteristics of other tenement buildings.

The uniqueness of the application site in this location lies in the degree of preservation that currently exists. The rear elevations of the tenements within this enclosed private and communal greens are unadorned with rear extensions/additions. In addition, a

planning history search of the back-greens in this location showed no history in allowing rear extensions. As described in the character appraisal, it is the limited intervention that maintains the character of these buildings and their private and communal greens. The proposal to introduce a single storey extension to this ground floor flat, together with the associated decking would introduce an incongruous addition that would not preserve or enhance the special qualities that contributes to the character of the conservation area and is not consistent with the Marchmont, Meadows and Bruntsfield character appraisal. The proposals are not compatible with the character of the existing building.

### **Conclusion in relation to the conservation area**

The works will not preserve the special character and appearance of the conservation area.

The proposals do not comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals comply with the development plan?**

The Development Plan comprises the Strategic and Local Development Plans. The relevant policies to be considered are:

- LDP Environment policy Env 6
- LDP Design policy Des 12

The non-statutory 'Listed Building and Conservation Area' guidance and 'Guidance for Householder' is a material consideration that is relevant when considering policies Env 6 and Des 12.

#### Scale, form, design and neighbourhood character

The principle of the proposal in this location, is not supported. The proposals will harm the character of the existing building and will not preserve the character and appearance of the conservation area as detailed in section a) of the assessment.

#### Neighbouring Amenity

With respect to privacy, overshadowing and loss of daylight or sunlight, the proposals have been assessed against requirements set out in the non-statutory 'Guidance for Householders'. The proposals will not result in any unreasonable loss to neighbouring amenity.

### **Conclusion in relation to the Development Plan**

The proposals are inappropriate for the character of the building in this location and would not preserve the special character and appearance of the conservation area.

Therefore, the proposals do not comply with LDP policy Env 6 and Des 12 and the overall objectives of the Development Plan.

**c) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with Paragraph 29 of SPP as the introduction of a single storey extension will harm the character of the conservation area.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

One comment and a petition with 21 names in support of the application was received. Under the scheme of delegation, petitions are not applicable for householder applications and do not influence the decision-making route.

*material considerations*

- Extension does not affect common garden and is appropriate for a tenement flat - addressed in (a) and (b).

*non-material considerations*

- Information contained within the submitted Design and Access Statement is incorrect including ownership - this did not preclude assessment of the application.

**Conclusion in relation to identified material considerations**

The proposals do not raise any issues in relation to other material considerations identified.

**d) Overall conclusion**

The proposed works to the dwelling will not preserve the character and appearance of the conservation area and do not comply with the Development Plan. The works are incompatible with the existing building and immediate neighbourhood character. There are no significant material considerations which indicate that the proposal should be approved. Therefore, the proposals are unacceptable.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

### **Reasons**

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as the works are not compatible with the character of the building and conservation area amenity.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the works will not preserve or enhance the character of the existing building or conservation area. The works are inconsistent with the Marchmont, Meadows and Bruntsfield character appraisal.

### **Background Reading/External References**

To view details of the application go to the [Planning Portal](#)

**Further Information** - [Local Development Plan](#)

**Date Registered: 21 December 2021**

### **Drawing Numbers/Scheme**

01-05.

Scheme 1

**David Givan**  
**Chief Planning Officer**

**PLACE**  
**The City of Edinburgh Council**

Contact: Laura Marshall, Planning Officer  
E-mail: [laura.marshall@edinburgh.gov.uk](mailto:laura.marshall@edinburgh.gov.uk)

Appendix 1

**Consultations**

No consultations undertaken.

# Comments for Planning Application 21/06704/FUL

## Application Summary

Application Number: 21/06704/FUL

Address: 42 Arden Street Edinburgh EH9 1BW

Proposal: The proposals extend the existing main door flat in the private garden to the rear. Alterations open up the existing kitchen and utility to create a larger kitchen dining family space. (Resubmission relating to 21/04981/FUL).

Case Officer: Laura Marshall

## Customer Details

Name: Not Available

Address: Not Available

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: This response is submitted having contacted the applicant's architect on two (2) separate occasions with regards to discussing significant errors in the 'Design and Access Statement' (DAS) and there being no indication on the planning portal that such have been rectified prior to the closure of permitted comment.

The DAS here appears to form a significant element in the reapplication, it having been substantially altered and expanded upon from the original submission. Should it be intended to be relied upon it is imperative then that any factual statements made within it are verifiable and beyond contention. Unfortunately this appears not to be the case.

The DAS fails to correctly identify the correct location for the extension works under consideration in its 'Property + Land Ownership' section: both in the 'location plan' on p.2 and 'Fig. 1 Land Ownership' on p.3. As a consequence of misnumbering it is our property some six (6) doors south of the applicant's that is highlighted and marked up incorrectly as No. 42, meaning neither plan gives a true representation of where the correct property is on the street nor how it relates to others in its immediate vicinity.

Further to this, the DAS claims ('Fig 1. Land Ownership' on p.3) that all the properties on the west side of Arden Street have the rear communal gardens split into designated private areas for the ground floor flats - these private areas being highlighted blue in the submission. The deeds to my property, however, would appear to confirm that the gardens identified by the DAS in Arden Street as having private areas are in fact entirely communal - save for four properties only (Nos. 42, 38, 36 and 32) which do have some form of delineation represented.



No comment whatsoever as to any legal standing for the four exceptions identified above is made here. I have no information other than that associated my deeds and it would be highly improper for me to do so.

That stated, it must be noted that the application as it stands appears not to correctly represent the almost universally communal character of the rear gardens in the general area affected - not only on the West side of Arden Street but also on the North side of Spottiswoode Road, South side of Warrender Park Road and East side of Spottiswoode Street it abuts in forming an enclosed square.

A contention of similar private areas in otherwise communal gardens is also proffered for 'Marchmont Road/Crescent' and 'Spottiswoode Road/Thirlstane Road' (also on p.3) in support. Given the contested situation for Arden Street, unfortunately it must be proffered that these contentions too must now be considered somewhat suspect.

It should be noted that, although fully aware, no objection was raised by me to the original application. It apparently takes place on private land and is not within direct sight of my property at the rear. My intention was it should progress on its merits alone. That, however, is not the case with the resubmission, which as far as I can see pivots fully now upon the DAS and the proposal's relationship within the general area.

Should this particular document not now be withdrawn for consideration as part of the process it is difficult to see how, given the significant defects contained within it, that the application itself can be legitimately approved.

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Case Officer: Laura Marshall

## Customer Details

Name: Mr Gordon Mulholland

Address: 54 Arden Street Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer made comments neither objecting to or supporting the Planning Application

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Proposal: The proposals extend the existing main door flat in the private garden to the rear.

Alterations open up the existing kitchen and utility to create a larger kitchen dining family space.

(Resubmission relating to 21/04981/FUL).

Case Officer: Laura Marshall

## Customer Details

Name: Mr John Laurie

Address: Flat 1, 52 Newbattle Terrace Edinburgh

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I would like to add a petition in support of this application. Please can you send me the email address for this should be sent.

Kind regards

John

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Case Officer: Laura Marshall

## Customer Details

Name: Not Available

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Comment: I would like to add a petition in support of this application. Please can you send me the email address for this should be sent.

Kind regards

John

DATE: 2 FEBRUARY 2022

CO-ORDINATOR: John Laurie, Flat 1, 52 Newbattle Terrace, Edinburgh EH10 4RX

Petition in support of application 21/06704/FUL. The proposal is to extend the existing main door flat in the private garden to the rear. Alterations open up the existing kitchen and utility to create a larger kitchen dining family space. I agree that the extension does not affect the common garden and is appropriate for a tenement flat.

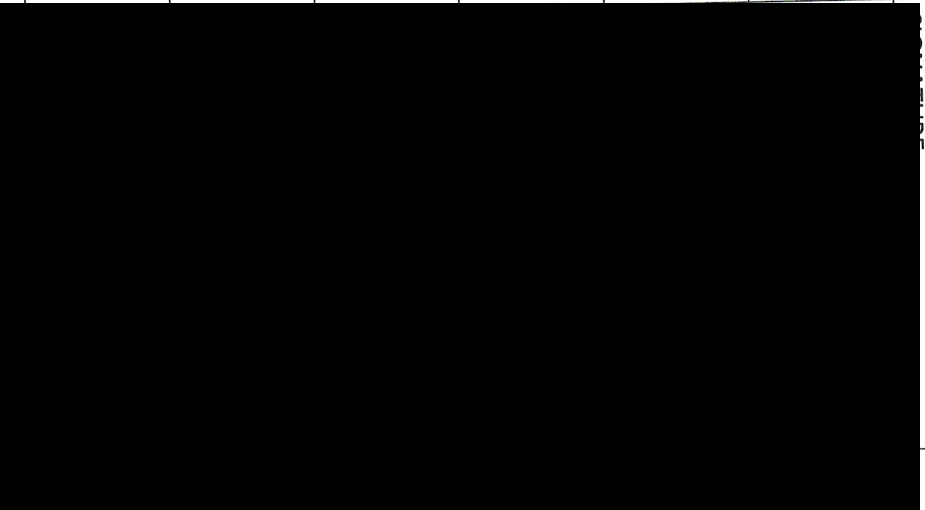
	FULL NAME	ADDRESS	SIGNATURE
1	JANE WEAVER	711 Strathfiban Rd, EH9 2AG	
2	LUKE ASPINKL	89, SPOTTISWOODE ST, EDINBURGH, EH9 1BZ	
3	ELIWA ASHMAN	89 SPOTTISWOODE ST. EDINBURGH EH9 1BZ	
4	LUCY SACKER	57 SPOTTISWOODE ROAD, EH9 1DA	
5	Andy Coaker	5 Lauderdale Street EH9 1DF	
6	LIZZY TRAFER	5 LAUDERDALE STREET EH9 1DF	

