

Gregory Favier.  
19 Inveralmond Drive  
Edinburgh  
EH4 6JX

**Decision date: 4 July 2023**

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

The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

At 19 Inveralmond Drive Edinburgh EH4 6JX

**Application No:** 23/00418/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 28 February 2023, 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;

**Reason for Refusal:-**

1. The proposal is contrary to the Local Development Plan Policy Env 12 in respect of trees, as the works are likely to result in unacceptable damage to protected trees or other trees worthy of retention.
2. The proposal is contrary to the Local Development Plan Policy Env 18 in respect of open space, as the works will result in an unacceptable loss of open space.

3. The proposal is contrary to National Planning Framework Policy 20 as it would result in the loss of existing green infrastructure resulting in a deficit in green infrastructure provision.

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

Drawings 01, 0201, 02, 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 are acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposed works to the dwelling will preserve the character and appearance of the conservation area and built features which contribute to character.

Whilst the proposals are compatible with the development plan in terms of the climate and nature crisis, heritage, design, amenity and the green belt, the application will result in an unacceptable loss of open space, and is likely to have a damaging impact on a number of trees that are either protected or worthy of retention without suitable arboricultural justification. The proposals do not comply with the Development Plan and as there are no material considerations that indicate otherwise it is recommended that this application is refused.

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 James Armstrong directly at [james.armstrong@edinburgh.gov.uk](mailto:james.armstrong@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.

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# Report of Handling

**Application for Planning Permission  
19 Inveralmond Drive, Edinburgh, EH4 6JX**

**Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.**

**Item – Local Delegated Decision  
Application Number – 23/00418/FUL  
Ward – B01 - Almond**

## **Recommendation**

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

## **Summary**

The proposals are acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposed works to the dwelling will preserve the character and appearance of the conservation area and built features which contribute to character.

Whilst the proposals are compatible with the development plan in terms of the climate and nature crisis, heritage, design, amenity and the green belt, the application will result in an unacceptable loss of open space, and is likely to have a damaging impact on a number of trees that are either protected or worthy of retention without suitable arboricultural justification. The proposals do not comply with the Development Plan and as there are no material considerations that indicate otherwise it is recommended that this application is refused.

## **SECTION A – Application Background**

### **Site Description**

The application relates to a two storey house located in a predominantly residential area.

The eastern-most section of the application site and driveway are located within an area of designated Open Space, whilst the remaining area of the applications site is located within the Cramond Conservation Area and the Edinburgh Green Belt.

### **Description Of The Proposal**

The proposal seeks planning permission for the erection of perimeter fence around the entirety of the site along with access gates on the southern boundary leading onto Peggy's Mill Road and at the eastern edge of the site adjacent to Inveralmond Drive. The application is in part retrospective as several sections of the fence have already been constructed.

### **Supporting Information**

- Photos 1 - 4
- Title deed extract
- Tree Report and Survey 1
- Tree Report and Survey 2
- Tree work Decision Notice (REF: 22/05658/TCO)
- Ecological Site Survey

### **Relevant Site History**

22/05658/TPO  
19 Inveralmond Drive  
Edinburgh  
EH4 6JX  
T9 Horse Chestnut, dead - remove to ground level.  
Granted

21 December 2022

### **Other Relevant Site History**

No other relevant site history was identified.

### **Consultation Engagement**

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 4 July 2023

**Date of Advertisement:** 10 March 2023

**Date of Site Notice:** 10 March 2023

**Number of Contributors:** 12

## **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 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- 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 character or appearance of the conservation area?**

The section of the application site which is located within the Cramond Conservation Area is designated within the Conservation Area Character Appraisal as being within the river almond valley section of the spatial structure. The character appraisal highlights the important role which the river valley has in contributing to the conservation area stating:

*The section of the Almond valley within the Conservation Area is generally deeply incised and wooded. The sandstone rock structure is clearly visible and forms a significant feature. General views into the valley are contained by this topography as well as the meandering alignment of the river and the screening provided by the woodland extending beyond the ridgeline.*

The proposals will not result in harm to the character or appearance of the conservation area as the proposed fences and gates are to be constructed of timber which is a

suitable material; and is in keeping with the wooded character of the immediate surrounding area. The scale of the fence and gates is appropriate as high timber fences similar in form and scale to the proposal are typical of boundary treatments in the surrounding area, and the proposal will not have an adverse impact on views into the valley or the character and appearance of the conservation area.

The orientation of the proposed fences cannot reasonably be controlled by the planning regime.

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

The works will preserve the special character and appearance of the conservation area.

