

Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
36 Regent Street, Edinburgh, EH15 2AX.**

Proposal: Replacement of an existing outbuilding at the rear of the garden with a new garden room structure (as amended).

**Item – Committee Decision
Application Number – 21/06643/FUL
Ward – B17 - Portobello/Craigmillar**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as it has received more than six material representations in objection and the recommendation is to approve planning permission.

Recommendation

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

Summary

The application for development is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with relevant policies contained within the Edinburgh Local Development Plan and the relevant non-statutory guidance. It is compatible with and has special regard to the desirability of preserving the building and its setting, preserves the character and appearance of the conservation area and has no adverse impact on neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site contains a detached, stone-built, Georgian bungalow on the north-west side of Regent Street. The ground floor is elevated and accessed via a number of steps to the front. It has a long rear garden, with a brick-built outbuilding in the northern corner of the site. The rear curtilage is bounded by stone walls and hedges.

The Georgian bungalow is a statutory C listed building (14.12.1970) ref.27624; the outbuilding is within the curtilage of the listed building.

The application site is located within Portobello Conservation Area.

Description of the Proposal

The proposal is for the erection of a garden room in place of an existing outhouse in the rear garden.

Scheme 2 introduces screw piles to the foundations of the garden room to alleviate excavation impacts on trees and a Heritage Statement with regards to the outbuilding's history.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 31 October 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 14 January 2022.

Site Notices Date(s): 11 January 2022.

Number of Contributors: 23

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals?
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- b) 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):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

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 harm the listed building and its setting?**

The following HES guidance is relevant in the determination of this application:

- Demolition of Listed Buildings
- Conservation Areas
- Setting

Historic Environment Scotland's Managing Change - Demolition of Listed Buildings states that demolition of listed buildings should be avoided, wherever possible. The demolition of a listed building requires to be fully considered and justified.

A heritage statement has been submitted which indicates that the building may not have been erected at the same time as the main property. It has been subject to alterations and no longer has its original fenestration. The heritage statement identifies the presence of rising damp and it would appear that water ingress has caused deterioration of the roof, including the joists.

It is constructed of brick and render and is very plainly detailed internally. Its modest scale and relatively basic form, create a building of limited architectural merit, distinct from the more elegant design and appearance of the main property.

In these circumstances, having particular regard to the restricted architectural and locational connection between the main building and the outbuilding and its relatively poor structural condition, it is concluded that it makes a very limited contribution to the special interest of the building.

The proposed replacement would represent a suitable development within the site and would clearly be read as a distinct, modern addition. It would be an appropriate design and would be of similar size and scale to the existing building. The sensitive design, use of materials and location would ensure it would not compete with the architectural merits and setting of the host property.

By virtue of its subservient size, scale and location within the rear curtilage, the works would not have a detrimental impact on the historical architectural features of the host property. The proposal would not adversely impact on the special architectural or historic interest of the listed building or any adjacent listed buildings.

Conclusion in relation to the listed building

The proposed works are acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals impact on the character or appearance of the conservation area?

The Portobello Conservation Area Character Appraisal emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high quality architecture, and the predominant use of traditional building materials.

The proposed works are entirely within the enclosed rear garden of the application site. As set out above, the design is modest and unassuming and would not form an obtrusive or unsympathetic addition. By virtue of this and the partial screening afforded by the stone wall, the development would not be readily visible from the public realm.

The form, scale and location of the proposal would ensure that it would have no adverse effect on the character and appearance of the conservation area.

Conclusion in relation to the conservation area

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) 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 Policies Env 3, Env 4, Env 6 and Env 12.
- LDP Design Policies Des 1 and Des 12.

The non-statutory 'Listed Buildings and Conservation Area' and 'Guidance for Householders' are material considerations that are relevant when considering the aforementioned policies.

Principle

The principle of the proposal is acceptable in that the works would be incidental in nature to the main dwelling. The proposal is for operational development only and is not for a change of use.

Size, Scale and Design

The proposal is of a domestic size, scale and design and would be comparable with the footprint of the existing outhouse. The overall design and materials proposed would represent congruous additions to the application site.

The proposal would not represent overdevelopment by virtue of it complying with the relevant criterion within the non-statutory Guidance for Householders. The works would have a subservient and subordinate relationship with the host property and would not have a detrimental impact on its character. It would form a compatible addition that would have no adverse effect on the character and appearance of the conservation area.