DATE: 2 FEBRUARY 2022

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	FULL NAME	ADDRESS
7	Fiona Drayg	75/5 Spottiswoode St. EH9 9DL.
8	Mike Mcgovern	65/1 Newtender Park Road, EH9 1ES
9	Sam Lens	63/1 Newtender Park Road, EH9 1ES.
10	DUY STEPHENSON	45 ARDEN ST, EH9 1BS
11	Jane Lippold	43/1 Arden St. EH9 1BS
12	Stefan Andrew	43/4 Arden St, EH9 1BS



DATE: 2 FEBRUARY 2022

CO-ORDINATOR: John Laurie, Flat 1, 52 Newbattle Terrace, Edinburgh EH10 4RX

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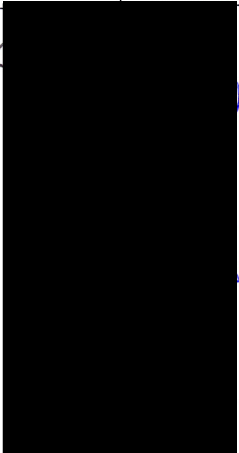
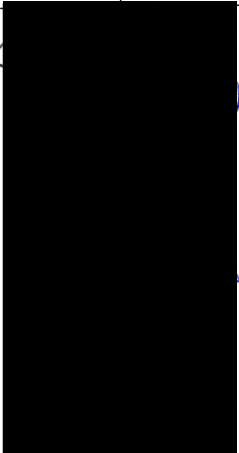
	FULL NAME	ADDRESS	SIGNATURE
13	ALBERT PHILLIMORE	2 STRATHFILLAN RD, EDINBURGH EH9 2AG	
14	Joe Phillimore	2 Strathfillan Rd Edinburgh EH9 2AG	
15	NICK STAGE	11 Spencehill Road EH9 2AG.	
16	SALLY LOWEN	11 STRATHFILLAN RD EH9 2AG	
17	Vivien McDermid	55 Arden Street EH9 1BT	
18	PHIL MCKEE	46 THIRLESTANE RD EH9 1AW	



DATE: 2 FEBRUARY 2022

CO-ORDINATOR: John Laurie, Flat 1, 52 Newbattle Terrace, Edinburgh EH10 4RX

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	FULL NAME	ADDRESS	SIGNATURE
19	ADRIANNE MOERKIND THOMAS	35/5 Marchmont Crescent Edinburgh EH9 1HQ	
20	GARETH THOMAS	35/5 MARCHMONT CRESCENT EH9 1HQ	

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto: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 100474969-006

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:	Calum Duncan Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Calum	Building Name:	Officer's Club, The Drill Hall
Last Name: *	Duncan	Building Number:	30
Telephone Number: *		Address 1 (Street): *	Dalmeny Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Lothian
		Postcode: *	EH6 8RG
Email Address: *			

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="Michael"/>	Building Number:	<input type="text" value="42"/>
Last Name: *	<input type="text" value="Cerdan"/>	Address 1 (Street): *	<input type="text" value="Arden Street"/>
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="EH9 1BW"/>
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="42 ARDEN STREET"/>
Address 2:	<input type="text" value="MARCHMONT"/>
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="EH9 1BW"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="672219"/>	Easting	<input type="text" value="325354"/>
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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)

The proposals extend the existing main door flat in the private garden to the rear. Alterations open up the existing Kitchen and Utility to create a larger Kitchen Dining Family space.

## 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 separate supporting statement

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)

Supporting Statement: KMP\_42 Arden St\_NoR\_Statement Other supporting documents are as submitted with the Planning Application: Design and Access Statement: DAS-068.D.02 B Existing drawings: 068 L(EX) 01 + 068 L(EX) 02 Proposed drawings: 068 L(GA) 01 + 02

## Application Details

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

21/06704/FUL

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

21/12/2021

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

22/02/2022

## 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

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

Access is by a locked common stair or through the applicant's main door flat. The applicants will be very willing to provide access.

## 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 Calum Duncan

Declaration Date: 07/04/2022

## Proposal Details

Proposal Name	100474969
Proposal Description	The proposals extend the existing main door flat to the rear to form a new Garden Room. Alterations open up the existing Kitchen and Utility to create a Kitchen Dining space.
Address	42 ARDEN STREET, MARCHMONT, EDINBURGH, EH9 1BW
Local Authority	City of Edinburgh Council
Application Online Reference	100474969-006

## Application Status

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

## Attachment Details

Notice of Review	System	A4
DAS 068 D 02 B	Attached	A4
068 LEX 01	Attached	A1
068 LEX 02	Attached	A1
068 LGA 01	Attached	A1
068 LGA 02	Attached	A1
068 LEX 00	Attached	A4
JMPS_42 Arden St_NoR_Statement	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-006.xml	Attached	A0

# JM PLANNING SERVICES

## SUPPORTING STATEMENT FOR NOTICE OF REVIEW

### APPLICATION REFERENCE: 21/06704/FUL

#### **1.0 INTRODUCTION**

1.1 This Statement has been prepared by JM Planning Services. It outlines the reasons for seeking a review of the City of Edinburgh Council's decision to refuse planning application Reference. 21/06704/FUL under delegated powers on 22<sup>nd</sup> February 2022.

1.2 It provides supplementary information to support the Notice of Review for the application proposals as submitted by Calum Duncan Architects on behalf of the applicant, Mrs Cerdan.

1.3 It provides a brief but clear and concise critique of the Planning Case Officer's assessment in order to assist the Local Review Body in gaining a full understanding of the planning merits of the proposal as submitted.

1.4 In addition, the Local Review Body is directed to the Design and Access Statement (Ref. DAS.068.D.02 B), which the applicant hopes will be considered in full as part of their Review as it is the document which contains important supporting information that was provided to the Planning Case Officer at the time of the application, as referenced in this Statement.

1.5 The Reasons for Refusal cited in the Decision Notice are as follows: -

*"1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as the works are not compatible with the character of the building and conservation area amenity.*

*2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the works will not preserve or enhance the character of the existing building or conservation area. The works are inconsistent with the Marchmont, Meadows and Bruntsfield character appraisal."*



## 2.0 PLANNING CONSIDERATIONS

2.1 It is notable, in the first instance, that the Planning Case Officer has confirmed in their report that the proposals will not affect the appearance of the Marchmont, Meadows and Bruntsfield Conservation Area as it will not be publicly visible, positioned on the rear of the tenement block.

2.2 Furthermore, the Planning Case Officer confirms that the proposals will not result in any unreasonable loss to neighbouring amenity with respect to privacy, overshadowing and loss of daylight or sunlight, following an assessment of the proposal against requirements set out in the non-statutory 'Guidance for Householders'. The proposal is compliant in that regard with adopted Local Development Plan **Policy Des 5 – Amenity**.

2.3 However, the Case Officer believes that the proposal will affect the character of the Conservation Area as it will not preserve or enhance the special qualities attributing to its character.

2.4 In doing so, it is evident from the Report of Handling that the Case Officer has only considered the principle of whether the proposal is an acceptable form of development on the rear of this tenement block, or section of tenements in Arden Street, rather than considering the wider Conservation Area, referring to the proposal as an *“incongruous addition”*. The conclusion reached by the Planner is that *“The proposals are not compatible with the character of the existing building.”*

2.5 On reaching that conclusion, the design attributes and qualities of the proposals have not been considered as part of the application's assessment, due to the clear absence of such in the Report of Handling, despite the proposal being similar in form, design, scale, massing and use of finishing materials to others which have been accepted and approved by the Council on the rear elevations of tenement blocks elsewhere in the same Conservation Area. The Local Review Body is directed to the Design and Access Statement (Ref. DAS.068.D.02 B) for details that help to illustrate and support this position which accompanied the planning application.

2.6 The suggestion by the Case Officer that *“little weight can be attached to other planning decisions or characteristics of other tenement buildings”* is not reasonable as these examples are covered by the same Conservation Area Character Appraisal and, due to the lack of consideration of design associated with the proposal, it is not feasible to refuse the application on the grounds of design.

2.7 Consequently, to cite adopted Local Development Plan Policy Des 12 as the first reason for refusal is unsubstantiated.

2.8 In defence of the second reason for refusal, the Case Officer has referred to the Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal (CACA) as a significant document in the assessment of the application when considering the impact of the proposal on the character and appearance of the Conservation Area, according to the Report of Handling.