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

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

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF4 Policy 1
- NPF4 Policy 7d
- NPF4 Policy 7e
- NPF4 Policy 8
- NPF4 Policy 16g
- NPF4 Policy 20
- LDP Design policy Des 12
- LDP Environment policies Env 10, Env 12 and Env 18

The non-statutory 'Listed Building and Conservation Area' guidance and 'Guidance for Householders' are material considerations that are relevant when considering NPF4 policies 1, 7d, 7e and 16g and LDP policy Des 12.

#### Global climate and nature crisis

Policy 1 of NPF4 prioritises the climate and nature crisis in all decisions. It has been applied together with other policies in NPF4 and the overall intended outcome of NPF4. The proposal will have a neutral impact on sustainability and the environment. On

balance, the proposed development does not conflict with the intended outcomes of NPF4 and thus, complies with NPF4 Policy 1.

### Principle of Use

The proposals are acceptable with regards to the green belt as they are ancillary to the existing residential use of the land and would not detract from the landscape quality and/or rural character of the area. However, the eastern section, including the driveway leading from the premises to Inveralmond Drive is designated within the adopted Edinburgh Local Development Plan as being open space and forms part of the Council's existing green infrastructure. The erection of the fence and gates would result in a loss of this designated open space to private garden ground. It has not been demonstrated that any of the five criteria specified in LDP policy 18 have been met which could justify the loss of the open space and the principal of the proposal is therefore unacceptable.

Public representations have raised questions about the ownership of land within the application site. For the avoidance of doubt, the ownership of land cannot be considered as material to the acceptability of the planning application, and disputes regarding land ownership are a private legal matter.

The proposals comply with LDP policy Env 10 and NPF4 policy 8. However, the proposals do not comply with policy Env 18 or NPF 4 policy 20.

### Scale, form, design and neighbourhood character

The proposals are of an acceptable scale, form and design and are compatible with the existing dwelling. The proposals will preserve the character and appearance of the conservation area and built features which contribute to character, as detailed in section a) of the assessment.

The proposals comply with NPF4 policies 7d, 7e, 16g)i) and LDP policy Des 12a).

### Neighbouring Amenity

With respect to privacy, overlooking, physical impact, 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.

The proposals comply with NPF 4 policy 16g)ii) and LDP Policy Des 12b) and c).

### Trees

Information has been provided in relation to trees that are likely be impacted. In addition, application 22/05658/TCO has given permission for the felling of several trees on site. However, the information which has been submitted is insufficient to meet the requirements of BS 5837:2012, and/or to demonstrate that the impact on the trees is acceptable. The proposals may therefore have a damaging impact on a number of trees that are either protected or worthy of retention.

The proposals do not comply with LDP policy Env 12.



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

The proposals are compatible with the development plan in terms of the climate and nature crisis, heritage, design, amenity and the green belt. However, the proposal will result in an unacceptable loss of open space and may have a damaging impact on a number of trees that are either protected or worthy of retention without suitable arboricultural justification.

The proposals do not comply with 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:

#### Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. 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

##### *material considerations - objections*

- The proposed gates will harm the character and appearance of the of the Conservation Area. - Addressed in Section A.
- The proposed fence will harm the character and appearance of the of the Conservation Area. - Addressed in Section A.
- Impact on neighbouring privacy. The proposal is the for the erection of a fence. - No privacy impacts to neighbours are posed by the development.
- The Trees Survey is inaccurate. - Addressed in Section B.
- Loss of open space. - Addressed in Section B.
- Impact on biodiversity. - Addressed in Section B.
- The application is contrary to development plan policies and to applicable guidance documents. - Addressed in Section B.
- The design of the proposal is unacceptable. - Addressed in Section B.
- Negative impact on road safety. - No road safety impacts are posed by the development.

##### *material considerations - support*

- The proposed gates are aesthetically pleasing and fit with the local area. - Addressed in Section A and B.
- The proposed gates provide the applicant with additional privacy and security. - Addressed in Section B.

#### *non-material considerations*

- Disputes regarding the ownership of land. - Addressed in Section B.
- Disputes regarding property deeds. - Compliance with property deeds is a private legal matter
- The works will prevent neighbours from accessing part of the site. - Rights of access to land are a private legal matter
- The land ownership form and other parts of the application form are inaccurate or misleading. - The land ownership form is a self-declaration. Should incorrect information have been supplied to the Planning Authority any grant of planning permission may be legally challengeable in the courts. The proposal is assessed on the totality of the information provided. If information is omitted from the application form, but included elsewhere in the submitted information, it is included as part of the application and its assessment.
- The application plans do not accord with what has been built. - Only the development shown on the relevant drawings is assessed. Should other development occur, or have occurred as the application is in retrospect, this may constitute a breach of planning control.
- Works will be within an area designated as a Tree Preservation Area, Conservation Area, and the Green Belt. - Applications are assessed on their merits. That an application site is within a designated area does not by itself impact on the acceptability of an application.
- The application site is within a Special Landscape Area. - Whilst the Lower Almond Special Landscape Area adjacent to the application site, the application does not fall within the area.
- The application is in retrospect. Applications are assessed on their merits. - That an application is made in retrospect does not by itself impact on the acceptability of an application.
- Inadequate neighbour notification. - The council has complied with the relevant legislation regarding neighbour notification.
- The application will make it possible for another planning application to remove more trees to be granted. - Only the works specified as part of the application can be considered as part of this assessment.

