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46/ 2
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Decision date: 14 June 2022

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

Erection of single storey garage and alteration to public footpath to provide access.
At Flat 2 46 Saughton Park Edinburgh EH12 5TQ

Application No: 22/01934/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 8 April 2022, this has been decided by **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:-

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

Drawings 01-04, 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:

Owing to its substandard length, vehicles parked on the proposed driveway in front of the proposed garage may not be able to be fully drawn in and if not, they would overhang the adjacent public footway causing an obstruction and a potential hazard to pedestrians using the footway, contrary to the Council's approved non-statutory Guidance for Householders, November 2021. For this reason, the proposed driveway does not accord with the principle of the SPP of 'supporting design and the six qualities of successful place' of which one of the six qualities is easy to move around.

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 Thomson directly at adam.thomson@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision of the planning authority 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 appeal to the Scottish Ministers under section 47 of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The appeal can be made online at www.eplanning.scot or forms can be downloaded from that website and sent to the Planning and Environmental Appeals Division, 4 The Courtyard, Callendar Business Park, FALKIRK FK1 1XR.
2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, 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 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 in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

**Application for Planning Permission
Flat 2 46 Saughton Park, Edinburgh, EH12 5TQ**

Proposal: Erection of single storey garage and alteration to public footpath to provide access.

**Item – Delegated Decision
Application Number – 22/01934/FUL
Ward – B06 - Corstorphine/Murrayfield**

Recommendation

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

Summary

Owing to its substandard length, vehicles parked on the proposed driveway in front of the proposed garage may not be able to be fully drawn in and if not, they would overhang the adjacent public footway causing an obstruction and a potential hazard to pedestrians using the footway, contrary to the Council's approved non-statutory Guidance for Householders, November 2021. For this reason, the proposed driveway does not accord with the principle of the SPP of 'supporting design and the six qualities of successful place' of which one of the six qualities is easy to move around.

Given that a vehicle parked on the proposed driveway could overhang the adjacent public footway, causing an obstruction and a potential hazard to pedestrians using the public footway, and that visually impaired people are more likely than non-visually impaired people to be at risk from said obstruction and hazard, the proposed driveway conflicts with section 149 of the Equalities Act 2010.

SECTION A – Application Background

Site Description

An upper flat within a two-storey, modern semi-detached cottage flatted block, located on the corner of Saughton Park and Saughton Park South. The property is not located within a conservation area.

Description Of The Proposal

Erection of detached garage and formation of hardstanding.

Relevant Site History

No relevant site history.

Other Relevant Site History

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 14 June 2022

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 1

Section B - Assessment

Determining Issues

This report will 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 proposals comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Design policies Des 12.

The non-statutory Householder Guidance is a material consideration that is relevant when considering policy Des 12.

Scale, form, design and neighbourhood character

The proposed garage is of an acceptable scale, form and design and is compatible with the existing dwelling and the surrounding area.

To facilitate the proposed development a tree within the garden of the property would have to be felled. That tree is small and makes little contribution to the landscape character of the area. The loss of the tree would not harm the character and amenity of the street and thus is acceptable in planning terms.

Neighbouring Amenity

With respect to privacy, overshadowing and loss of daylight or sunlight, the proposed garage has been assessed against requirements set out in the non-statutory 'Guidance for Householders'. The proposed garage would not result in any unreasonable loss to neighbouring amenity. Neither would the proposed driveway result in loss of privacy to any neighbouring property.

Transportation Matters

The Council's Guidance for Householders, November 2021, states that garages or car-ports must have at least a 6 metre driveway in front to allow vehicles to draw in completely off-street. The proposed driveway is 4.64 metres long and thus falls short of the minimum length. Owing to the substandard length of the driveway, if a vehicle parked on it could not be fully drawn in, the vehicle would consequently overhang the adjacent public footway, causing an obstruction and a potential hazard to pedestrians using the footway.

Conclusion in relation to the Development Plan

The proposed garage is compatible with both the existing building and neighbourhood character and would not result in an unreasonable loss of neighbouring amenity.

However, owing to its substandard length, vehicles parked on the proposed driveway in front of the proposed garage may not be able to be fully drawn in and thus would overhang the adjacent public footway causing an obstruction and a potential hazard to pedestrians using the footway, contrary to the Council's approved non-statutory Guidance for Householders, November 2021. The applicant was advised to submit a revised proposal showing the proposed garage positioned further back from the public road to facilitate the lengthening of the proposed driveway to the minimum length of 6 meters. A revised proposal was not submitted.

b) 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.