2.9 The extract quoted is as follows:-

*“Marchmont was developed by Sir George Warrender, the mid-19th Century owner of Bruntsfield House and the surrounding estate, as a middle-class tenement suburb from the 1870s. After 1900, Spottiswoode Road and Street, Arden Street and Lauderdale Street were built in a more standardised style*

*Marchmont is a high-density area of tenements and terraces. The spatial structure of the area is overwhelmingly characterised by a rectilinear grid structure. Communal back greens to tenements comprise an essential component of the spatial character of the area. **The communal back greens; often tightly enclosed on all sides by adjoining tenements and largely unadorned with additional ancillary buildings/structures or rear extensions to ground floor level flats retain their green and tranquil green space and character setting to the rear of tenements.** Maintaining these areas as open green spaces for the communal benefit of residents not only preserves the special character and appearance of the area, but, provides a much-valued level of amenity for residents away from the hustle and bustle experienced from the streets.”*

2.10 The Case Officer appears to have misinterpreted the information contained in the CACA which had been drawn to the attention of the applicant in an exchange of emails between the Planner and the agent, as noted in bold in the above extract.

2.11 Prior to the decision of the application, the Case Officer confirmed to the applicant's agent the grounds for refusal were on the basis of protecting the common back green to the tenement block as described within the Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal.

2.12 However, this application is within the applicant's (owner's) private back garden and does not affect the common back green as referred to. While most tenement back greens are common up to the rear building line, there are also many ground floor properties where the ground floor flat has a private garden. Such properties include several examples where rear extensions have been approved and have been appropriate additions to the property and context. These examples have the same garden ownership within the same Conservation Area and have proved successful additions to the character of the tenement – these matters are contained in the supporting Design and Access Statement (Ref. DAS.068.D.02 B).

2.13 It is important to emphasise the point for the benefit of the Local Review Body members that there would be no disruption to the communal back greens by the proposal. Instead, the proposed extension, which is relatively modest in scale, would be contained wholly within the privately owned back garden area of this ground floor property within the tenement block with no incursion into the communal area, as clearly shown on the application drawings.

2.14 It is evident from reading this extract of the CACA that it does not preclude development within these privately owned areas, and it specifically suggests that those existing ground floor rear extensions and ancillary buildings/structures, even in the common back green areas, are an added feature of the space to the rear of these tenements and still retain the character setting of the rear of the tenements.

2.15 The inference by the Planner is that it does preclude development when it is stated in the Report of Handling:-

*“The uniqueness of the application site in this location lies in the degree of preservation that currently exists... A planning history search of the back-greens in this location showed no history in allowing rear extensions.”*

2.16 These comments infer that there will never be the opportunity for the ground floor properties in this tenement block to be extended. This would appear to conflict with how the Council has approached other similar proposals which have been approved for similar tenement blocks in the other locations identified by the applicant – the Local Review Body is again directed to the Design and Access Statement (Ref. DAS.068.D.02 B).

2.17 These examples are considered to have set a precedent as they would have originally been the first to “break the mould” for their respective tenement block and would have been considered acceptable in terms of current or similar policy relative to their potential impact on the same Conservation Area. It would appear that the Planning Case Officer is unwilling to consider this as a fair and reasonable justification being presented. To refuse in principle a modest sized ground floor extension as proposed in this case because no others have been proposed or permitted would be to deny residents the right to extend their property at all and would penalise unfairly these residents compared to others elsewhere in the City in similar circumstances.

2.18 Consequently, and contrary to the Case Officer’s assumption, the proposal is not inconsistent with the CACA and therefore it is inappropriate to use this policy document in support of the second refusal for refusal.

### **3.0 OTHER MATERIAL PLANNING CONSIDERATIONS**

#### **City Centre Family Living**

3.1 The applicant has been a family owner occupier of this property for 13 years and is making this application to alter their home, in order to remain in the property, where they would otherwise be moving out-with the city centre.

3.2 Marchmont is a dense residential neighbourhood with a thriving local community and the mix of student accommodation to family accommodation may be returning to a more appropriate balance. Edinburgh City Plan encourages family living in the city, well connected to a sustainable transport infrastructure, schools and services as well as workplaces and reducing car dependency. This property is ideally located to meet these Plan objectives. In addition, Scottish Planning Policy (SPP) also requires development plans to ensure that the siting, design and layout of all new development will limit likely greenhouse gas emissions.

3.3 Therefore, in further support of the proposal, the privately owned garden space at the rear of this ground floor tenement property gives the opportunity to enhance and upgrade it in order to help meet modern day living standards. The proposed extension will provide the necessary additional accommodation, using privately owned space, to retain family living in the City as per the Council’s objectives, without any adverse impact on the back common green space areas nor harming the character and appearance of the building itself or Conservation Area.

## 4.0 CONCLUSIONS

4.1 It is evident that this proposal represents a first test case for this tenement block. There are however no justified reasons to refuse planning permission for the proposal on the basis that:

(i) there would be no harm to the character and appearance of the Conservation Area, as admitted by the Case Officer;

(ii) only the principle of the proposal has been assessed and the first reason for refusal on design has not been substantiated;

(iii) as a result of (i) and (ii) above, it has further not been substantiated by the Case Officer how the works will neither preserve nor enhance the character of the existing building or Conservation Area. The proposals may be the first extension proposed for this particular tenement block, but that should not be used as a reason in itself to refuse planning permission, particularly when there are other similar examples which have been accepted and approved by the Council on the rear elevations of tenement blocks elsewhere in the same Conservation Area. Accordingly, the proposal is able to be supported by adopted LDP Policy Env 6.

(iv) the design qualities of the proposal do have merit, being similar to those other examples cited and the application is able to be supported by adopted LDP Policy Des 12; and

(v) in addition, the proposal is compliant with LDP amenity policy criteria, as acknowledged by the Case Officer.

4.2 Consequently, it is considered that the proposal is wholly compliant with the Council's adopted LDP policy criteria and objectives. Accordingly, it is respectfully requested that the LRB overturns the Planner's decision and grants planning permission to the applicant for the proposed extension to the property at 42 Arden Street, Edinburgh.

John MacCallum BSc. Hons, MRTPI  
Planning Consultant  
Ref. PL/CMC/CDA/ASE/133  
Notice of Review Supporting Statement  
FINAL  
29<sup>th</sup> March 2022

**DESIGN + ACCESS STATEMENT****42 Arden Street, Edinburgh, EH9 1BW****DS-068.D.02 B****1. Introduction**

This Design and Access Statement is prepared by Calum Duncan Architects Ltd on behalf of the client for alterations and extension within the private garden to the rear of the property.

[Calum Duncan Architects LTD](#) was established in 2015 and has since grown with the completion of a number of imaginative and sensitive projects. Completed projects include the **Scottish Design Awards** Shortlisted Greenspace Infrastructure masterplan (with UrbanPioneers Landscape Architects), and the alterations for the Edinburgh Tattoo HQ, which received a **Scottish Design Award for Reuse of a Listed Building** category. We are passionate about projects, designing spaces which relate to historic re-use, health, and wellbeing. 20 years in practice working on imaginatively designed projects including **4 RIBA award winning projects** and the first ever refurbished building to achieve **BREEAM 'Outstanding'** (environmental assessment method). Calum Duncan is **RIAS Sustainability accredited** and **RIBA Conservation Accredited**.



## 2. The Property + Land Ownership

The property is an Edwardian main door, ground floor of a Marchmont Tenement. The main entrance is by private front garden from Arden Street. The front elevation is a repeated formal bay windowed frontage with private main door, (separate from the common stair entrance to the upper flats). The elevation is formed of polished ashlar stone and elements of decorative detailing to the roof pediments and outband features.



Front Elevation



Location Plan with rear garden arrangement

The rear the property has a private back garden within the property's boundary of ownership (separate from the common back green garden which is under the ownership of the upper stair residents), as demonstrated in **Fig 1 (page 3)**. The rear elevation is more informal than the front elevation, including simpler detailing to the stonework, kitchen out-shots, exposed drainage and services.



Existing private back garden and rear elevation



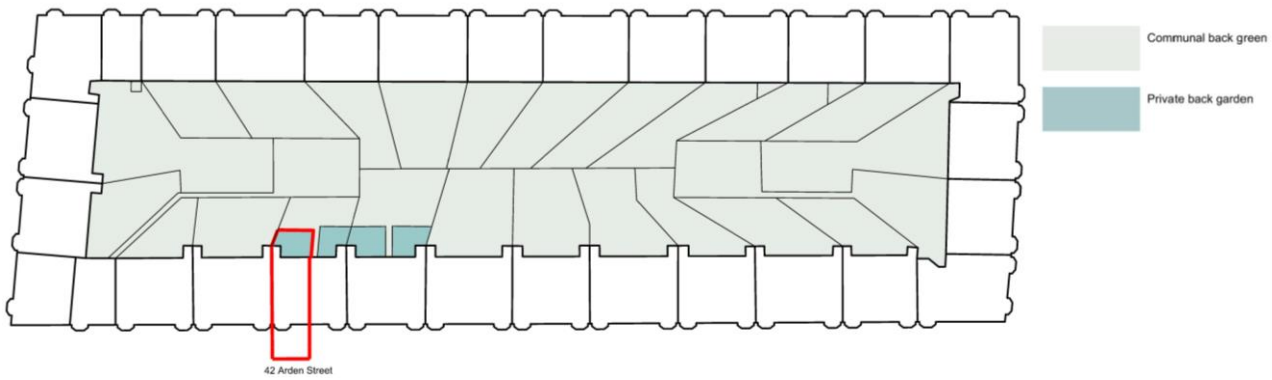
Existing out-shot to rear

### Character of Rear Tenement Elevations

The character of the rear tenement elevations in Edinburgh is wide and diverse with a variety of out-shots and extensions, both original and later alterations. The manner in which the rear elevation is treated is dependent on the particular land ownership arrangement. 42 Arden Street is one of a number of main door flats which has a private back garden and so this proposal does not reduce the common greenspace as shown in **Fig 2 (page 4)**.