#### **Conclusion in relation to identified material considerations**

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

#### **Overall conclusion**

The proposals are acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposed works to the dwelling will preserve the character and appearance of the conservation area and built features which contribute to character.

Whilst the proposals are compatible with the development plan in terms of the climate and nature crisis, heritage, design, amenity and the greenbelt, the application will result in an unacceptable loss of open space which forms part of the Council's green infrastructure and is likely to have a damaging impact on a number of trees that are either protected or worthy of retention without suitable arboricultural justification being provided . The proposals do not comply with the Development Plan and as there are no material considerations that indicate otherwise it is recommended that this application is refused.

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

The recommendation is subject to the following;

### **Reason for Refusal**

1. The proposal is contrary to the Local Development Plan Policy Env 12 in respect of trees, as the works are likely to result in unacceptable damage to protected trees or other trees worthy of retention.
2. The proposal is contrary to the Local Development Plan Policy Env 18 in respect of open space, as the works will result in an unacceptable loss of open space.
3. The proposal is contrary to National Planning Framework Policy 20 as it would result in the loss of existing green infrastructure resulting in a deficit in green infrastructure provision.

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

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

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

**Date Registered: 28 February 2023**

### **Drawing Numbers/Scheme**

01, 02

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

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

Contact: James Armstrong, Assistant Planning Officer  
E-mail: [james.armstrong@edinburgh.gov.uk](mailto:james.armstrong@edinburgh.gov.uk)

## Appendix 1

### **Consultations**

The full consultation response can be viewed on the Planning & Building Standards Portal.

## Appendix 2

### **Application Certification Record**

#### **Case Officer**

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: James Armstrong

Date: 3 July 2023

#### **Authorising Officer**

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Lynne McMenemy

Date: 3 July 2023

# Comments for Planning Application 23/00418/FUL

## Application Summary

Application Number: 23/00418/FUL

Address: 19 Inveralmond Drive Edinburgh EH4 6JX

Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Mr john howison

Address: 5 Inveralmond Drive, Edinburgh EH4 6JX

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Planning Application 23/00418/FUL for the erection of new fencing, etc. at 19 Inveralmond Drive Edinburgh

Objection submitted by John Howison, 5 Inveralmond Drive in relation to impacts on the objectors' duty to maintain shared ownership common land severed by the proposals and to the detriment of Nature Conservation.

13.March 2023

Following the issue of an Enforcement Notice 22/00838/EOPDEV, planning application 23/00418/FUL seeks consent to erect a new perimeter fence around the property 19 Inveralmond Drive and to erect new electrically operated driveway gates. This submission is an objection to the application in respect to that part of the fencing along the boundary between the application premises and the common amenity land (CAL) between the premises and the River Almond (the western boundary) and comments on the incongruity of the style of the proposed electric gates. The CAL forms part of the lands at Inveralmond all previously owned by Bovis Homes Scotland Ltd and designated by them as common ground with an equal interest shared by the proprietors of the dwelling houses on the lands developed or to be developed by them. This comprises all of the houses in Inveralmond Drive, Inveralmond Grove and Inveralmond Gardens, but specifically excluding 19 Inveralmond Drive. This transfer of ownership was executed by the Deed of Conditions dated 18 October 1972 and carrying the Scottish Records Office number 4236 and folio number 149. To that end notification of this planning applicant should have been served on all of the said proprietors in relation to their interests in the CAL. This was not done and a notice on adjacent land was only posted on 12 March.

Notwithstanding, I am responding now to the planning application both in my own name and

mandated by a number of the joint owners of the CAL and object to the proposals for the new fencing on the western boundary of the application site. The proposed line of the new fencing deviates from the boundary of 19 Inveralmond Drive recently registered by the applicant and encroaches on the CAL. This deviation will materially impede the joint owners of the CAL from fulfilling their specific obligations under the Deed of Conditions to maintain the CAL. The area forms part of an area designated under a Tree Preservation Order, it is within a Conservation Area and it is within the designated Greenbelt. The proposals would therefore preclude us from fulfilling our obligations in relation to Nature Conservation within the that area of the CAL to which our access would be obstructed by the proposed fence. We do not object to a new fence being erected on the settled and undisputed boundary of 19 Inveralmond Drive but to the extent that the proposals involve an encroachment on the CAL, we require that the proposals be rejected. To the extent that the fencing erected already on the CAL west of the western boundary of 19 Inveralmond Drive, (and the subject of the above-mentioned enforcement notice) similarly obstructs our access to the detriment of Nature Conservation, we require the enforcement notice to be executed.