Given that the driveway has the potential to cause an obstruction on a public footway and a consequent hazard to pedestrians using it, it conflicts with the principle of the SPP of 'supporting design and the six qualities of successful place' as one of the six qualities is easy to move around.

The proposal does not conflict with the other principles set out in paragraph 29 of SPP.

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

Given that a vehicle parked on the proposed driveway could overhang the adjacent public footway, causing an obstruction and a potential hazard to pedestrians using the public footway, and that visually impaired people are more likely than non-visually impaired people to be at risk from said obstruction and hazard, the proposed driveway conflicts with section 149 of the Equalities Act 2010.

Consideration human rights 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 representation was received, which is from a neighbour objecting to the application.

material considerations

- loss of light - addressed in section a)
- loss of privacy - addressed in section a)

non-material considerations

- Does not comply with current Building Standards regulations. Building Standards matters are considered under legislation other than planning legislation.
- Insufficient space between proposed garage and boundary with neighbouring property to allow maintenance. - Access for maintenance is not a material planning consideration.

- would result in drainage problems. This is a Building Standards matter and not a planning matter.

Conclusion in relation to identified material considerations

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

Overall conclusion

Owing to its substandard length, vehicles parked on the proposed driveway in front of the proposed garage may not be able to be fully drawn in and if not, they would overhang the adjacent public footway causing an obstruction and a potential hazard to pedestrians using the footway, contrary to the Council's approved non-statutory Guidance for Householders, November 2021. For this reason, the proposed driveway does not accord with the principle of the SPP of "supporting design and the six qualities of successful place" of which one of the six qualities is easy to move around.

Given that a vehicle parked on the proposed driveway have the potential to overhang the adjacent public footway, causing an obstruction and a potential hazard to pedestrians using the public footway, and that visually impaired people are more likely than non-visually impaired people to be at risk from such an obstruction and hazard, the proposed driveway conflicts with section 149 of the Equalities Act 2010.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 8 April 2022

Drawing Numbers/Scheme

01-04

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Adam Thomson, Planning Officer
E-mail: adam.thomson@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 22/01934/FUL

Application Summary

Application Number: 22/01934/FUL

Address: Flat 2 46 Saughton Park Edinburgh EH12 5TQ

Proposal: Erection of single storey garage and alteration to public footpath to provide access.

Case Officer: Householder Team

Customer Details

Name: Mr Derek Brown

Address: 40/1 Saughton Park Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: From the plans produced and submitted by HAB Architecture Ltd on behalf of Mr Florin Popa 46/2 Saughton Park, Edinburgh, EH12 5TQ. I refer you to:

- Drawing Titled: Floor & Roof Plans as Proposed; Dwg No: 2201-D102; Dated: 31/02/2022 @ Scale 1:50
- Drawing Titled: Section A-A as Proposed; Dwg No: 2201-D301; Dated: 31/03/2022 @ Scale 1:50.
- Drawing Titled: Elevations as Proposed; Dwg No: 2201-D201; Dated: 31/03/2022 @ Scale 1:50

All drawings show the proposed garage structure positioned 300 mm from the boundary line shown in hidden detail. This being the case, then the intention is to construct this proposed new garage structure 300 mm from said boundary line between properties 40 and 42 Saughton Park.

On drawing 2201-D102 there is a note stating 'boundaries to be agreed on site with neighbouring properties ahead of works commencing'. This is an interesting statement as the boundaries are already established and referred to in the Feu Disposition document of which I have a copy of the original survey plan drawn up by the 'The City of Edinburgh District Council Department of Economic Development and Estates'.

On drawing 2201-D201 I note that Side Elevation (North West) as Proposed is to be finished with roughtcast on the external face. I question how this is going to be achieved within what is less than a 300 mm space?

I wish to lodge an objection to this structure being built in this position on the following grounds:

- i) Non-compliance with Building Regulations.

- ii) Space requirements for maintenance purposes (garage, timber boundary fence and perimeter ground management).
- iii) Blockage of natural daylight to windows. (Daylighting, Sunlight & Privacy)
- iv) Structural footprint - anticipated ground saturation and drainage problems.

When I applied for planning permission to build my garage, I was informed by the City of Edinburgh Planning Department, in order to comply with Building Regulations, I would be required to place any new structure (garage) at least 1m away from the boundary.