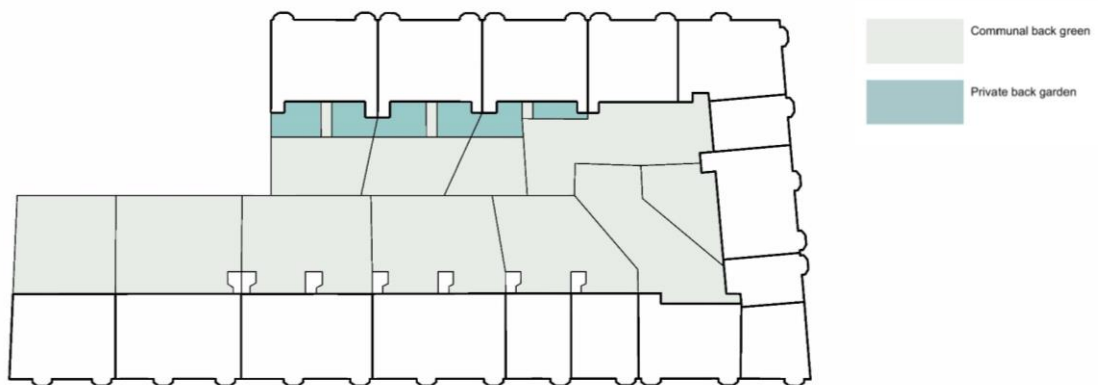
**Fig 1. Land ownership**



Arden Street: Communal back greens and private garden analysis



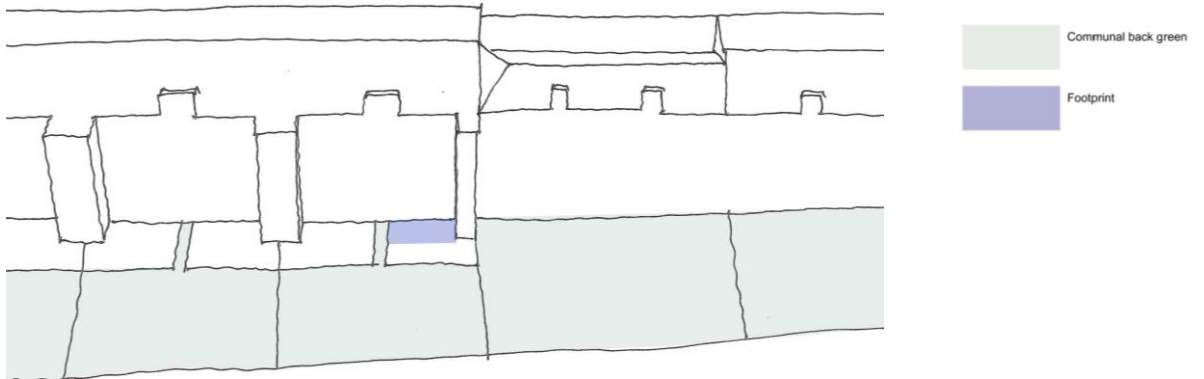
Marchmont Road/ Crescent: Communal back greens and private garden analysis



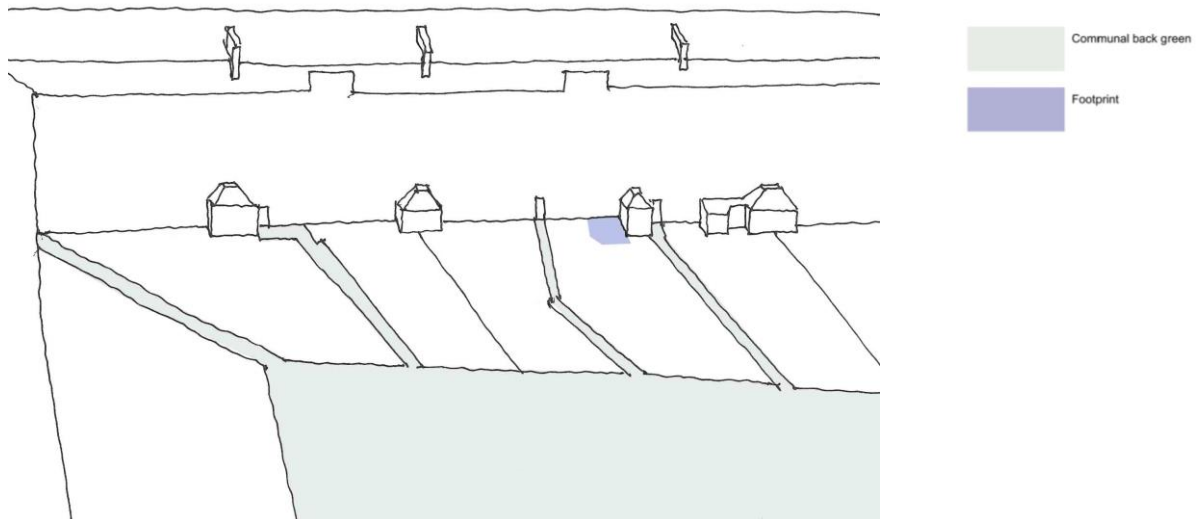
Spottiswoode Road/ Thirlestane Road: Communal back green and private garden analysis

**Fig 2. Extension footprints**

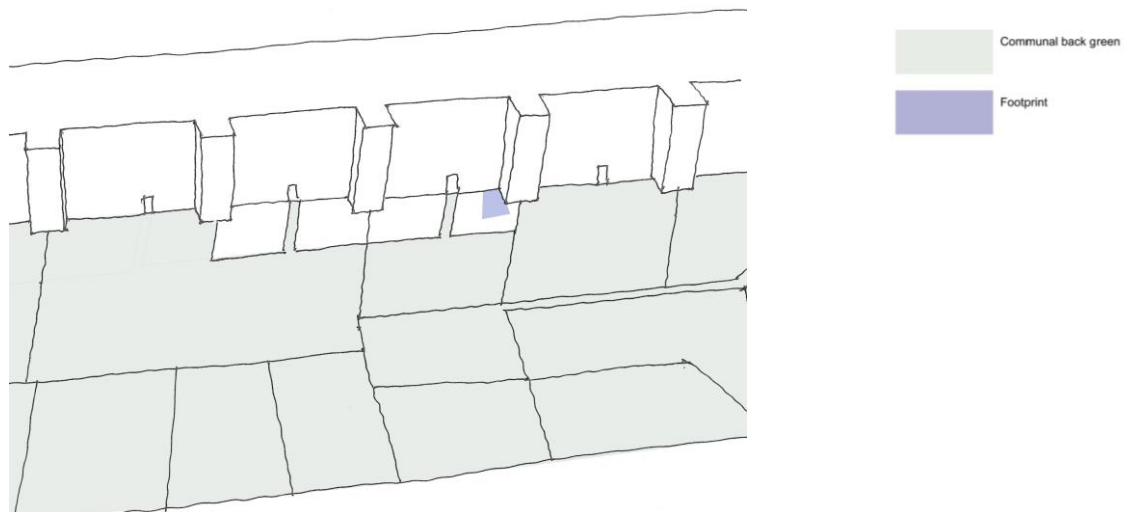
The following diagrams show that the footprints of each proposal do not affect the common back greens:



19 Thirlestane Road, Approved application 14/02018/FUL



105 Marchmont Road, Approved application 21/02844/FULL



42 Arden Street Application



Where main door flats have private rear gardens, there are many examples in Marchmont and across Edinburgh, which describe the overall character, informal nature and variety of extensions to the rear of tenements.



Marchmont Crescent Examples (Listed)



Marchmont Crescent Examples (Listed)



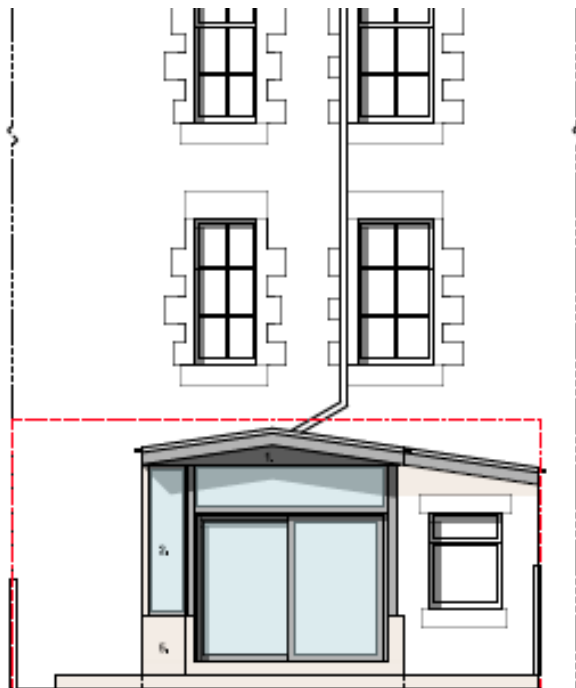
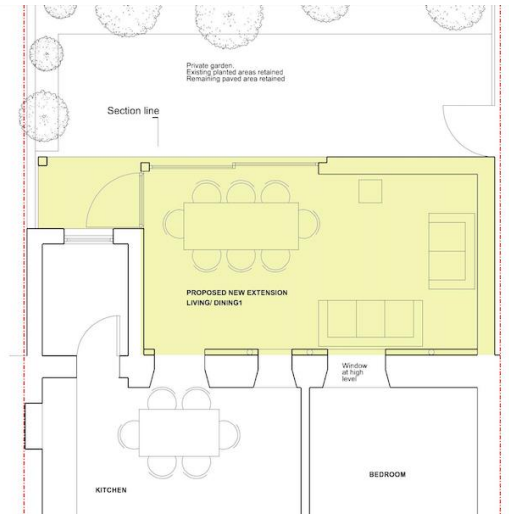
Marchmont Crescent Examples