In addition to objecting to the new fencing, I am commenting on the proposed new electric gates. The Inveralmond estate was developed by Bovis and, under the terms of the Deed of Conditions, with open front gardens and a restriction on the erection of walls and gates on the frontages with the public roads. Whilst not subject specifically to those restriction, the current open nature of the driveway to 19 Inveralmond Drive contributes positively to the character of the area. The visually obstructive and industrial design of the proposed gates is intrusive and open wrought iron style gates would be more in keeping with the amenity of the area.

John Howison OBE



# Comments for Planning Application 23/00418/FUL

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Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Mr Alan Price

Address: Flat One Avon Court 22 Avon Road EDINBURGH

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I support this application. The fence in question is attractive, blending in nicely with the environment. It would seem to offer the tenant some needed privacy and security. An electric gate, like so many on Whitehouse Road, is a no-brainer.

# Comments for Planning Application 23/00418/FUL

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Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Dr mark-paul buckingham

Address: 25 inveralmond drive edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I am lodging an Objection to the retrospective planning permission 23/00418/FUL for The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive. 19 Inveralmond Drive Edinburgh EH4 6JX. An enforcement notice 22/00838/EOPDEV was previously served on the property prior to this planning application being submitted, however the works to erect a perimeter fence have already been completed.

Application not valid

The planning application is not valid and therefore cannot be determined because the relevant ownership certificate has not been completed. The planning application has been supplied with a completed ownership form A, which is misleading and constitutes an offence.

Certificate A should only be issued when the site is under sole ownership of the applicant - this is not the case. Both the site location plan and proposed plan determine an area which is under the ownership of multiple parties.

Figure 1 annotated copy of Proposal submitted showing three clear areas marked Area 1, 2 and 3 respectively.

Area 1 - The land to the east of the plot shown within the black line - Ownership (with effect 35 days from the 8th November 2022) is Poppledot Limited with a registered business address of 186 Craigleith Hill Avenue, Edinburgh, EH4 2NA

Area 2 - Ownership - The Applicant Gregory Favier

Area 3 - The western corner of the site location as shown - Ownership - This area is mutually owned by the 65 houses in Inveralmond Drive, Inveralmond Grove and Inveralmond Gardens, but

specifically excluding 19 Inveralmond Drive.

I am happy to provide copies of all supporting documentary evidence for each of these points upon request.

Figure 2 Site boundary as defined in the title deeds to 19 Inveralmond drive

Breach of Planning control

The fence which has already been constructed and is not in the location as depicted in the Proposal plan or site plan location drawings. It has been installed at a distance significantly larger than the title deeds for 19 Inveralmond Drive show. This is itself a departure from the plans and serves as a breach of planning control. There is a large vehicular access gate installed on the western boundary which again represents a deviation from plan. The breach has adverse impacts to the local amenity preventing the mutually owned land from being accessed and managed.

I wish to comment on the proposed electric gates. The gates proposed will not be in keeping with the local amenity which under the title deeds are unable to build fences, gates or walls at the front to the properties. 19 Inveralmond drive would be the only property of the 43 properties on Inveralmond drive to have gates at the front of the property, and as such not in keeping with the local amenity.

# Comments for Planning Application 23/00418/FUL

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Case Officer: Householder Team

## Customer Details

Name: Louise Stevens

Address: 1 Peggys Mill Road Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The erection of the fence as it has been built is not on No19 Inveralmond Drive own land. In particular please inspect the south and west fence in detail, to its current location.. The south and west fence should traverse and meet on their own land, and not that of adjoining owners.

# Comments for Planning Application 23/00418/FUL

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Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Mr Liam Carragher

Address: 5 Peggy's Mill Road, Cramond Cramond Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I am objecting to this planning application on the grounds of:

Loss of privacy

Due to the erection on a fence considerably outside the boundary of the property (shown in letter/drawing I have sent in) the fence has been erected at a considerably lower level/height on the slope. The effect of this is considerably loss of privacy to my property. Due to this lower fence level of no.19 newly erected fence (well outside the boundary line), no.19 can see right into our main bedroom, where we get changed and where we sleep. I have lived here for 2.5 years and our bedroom has never been looked in on from no 19. This loss of privacy extends to my garden, front garden, spare bedroom, hall and lounge. I spoke to the owners of no19 pre fence erection and they showed me where the fence was to be erected, and it is a significant distance away (approximately 5 meters) and at a lower level into the private woodland/ green belt area. They reassured me that they would have it built on the correct boundary to ensure I did not have a loss of privacy. At present anyone over the height of approximately 1.4m can see right into my property and various rooms. Further to this point as Gregory Favier has fenced in land that is clearly not his (shown in deeds and on Scotlis), he has started to remove vegetation that does not belong to him (sits outside his boundary but inside his new fence). This has caused further loss of privacy to my property and other properties.