The proposal complies with LDP Policies Des 1, Des 12, Env 3, Env 4 and Env 6.

Amenity

The proposals have been assessed against the criteria set out in the non-statutory Guidance for Householders to ensure there is no unreasonable loss to neighbouring amenity with respect to privacy, overshadowing, loss of daylight or sunlight.

In terms of daylight, the proposal complies with the 45 degree criterion within the guidance.

In relation to privacy, the proposed south-west facing windows of the outhouse would be less than the recommended 9 metres to the nearest boundary. However, the window would look upon the boundary wall between 36 and 34 Regent Street and would offer no opportunity for overlooking and loss of privacy.

An assessment of the impact of the development on neighbouring sunlight has confirmed that no additional area of overshadowing would be created.

The proposal complies with LDP Policy Des 12 and the relevant non-statutory guidance.

Trees

Concern was raised in respect of the development's impact on nearby trees. The application was amended with the introduction of screw piles to ensure that the trees would be protected from any adverse effects of normal foundations. A condition has been attached to protect the trees during the construction of the development.

The proposal complies with LDP Policy Env 12.

Conclusion in relation to the Development Plan

d) 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 complies with Paragraph 29 of SPP.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

Twenty-three representations were received; twenty one in objection, one neutral and one in support. A summary of the representations is provided below:

material considerations

Impact on listed building; this is addressed in sections a) and c).

Size and scale; this is addressed in sections a), b) and c).

Materials; this is addressed in sections a), b) and c).

Privacy; this is addressed in section c).

Sunlight; this is addressed in section c).

Trees; this is addressed in section c).

non-material considerations

Precedent; this is not a material planning consideration.

Conclusion in relation to identified material considerations

These have been addressed above.

e) Overall conclusion

The application for development is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with relevant policies contained within the Edinburgh Local Development Plan and the relevant non-statutory guidance. It is compatible with and has special regard to the desirability of preserving the building and its setting, preserves the character and appearance of the conservation area and has no adverse impact on neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. The proposed garden room is to be erected on ground screws as indicated on approved drawing (05A) to limit the excavation and ground disturbance.
3. Prior to works, including demolition, commencing the tree protection fencing and measures as described in the 7th March 2022 Proposed Plan drawing (05A) shall be implemented and maintained in full until the completion of development and that within the tree protection area no ground level changes take place.

Reasons:-

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to protect the roots of adjacent trees.
3. In order to protect the adjacent trees.

Informatives

It should be noted that:

1. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
2. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 17 December 2021

Drawing Numbers/Scheme

01,02a,03a,04,05a,06a,07-10

Scheme 2

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

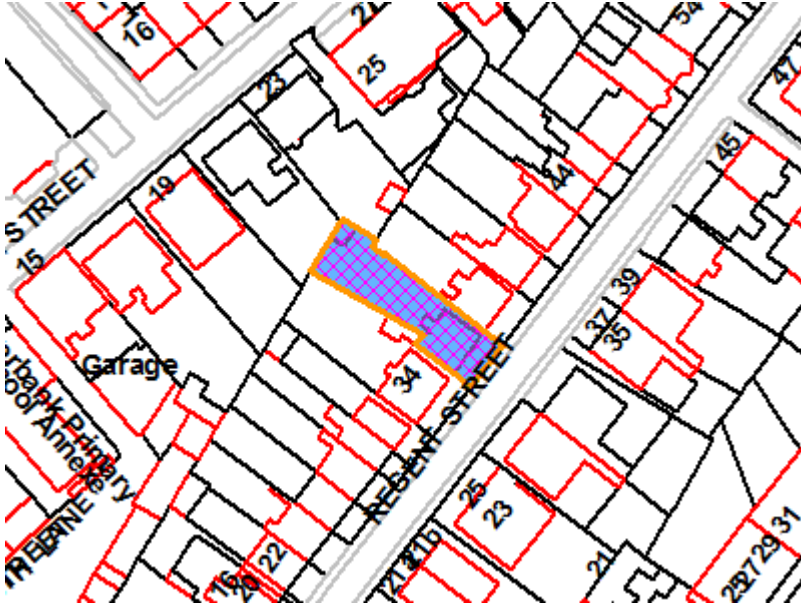
Contact: Conor MacGreevy, Planning Officer
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Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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