**Relevant Marchmont Examples**



19 Thirlestane Road Marchmont, approved application 14/02018/FUL, Completed image and Planning drawing



105 Marchmont Road (Listed)  
approved application 21/02844/FULL



33 Warrender Park Terrace

### 3. Proposal Summary

The proposals extend the flat to the rear, altering the existing kitchen and utility room to create a more generous kitchen, dining and family space. The alteration will improve the functional and spatial quality to the rear of the property, extending the kitchen dining space to be more generous and open in its relationship to the outside Garden. The flat has notable existing architectural qualities, including well-proportioned rooms, decorative cornicing, architraves to panelled doors and original fireplaces to the living and bedrooms. However, the kitchen, utility, and private garden are currently not conducive to the modern needs for family living including connection with the outside and opportunity for sun, daylight, and fresh air. So, the good spaces and architectural details are retained and conserved, while the rear elevation is altered in a way which considers the needs of modern family living and so ensures the property, and neighbourhood will continue to be valued.

### Design Summary

The form of the family extension is designed to be visually calm, as a modern and refined alteration, carefully considered to allow the flat to connect with the private garden and to capture sun and daylight. The roof of the new extension has shallow pitch to allow drainage to be picked up to the west side and to capture good natural light to the south by a high-level window to the south



Proposal Sketch



**Access**

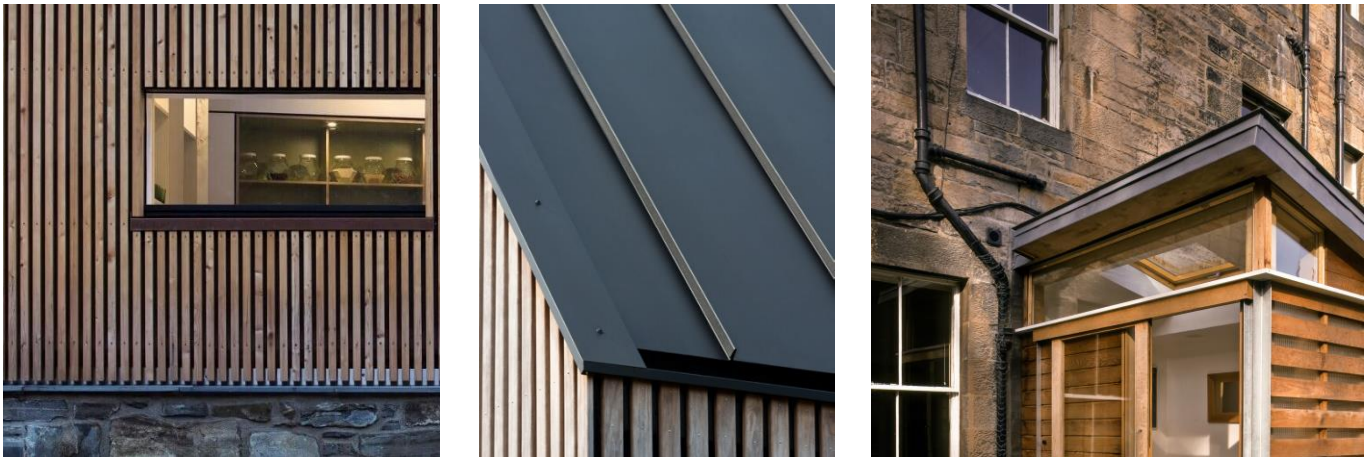
There is no change to the current access provision.

**Sunlight and Daylight.**

We have considered, and the proposals comply with the homeowner's guidance for protecting sunlight and daylight to the relevant neighbours.

**Materials**

All materials of construction are high quality, sustainable, carefully detailed and in keeping with the context of the traditional tenement materials and designed to be appropriate to the garden setting. The external walls are chosen to be materially warm and finished in appropriately graded and durable Siberian Larch timber cladding. The roof finish is a lead grey metal standing seam finish. New gutters and downpipes match the roof finish and material.



Siberian larch cladding, standing seam roof finish and triple glazed sliding doors

**Garden**

Space is provided to allow clothes drying as well as outdoor seating and planting. The existing predominance of hard surfacing will be replaced to make a garden which maximises and introduces diverse planting and introduces a free draining, sustainable drainage system throughout.

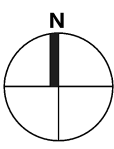
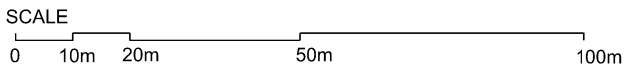
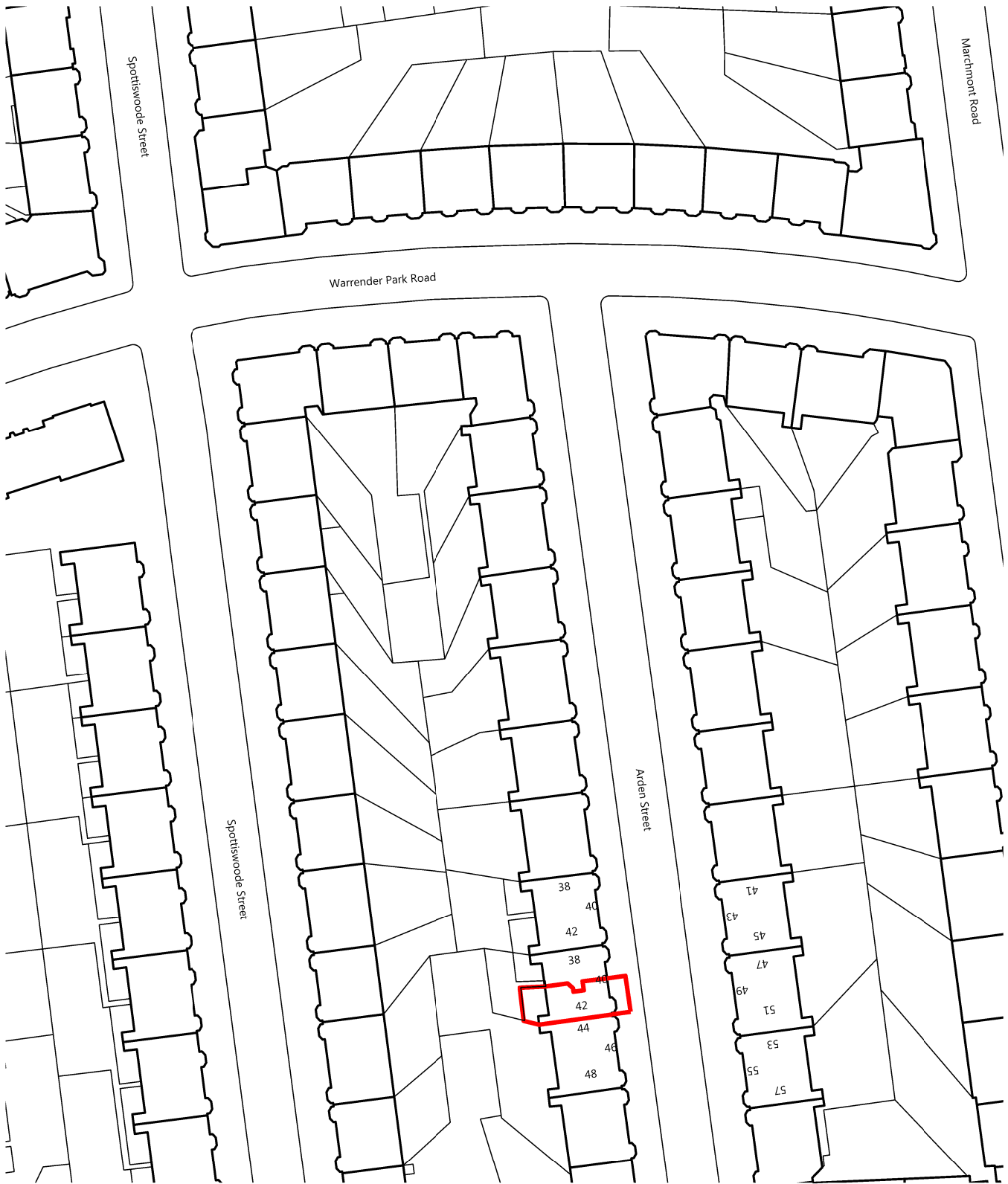


**Sustainability**

Edinburgh Local Development Plan, Climate Change

*'Scottish Planning Policy (SPP) also requires development plans to ensure that the siting, design and layout of all new development will limit likely greenhouse gas emissions'.*

The existing and historic buildings in the city must work effectively, appropriately, and efficiently in order to meet the aims of the ELDP. Marchmont is a dense residential neighbourhood with a thriving local community and the mix of student accommodation to family accommodation may be returning to a more appropriate balance. Edinburgh City Plan encourages family living in the city, well connected to a sustainable transport infrastructure, schools and services as well as workplaces and reducing car dependency. The model of altering tenement flats in the city centre is essential to avoid families moving outwards, just as the Quarter mile, Craigmillar or Fountainbridge are successfully working towards. While Marchmont has an important historic value, it will be conserved where it is allowed to be carefully and sustainably altered, in terms of its fabric to reduce carbon emissions, but also through the way in which families are able to live in a vibrant, dense, and efficient way within the city centre.