Character/appearance of the Conservation Area significantly altered due to the fence erection

Gregory Favier has instructed his fencers to give the public right of way and conservation area the

poor (aesthetic) side of the fence. This significantly changes the character/appearance of the conservation area. Previously to the erection of these two fences, my property (within the conservation area), all public using the public right of way and anyone in the conservation area used to see vegetation (including trees, bushes and shrubs). Now we see the backside of a fence i.e. the posts, the cross beams and the back of the slats. This is not in keeping with the character before or any of the other wooden fence boundaries on the road (approximately 500m both sides). All of the other fencing in the conservation area in the vicinity is green in colour. In the application Gregory Favier has submitted shows photographs of the fence from within the property, which is the good face/edge/side, as opposed to the side that is on show to the conservation area.

#### In-accuracies on planning application

In the planning application Gregory Favier claims he is the legal owner of the land the fence is built on/the drawings of the fence line in the application. This is incorrect and can be seen in the drawing submitted in the letter. The fence has been built a considerable distance away from what is shown in the original deed boundary and then in the recent sale deeds (Nov 2022). Further to this point the current fence line which is a substantial distance (approximately 40 meters), does not relate to what he has submitted in his planning application or what he claims is the boundary. I understand that you can apply for planning permission on someone else's land, but it is a fineable offence to claim in the application that the land is owned by yourself (knowingly or accidentally). As he has claimed the land in his application is his, the council have not informed the landowners of this property development/application and loss of land.

#### Pedestrian gate on south east section of drawing.

In the application, Gregory Favier has put a pedestrian gate on the South East side of the drawing. This gate would allow pedestrian access onto private land and cannot be permitted. We have had confirmation that no.19 has no legal access onto the private land via a solicitor.

#### Inaccuracies of tree survey

In the drawing provided in the letter, you can see a number of trees which are owned by the woodland (owned jointly between the 56 houses in Inveralmond drive/gardens). Comparing the 2008 tree survey (from the previous owners on the portal) to Gregory Favier's tree survey. In this drawing you can see the stark inaccuracies in the locations of a large number of trees. In this drawing you can see they are clearly not within no19's boundary and now fall within the area no19 has been fenced in. This causes further issues as these trees need access to them from the owners so they can manage them. There is also a significant amount of trees on the South side of the building which are larger than 7.5cm diameter at 1.5m in height (some of them are approximately 40 feet tall) which have not been shown on their private tree survey. These trees have been documented in case they are removed without permission/application. These trees are

protected under the conservation area rules and would need an application to remove them. Further to this point these trees are out with no.19's boundary but now sit inside there current/recently erected fence. If they are allowed to keep the current fence line and remove these trees, this will lead to a significant loss in privacy to myself and indeed change the character and appearance of the conservation area.

#### Further inaccuracies on the planning application

Gregory Favier has submitted a planning application for a fence that has already been built. The new fence is considerably off where the deed boundary is (discussed above), where the application shows it will be/is but he has also commission a double vehicle access gate placed on the southern boundary edge. These new gates would allow access into two different sets of private land. These agricultural style gates significantly impact the existing character/appearance of the conservation area in a negative manner and are also seen by the public right of way (within the Conservation area).

#### Loss of community amenity within the woodland

With no.19 newly erected fence beyond his boundary shown in his deeds, has lead to a loss in the amenity within the conservation area. There is various cubs which use the amenity frequently including various different people that live within the community that use the woodland. Having the area reduced in size has lead to a reduction in the local amenity the community can enjoy.

# Comments for Planning Application 23/00418/FUL

## Application Summary

Application Number: 23/00418/FUL

Address: 19 Inveralmond Drive Edinburgh EH4 6JX

Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Mr Martin Stevens

Address: 1 Peggy's Mill Road Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We do not oppose a fence of the proposed height and style (subject to point 8 below) being constructed. However, there are fundamental objections regarding the positioning of the fence as it relates to statutory LDP designations, and the inclusion of gates which raise questions regarding the applicant's wider intentions, following extensive tree clearance on the site already undertaken. Given this uncertainty, if officials are minded to approve, a committee referral is important given the context of the ongoing enforcement action and the wider concerns regarding tree protection and access to PMR / common woodland which derive from the application, and the context of previous development refusals, thrown-out at appeal.