057 Mpre Existing\_SITE

<b>Calum Duncan Architects</b> Officer's Club The Drill Hall, 30-36 Dalmeiy Street, Edinburgh, EH6 8RG calum@calumduncan.com www.calumduncan.com		REVISION	NOTE	DATE
CAROL + MICHAEL CERDAN 42 ARDEN STREET, EDINBURGH EH9 1BW		SCALE	1:1250 @ A4	20.10.2020
drawing no. 068 L (EX) 00		LOCATION PLAN		
REV -		FOR PLANNING PURPOSES ONLY		

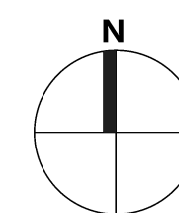
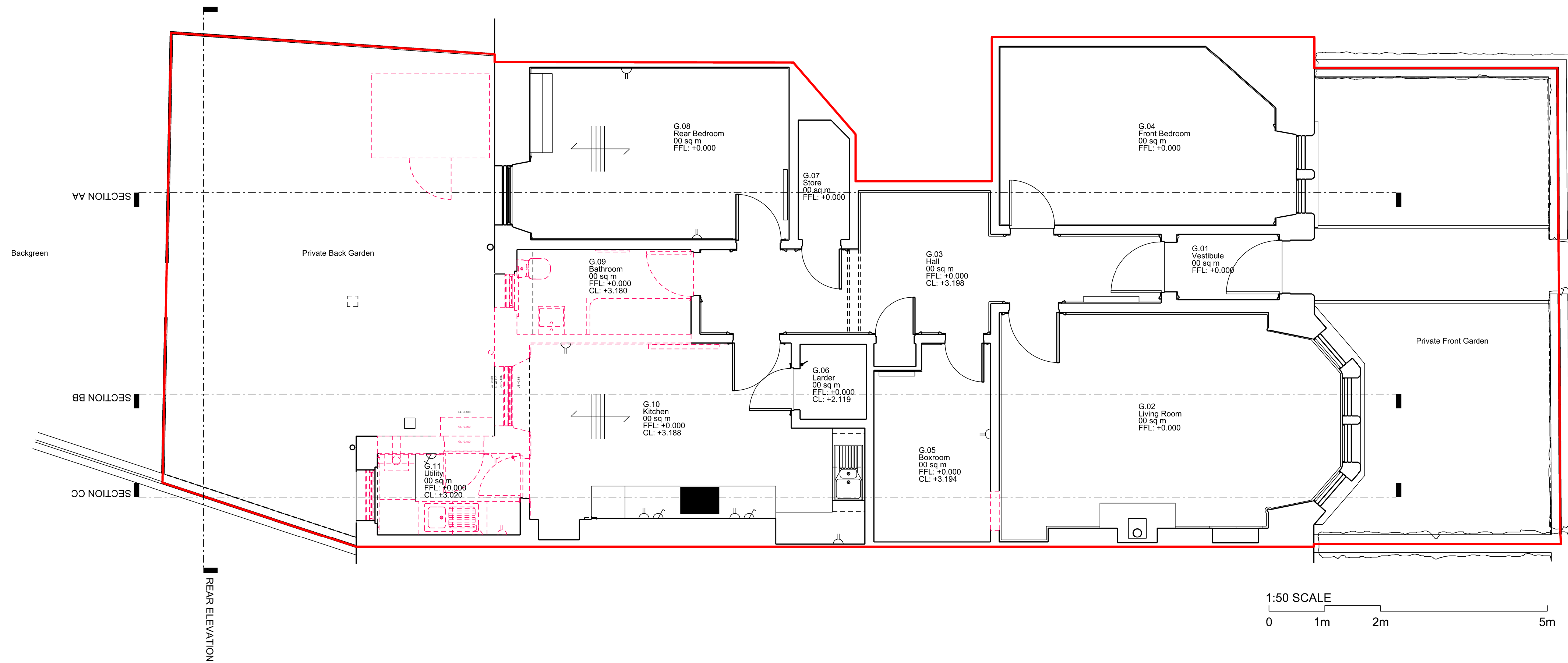
NOTES

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- 2 All dimensions to be checked on site: notify the architect immediately of any discrepancies from dimensions noted on the drawings
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1 Key Residual Risk  
Refer to Calum Duncan Architects risk hazard identification information.

- Yellow denotes new works
- Boundary
- Removals dotted



Calum Duncan Architects  
Office: 3 Clack, The DHB Hall, 35-36 Darnley Street, Edinburgh, EH6 6RG  
mail@calumduncan.com www.calumduncan.com

CAROL + MICHAEL CERDAN  
42 ARDEN STREET,  
EDINBURGH  
EH9 1BW

068 L(EX) 01 | REV -

REVISION	NOTE	DATE
SCALE	1:50 @ A1, 1:100 @ A3	00.00.2019

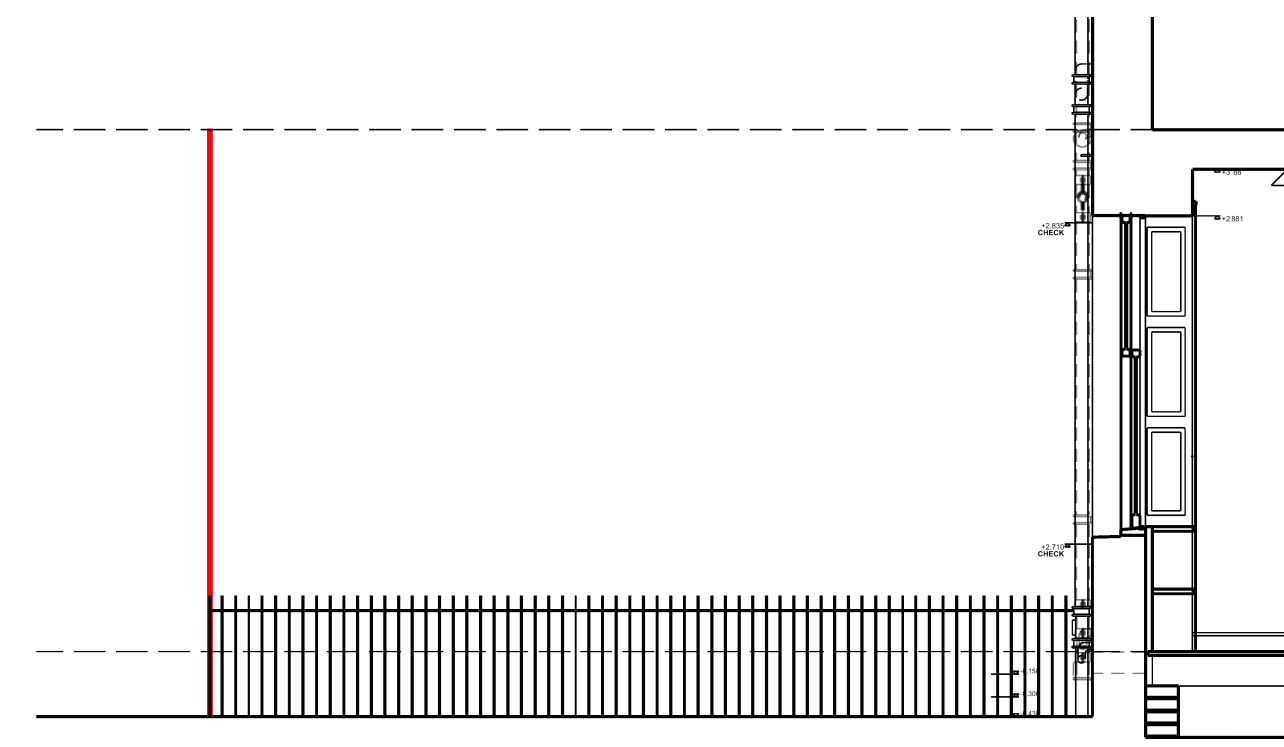
EXISTING PLANS, ELEVATIONS, SECTIONS

FOR PLANNING PURPOSES ONLY

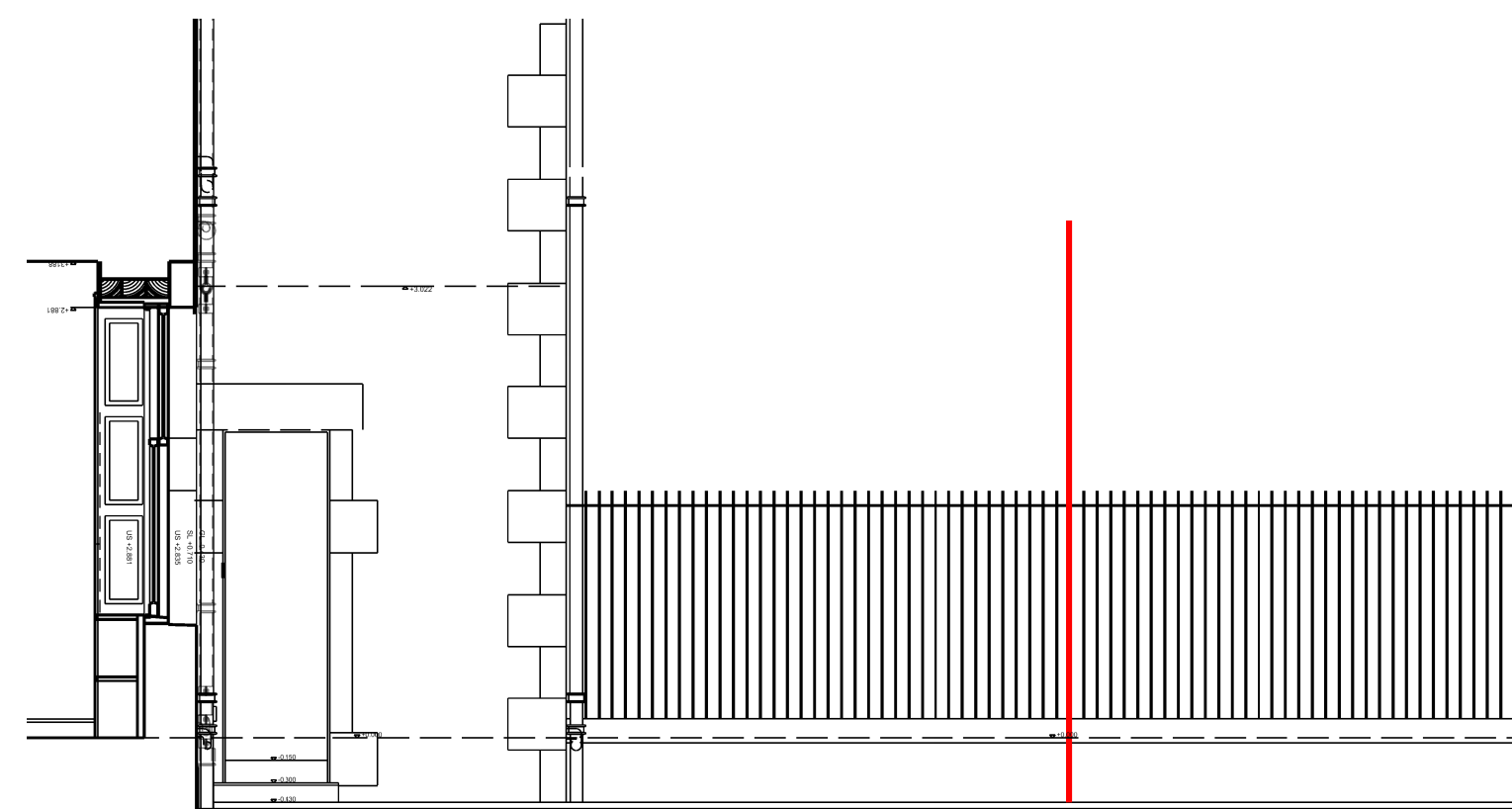
NOTES



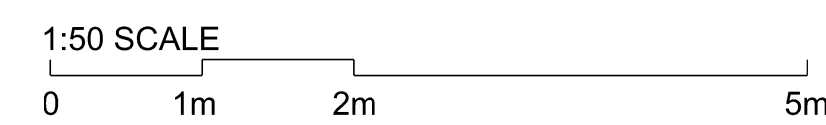
EXISTING WEST ELEVATION



EXISTING SOUTH ELEVATION




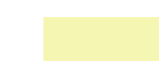


EXISTING NORTH ELEVATION



NOTES

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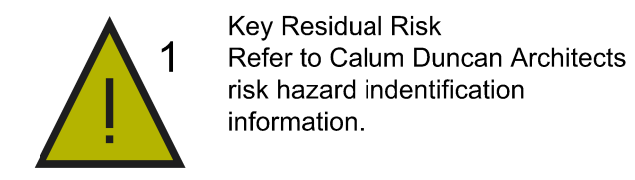

**1** Key Residual Risk  
 Refer to Calum Duncan Architects risk hazard identification information.

-  Yellow denotes new works
-  Boundary
-  Removals dotted



**NOTES**

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- 5 The issue of this drawing in cad DWG file format does not constitute a formal issue of our drawing

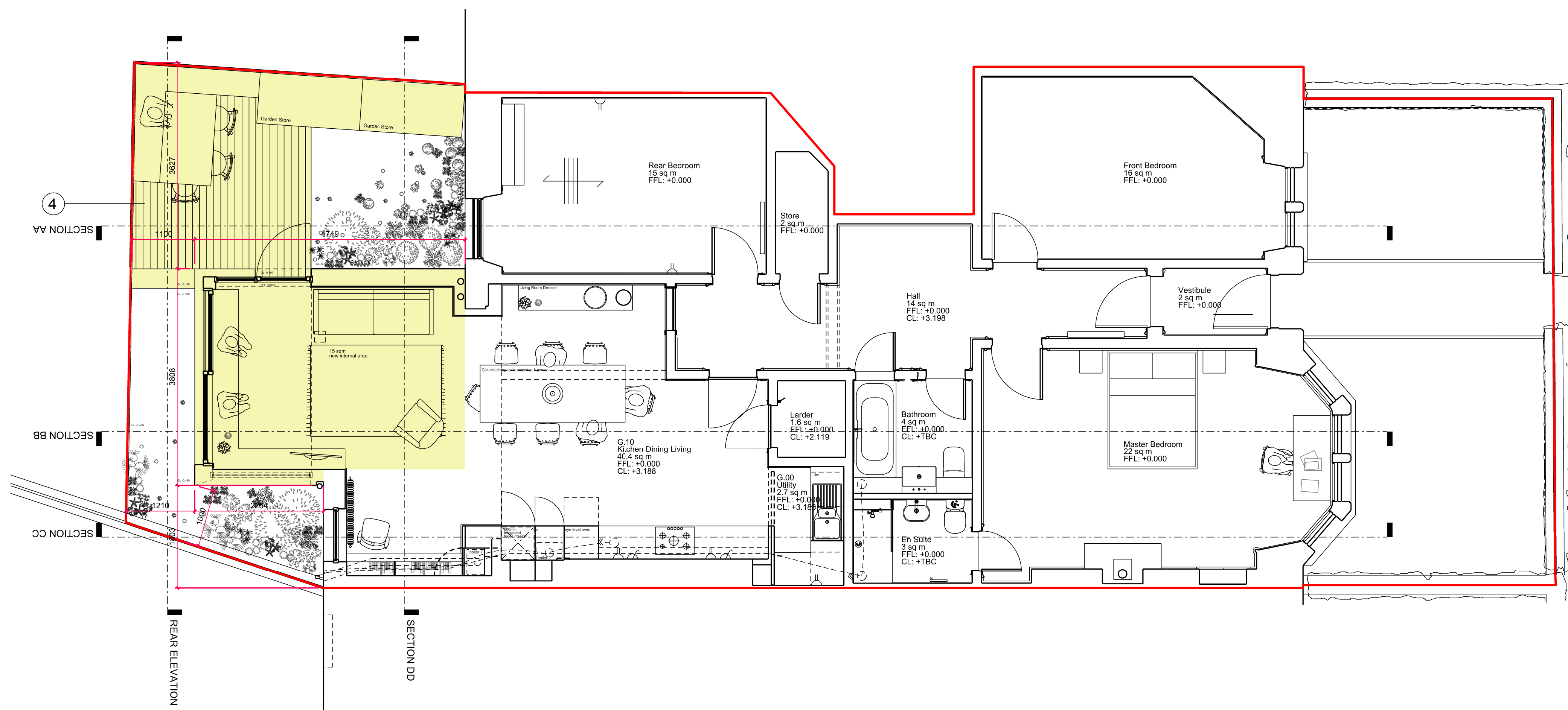


- Yellow denotes new works
- Boundary
- Removals dotted

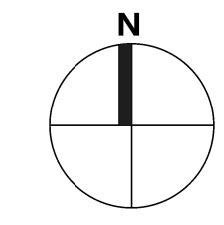
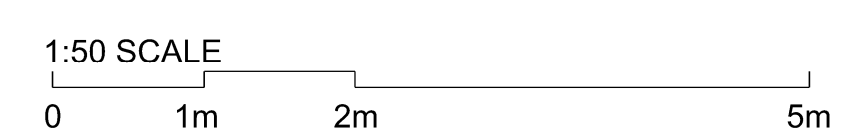
- PROPOSED KEY:**
- ① New timber cladding
  - ② New metal standing seam roof and gutter
  - ③ New fully glazed painted timber doors + windows
  - ④ New timber decking