This objection is formed into four parts. The first is technical inconsistencies with the application, which may invalidate it, and thus necessitate a re-submission. The second is based on the loss of amenity for both Green Belt and the Cramond Conservation Area, aligned to Policy; the third is Context, and the fourth, is a recommended amicable Resolution.

It is accepted that land ownership need not necessarily preclude or affect a decision of development control, but as this is a case of retrospective planning, for something that is already built, it is important to confirm that the applicant should not deduce the development is lawful simply because it is out with the scope of the officers access this.

Technical deficiencies:

1. The description of the applicant's development is incomplete, as it fails to record a set of double vehicular gates (image 1 of hard copy response), that lead out onto the common woodland bounding the property.



2. The description of the applicant's development is inaccurate as it shows a line of the fence that does not coincide with the as-built, site-surveyed, dimensions. Sketch

23/00418/FUL\_SK230321.01 is submitted with the hard copy of this objection illustrating this.

3. The description of the applicant's development is incomplete, as shows an elevation of the fence from within the property, and thus not what the public face will be to the green belt, conservation area, and public right of way. This oversight is significant as it shows only the beneficial inside face of the fence, when it is reasonable to expect to be able to comment on the aesthetic amenity of the public / outside face. It is only because this is a retrospective application, and the fence is built, that this oversight is apparent. Refer to Images 1 & 6 (submitted with hard-copy response)

4. The collective ownership of the bounding woodland, and that of Peggy's Mill Road, suggests that all joint owners of the woodland, and separately of Peggy's Mill Road should also have been notified as 'Neighbours', 'persons who are so closely and directly affected by this application'.

5. Last date for comments are set at 23/03 in the neighbour notification, and 31/03 on the online portal, it is assumed the latter is correct, but those notified may not respond, thinking they have missed the deadline. Written confirmation of an extension may address this.

6. The applicant has made a declaration that all land associated with this application is within their sole legal ownership. This is patently not the case, as previous applications for this property record the accurate boundary, as Sasines, and the recently updated ScotLIS registry of land ownership also records: <https://scotlis.ros.gov.uk/map-search/318280/676026> or refer to Image 7 (submitted with hard-copy response)

7. The tree survey that accompanies this application (and also facilitated fellings under 22/05658/TPO & 22/05658/TCO) states that it is drafted to (BS 5837) (2012). This British standard requires that a use category be assigned to each tree, A,B,C or U. It is also a requirement for the trees to be surveyed on a scale plan, neither has been carried out and therefore not to the stated standard.

An indeterminate use of an aerial photograph has been made which appears not to scale, furthermore, it obfuscates matters of land ownership, and possible tree removal on ground that is not lawfully owned by the applicant.

The Tree survey of 2008 clearly records trees that are indeterminate on this application, with no application for their removal in the interim. The loss of trees and their importance to the context of the previous planning application (08/00699/FUL) refusal, and subsequent loss at appeal, was the impact on trees, and this document seems to enable a liberal removal of trees, many not identified on the survey, and others likely to be outside the title ownership.

Policy - Loss of Amenity / Biodiversity:

8. The communally owned woodland (owned by the properties of the 1980s Inveralmond Estate), is part of the Edinburgh Green Belt, a Special Landscape Area, and the Cramond Conservation Area, as defined in the LDP.

The erection of the fence for which this application seeks retrospective approval, has enclosed and taken from public amenity, approximately 135 m<sup>2</sup>, including potentially a number of mature trees in the woodland canopy (reference 23-00418-FUL\_SK\_230321.02).

This same area has been 'sanitised' into a residential garden, and thus a de facto loss of biodiversity, compared to the undergrowth & thicket of the woodland floor. NPF(4) specifically binds biodiversity into the planning process, and thus necessitates the 'land take' into EGB, and SLA be of material consideration. This could also lead to a future application to fell these trees, if an extended boundary is allowed to be ratified by this application. The loss of further trees could be contrary to NPF4 policy 6 and LDP policy Env12.

9. The Pedestrian Public Right of Way along Peggy's Mill Road, and the Cramond Conservations area, are at all times afforded the 'font face' timber fences installed to property boundaries (images 2-5).

The applicant has not installed the fence in keeping with this visual amenity and character, (images 1 & 6). Thus, in it's current arrangement, the fence is detrimental to the character and appearance of the Cramond Conservation Area, contrary to NPF4 Policy 7d). It is also out of conformity with existing structures and setting, contrary to NPF4 Policy 7e).

In the reporter's justification of the 2008 planning application rejection, and subsequent loss at appeal, there was specific consideration to the unacceptable loss of trees, and public views from outside the site, which 'did not adequately respect the character of the Cramond Conservation Area'.

General Design policies - the fence is inward-facing, and presents an unattractive appearance to PRoW, inconsistent and out of character. It is thus contrary to LDP Policy Des1 Design Quality (detracts from a 'sense of place'), Des3 'Design - Existing Features' (fails to incorporate local design features), Des4 'Design - Impact on Setting' (fence detailing has detrimental impact on the PRoW) and Des8 'Public Realm & Landscape Design'.

Context - Land Title:

10. Sketch 23/00418/FUL\_SK\_230321.01 is submitted with hard copy of this objection. It clearly represents the concerns illustrated above, in context of policy and development control. It is appreciated that land title is not a matter for the officers to adjudicate, but the resulting concern raised above, the losses to the community, and the objectives of Policy, Guidance, and NPF4 suggests that the current as-built alignment, for which this application seeks ratification, encroaches into these designations, and facilitates contravention of the development control

guidance / policies referenced.

11. The illustrated gates in the application, and those not shown but already built (as point 1), are attempting to access onto private land for which no right of access exists. An extensive legal search of title has been carried out to support this position.

Restricted access into the site has previously been noted by the officers / reporter for rejection of an intensification of development on the site.

The attempt via this application for a 'garden fence', to:

- a. increase the plot size;
- b. clear the site of many of it's trees / habitat potential, and;
- c. establish 3 vehicular gates into the site.

is of significant concern, not just as the points above set out, but for what future enablement it may afford.

The documentary legal evidence can be offered as supplementary, if the context of future intensification of development by the applicant is thought to be significant, in the context of this application.

Resolution:

12. As stated at the start, the erecting of a garden fence is not objected to in principle. This should, however :

- a. present a 'front face' to the GB, CCA, SLA, and PRoW,
- b. be in keeping with the established character,
- c. be erected on the line of demonstrated land ownership, and such that it does not negatively impact on the site's designated 'constraints' or adjacent ones,
- d. Remove the gates (2 vehicular and 1 pedestrian), from the application, all leading onto land for which there is no right of private access.

# Comments for Planning Application 23/00418/FUL

## Application Summary

Application Number: 23/00418/FUL

Address: 19 Inveralmond Drive Edinburgh EH4 6JX

Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Mr Ian Ireland

Address: 2 Peggy's Mill Road Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:As I am not a Planning expert, I write in simple English.

My specific objections, in no particular order, are as follows:-

.....

1 The applicant claims ownership of all the land referred to, and this is not correct. Some of the land belongs to the proprietors of Peggy's Mill Road, (PMR) and some is part of the common ground known locally as the Salvesen Estate. The plan accompanying the application is inaccurate, and neatly seeks to misappropriate various areas.

2 The old iron gate from which the applicant first planned to exit onto PMR has never, to my certain knowledge, been opened or used for decades, and he has no right of access to PMR.

3 PMR is, as well as a narrow private road, also a Pedestrian Right of Way, and is much used by parents with children, elderly and disabled people, dog walkers and sightseers. The new fence recently erected by the applicants has effectively narrowed the verges of the road, creating a hazard- not for vehicles, but for some pedestrians. Dogs and children do not always keep to the road surface.

4 The large fence which has been erected in (roughly) the applicant's rear garden, may be aesthetically pleasing viewed from his house, but presents the reverse view to members of the public, who are perfectly entitled to walk down to the river through the Salvesen land. The back-to-front view of wooden fence is like no other wooden fence in the area, and very much out of keeping with the local character.

5 The applicant has already cut down various trees on what he regards as his land. This, and the erection of the fence in the conservation area, suggests to me that he is inclined to act first and apologise later, if at all, rather than seek permission first. What next if allowed to get away with

this, un-altered.

# Comments for Planning Application 23/00418/FUL

## Application Summary

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Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Mr DEREK LIDDELL

Address: 3 PEGGYSMILL ROAD EDINBURGH

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The proposal from the property owner includes the erection of a perimeter fence along the west, north and south of their property boundary. It is my understanding that the perimeter fence, which is already constructed, is beyond their property boundary.

I also note the property owner has not put the double gates or the single gate for pedestrians, which have also been constructed, on his plans for approval.

The fence which has been constructed on the west and part of the south side of the property encroaches into the conservation area, and I understand it has been constructed without permission of the land-owners.

I would request the appropriate persons in Edinburgh City Council take all this into account when reviewing this application.

# Comments for Planning Application 23/00418/FUL

## Application Summary

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Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Mr Neil Mearns

Address: 2 Inveralmond Gardens Cramond Edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I wish to object to the fence which has already been erected prior to the successful application being granted for this neighbouring property.