**PROPOSED ROOF PLAN**



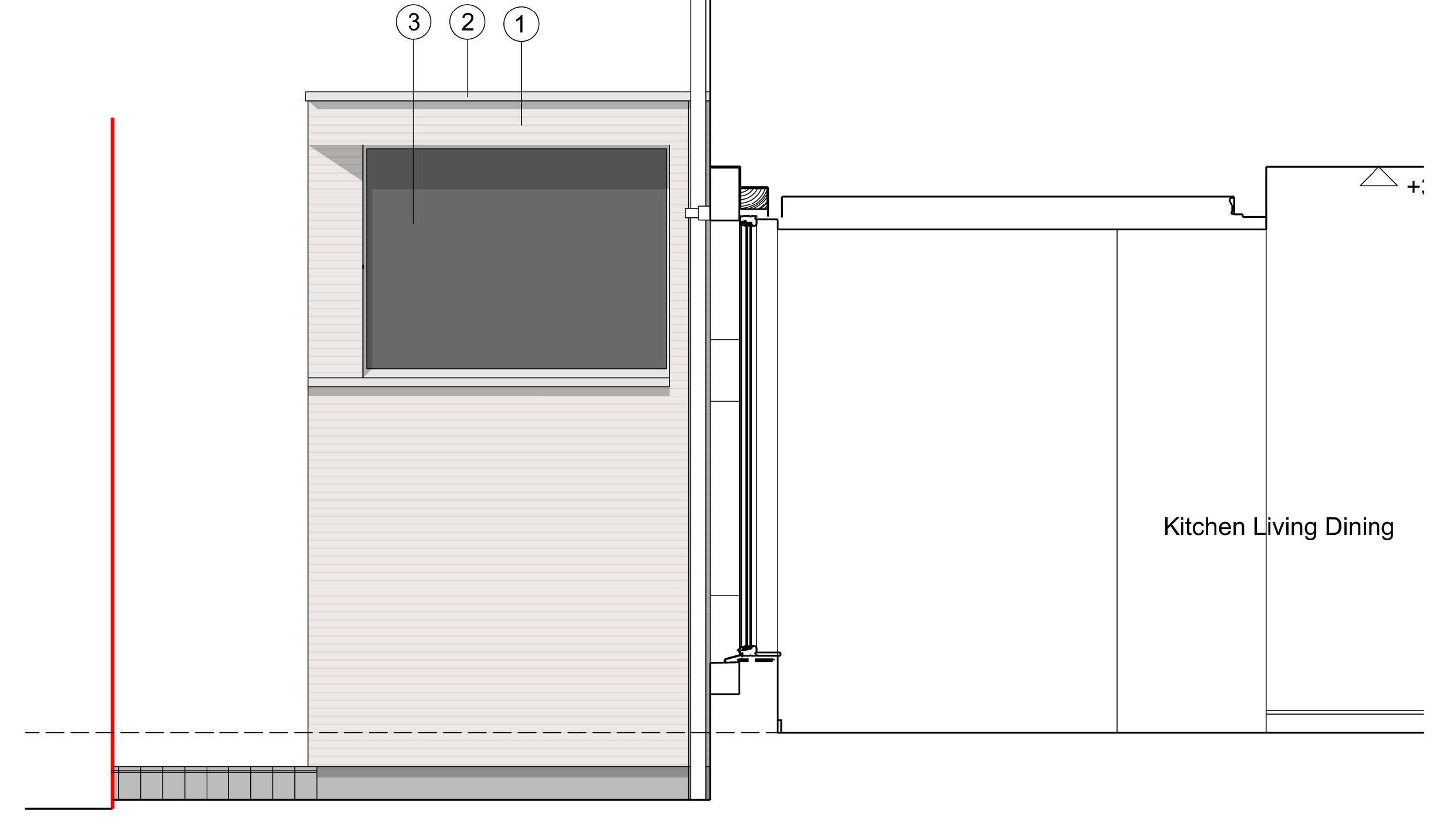
**PROPOSED FLOOR PLAN**



<b>Calum Duncan Architects</b> Offices: 10, The Drib Hall, 30-36 Darnley Street, Edinburgh, EH6 6RG mail@calumduncan.com www.calumduncan.com		REVISION SCALE 1:50 @ A1	NOTE 1:50 @ A1	DATE 17.02.2021
CAROL + MICHAEL CERDAN #2 ARDEN STREET, EDINBURGH EH9 1BW		<b>PROPOSED FLOOR + ROOF PLAN</b>		
<b>068 L(GA) 01</b>		REV -	<b>FOR PLANNING PURPOSES ONLY</b>	



PROPOSED WEST ELEVATION

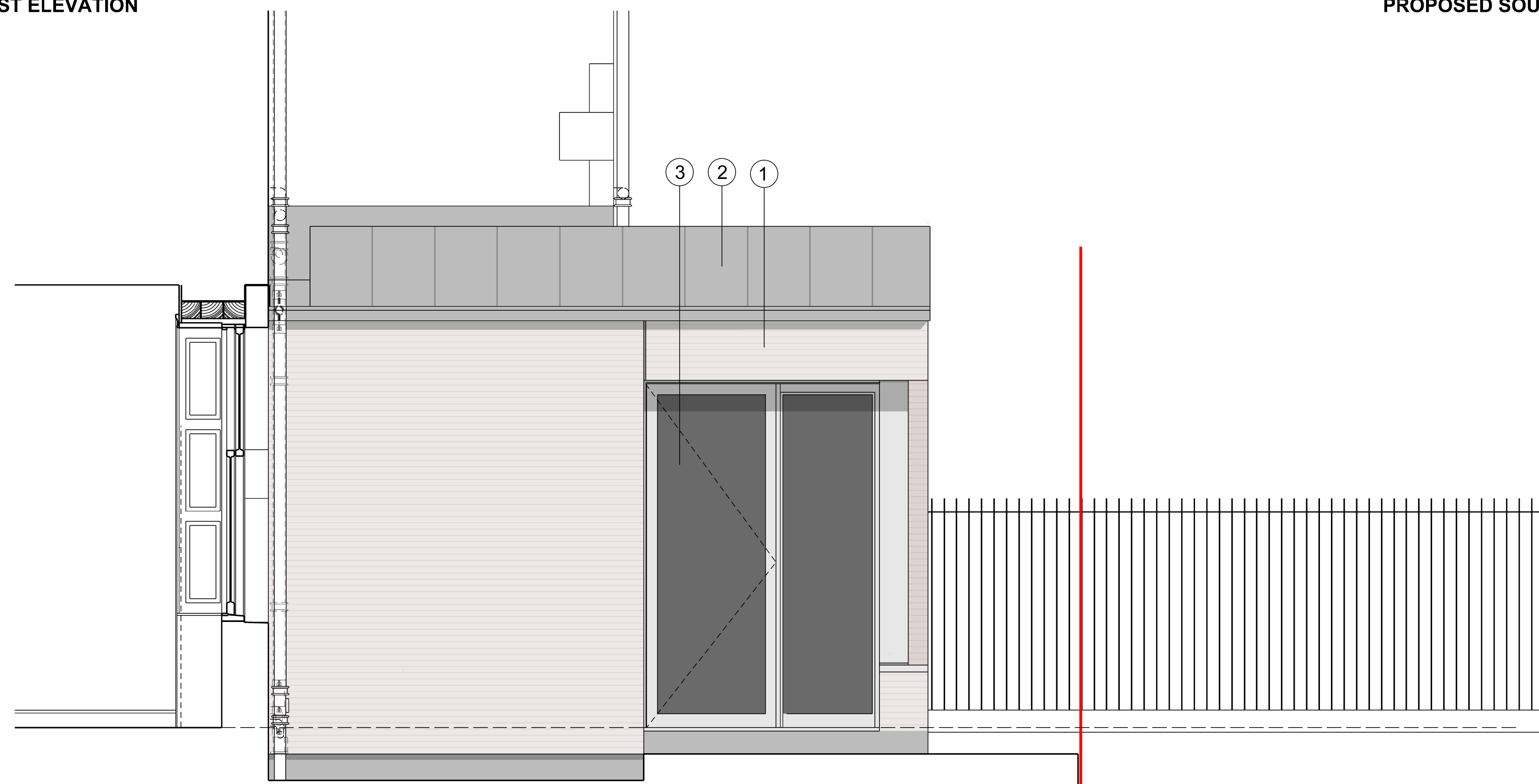


PROPOSED SOUTH ELEVATION

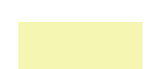
**NOTES**


- 1 This drawing to be read in conjunction with all structural and services engineers drawings, and with reference to architects and engineers specification
- 2 All dimensions to be checked on site: notify the architect immediately of any discrepancies from dimensions noted on the drawings
- 3 Do not scale drawings
- 4 This drawing is the copyright of Calum Duncan Architects LTD. Registered in Scotland no SC516826
- 5 The issue of this drawing in cad DWG file format does not constitute a formal issue of our drawing


**1** Key Residual Risk  
Refer to Calum Duncan Architects risk hazard identification information.







PROPOSED NORTH ELEVATION

 Yellow denotes new works or coloured as material

 Boundary

 Removals dotted

- PROPOSED KEY:
-  New timber cladding
  -  New metal standing seam roof and gutter
  -  New fully glazed painted timber doors + windows
  -  New timber decking

1:50 SCALE

0 1m 2m 5m

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	SCALE	1:25 @ A1/ 1:50 @ A3	08.07.2021
CAROL + MICHAEL CERDAN 42 ARDEN STREET, EDINBURGH EH9 1BW	PROPOSED ELEVATIONS		
068 L(GA) 02	REV -	FOR PLANNING PURPOSES ONLY	