The fence has been erected outwith the properties boundary as detailed in the land registry. It has been erected into land that is common woodland owned jointly by all Inveralmond properties, but not including #19 Inveralmond Drive.

I understand there is a number of large established trees that are covered by protection orders that now sit within this new fence and there may be plans to cut these down.

There has been large double gates added to the rear of the boundary fence which are both not necessary for an entrance to private land, nor are they aesthetically in keeping with the boundary to a woodland.

The fence has been erected incorrectly with slatting being fitted to inside, This is not in keeping with the existing fence.

# Comments for Planning Application 23/00418/FUL

## Application Summary

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Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Mr William Anderson

Address: 20 Inveralmond Drive Edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I wish to object to the above retrospective planning application on the following grounds;

-the line of the new 2m high fence shown on drawing no. IN-AL(PA)01B differs to that actually erected on site.

-drawing no. IN-AL(PA)01B does not show the vehicular gate that the applicant has formed in the fence along the west boundary. This gate accesses directly onto private land under the common ownership of the residents of Inveralmond (excluding 19 Inveralmond Drive).

-in the Land Ownership Certificate signed by Mr Gregory Favier falsely and knowingly declares ownership of approximately 170sq.m/0.017 hectares of private land under the common ownership of the residents of Inveralmond (excluding 19 Inveralmond Drive). This matter had been brought to the applicant's attention by several common owners of the woodland at the time that the fence was erected. The applicant has ignored this and has submitted the planning application, falsely declaring sole ownership/interest of the land. A false land ownership declaration must surely render an application void or at the very least require further detailed enquiry and due diligence on the part of the council. Given that the council have been made aware of the false declaration or at least been given reason to doubt its accuracy, it would be negligent for the council to grant consent without further enquiry. To grant consent without doing so would call into question fitness of the planning process and the validity and merit of Land Ownership certificates.

- by erecting the fence on land that does not belong to no. 19 Inveralmond Drive, the applicant has



in effect fenced off mature trees under common ownership of the other Inveralmond residents. The applicant has undertaken work to trees in this area, with council consent, but without the consent of the common owners. The incorrect positioning of the fence gives the impression that the trees belong to no.19 when they do not. Were the council to grant consent for the fence, this would merely embolden the applicant to apply for and undertake further criminal damage to our property.

Knowing the above, you will effectively be aiding and abetting the theft of private land and facilitating the continued criminal damage of private property should you choose to grant consent for the fence. The common owners of the land will take legal action, and this will not bode well for the reputation of Edinburgh Council.

# Comments for Planning Application 23/00418/FUL

## Application Summary

Application Number: 23/00418/FUL

Address: 19 Inveralmond Drive Edinburgh EH4 6JX

Proposal: The erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive.

Case Officer: Householder Team

## Customer Details

Name: Mr Luke DiRollo

Address: 45 Cramond Avenue Edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: As a Cramond resident who lives nearby to 19 Inveralmond Drive, I object to the loss of a substantial part of community woodland. I have two children and we walk in this shared woodland frequently, much of which has now been substantially encroached upon. This impacts on our enjoyment of the area and my children's immersion in nature.

I also object to the fact that I feel that the character/ appearance of the conservation area has been changed significantly (to the detriment) with his erection of the fence, with the poor side of the fence visible to the public path/woodland & conservation area. This is not in keeping with other wooden fences in the area and has a negative impact on the appearance of the conservation area. The area that is now fenced in used to be open space with a lot of natural vegetation and wildlife, which was in keeping with the conservation area. This has now significantly changed in terms of appearance and character.

I also feel the application was misleading as the applicant has shown pictures of the inside of the fence in his application which is the good side, as opposed to the face which he has shown to the conservation area all the way around. This should be altered and the good face should be given to the public/conservation area

Finally I feel that this development sets a detrimental precedent in Cramond, for the reasons noted above and also his clear failure to receive planning permission before the work (and other work has) was undertaken.

# Comments for Planning Application 23/00418/FUL

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Case Officer: Householder Team

## Customer Details

Name: Mrs Laura Collins

Address: 6 Peggysmill Road Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We are objecting for the following reasons:

1. The back of the fence looks very poor, and completely out of keeping with all of the other fences around about it and throughout the conservation area.
2. We often play in the woodland with our children, and it seems obvious that a large area of woodland has been taken into private ownership without authorisation, resulting in a great loss of amenity and wildlife value to the green belt area.
3. We're very concerned about the loss of trees. Many have already been cut down, and may in future be cut. These don't belong to the applicant, but belong to the common woodland.
4. The gates shown on the plan exit out onto the private road, of which I am part owner, and I've not given any permission for these gates to be part of their boundary.