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EH10 7HJ

Decision date: 31 July 2024

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

Replace existing conservatory with wrap around extension and internal alterations.(as amended)

At 63 Hainburn Park Edinburgh EH10 7HJ

Application No: 24/00698/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 12 February 2024, 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 proposals are contrary to NPF Policy 16 g) i) as they would have a detrimental impact on the character of the surrounding area.
2. The proposals are contrary to NPF 4 policy 16 g) ii as they would have a detrimental impact on neighbouring properties in terms of overlooking.

3. The proposals are contrary to policy Des 12 of the adopted Edinburgh Local Development Plan (LDP) as they would have a detrimental impact on the character and appearance of the surrounding area and the amenity of neighbouring residents.

4. The proposals are contrary to the Council's Non-Statutory Guidance for Householders as they would have a detrimental impact on the character and appearance of the surrounding neighbourhood, and the amenity of neighbouring residents.

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:

The proposals have due regard to the global climate and nature crisis. However, the proposals would have a detrimental impact on the spatial character of the surrounding area and would adversely affect neighbourhood character. In addition, the proposals would also have a detrimental impact on the amenity of neighbouring residents. The proposals do not accord with the provisions of the development plan, or the Council's Non-Statutory Guidance for Householders. There are no material considerations which indicate that the proposals should be approved, and the proposals are not therefore acceptable.

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 Allanson directly at james.allanson@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

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

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

Report of Handling

**Application for Planning Permission
63 Hainburn Park, Edinburgh, EH10 7HJ**

Proposal: Replace existing conservatory with wrap around extension and internal alterations.(as amended)

**Item – Local Delegated Decision
Application Number – 24/00698/FUL
Ward – B08 - Colinton/Fairmilehead**

Recommendation

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

Summary

The proposals have due regard to the global climate and nature crisis. However, the proposals would have a detrimental impact on the spatial character of the surrounding area and would adversely affect neighbourhood character. In addition, the proposals would also have a detrimental impact on the amenity of neighbouring residents. The proposals do not accord with the provisions of the development plan, or the Council's Non-Statutory Guidance for Householders. There are no material considerations which indicate that the proposals should be approved, and the proposals are not therefore acceptable.

SECTION A – Application Background

Site Description

The site consists of a detached two storey dwellinghouse located on the southern side of a road junction within Hainburn Park. The surrounding area is entirely residential in nature and is characterised by similar style detached and semi-detached dwellinghouses.

Description Of The Proposal

The proposal seeks planning permission for the erection of a single storey side extension within the side garden area adjacent to the eastern gable elevation and rear (southern) elevation of the building. The exterior of the extension will be finished with

pre-weathered timber cladding. Consent is also sought to erect a new 1.9 metre high timber boundary fence in a position where it would be sited between the south eastern corner of the extension and the southern boundary of the site, and to raise the height of a patio within the rear garden from its current height of 70 centimetres above ground level to a height of 1.1 metres above ground level.

Relevant Site History

04/04605/FUL
63 Hainburn Park
Edinburgh
EH10 7HJ

Form single storey extension to rear of dwelling and alter fence, as amended.
Granted

28 October 2005

Other Relevant Site History

No relevant history

Consultation Engagement

Publicity and Public Engagement

Date of Neighbour Notification: 31 July 2024

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 27

Section B - Assessment

Determining Issues

This report will 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 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 16g
- LDP Design policies Des 12

The non-statutory Guidance for Householders is a material consideration that is relevant when considering NPF4 policies 1 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.

Scale, form, design and neighbourhood character

Hainburn Park and Howe Park form a planned housing estate originally granted planning permission in the 1980's. They are characterised by a mixture of detached and semi detached properties with well proportioned front, rear and side gardens. Side gardens within neighbouring properties in the surrounding area have been kept free of built features and obstructions, helping to contribute to a wider open character within the estate.

The application site comprises a corner plot dwelling situated on a road junction which has a side garden. The open nature of this section of garden ground is an important feature which contributes to the overall spatial character of the surrounding estate, in particular to wider views leading southwards along Hainburn Park towards the Pentland Hills.

The Council's Non-Statutory Guidance for Householders states that where corner plots contribute to the character of an area, their openness will be protected by resisting any significant intrusion into the corner ground. The proposed extension and repositioned fence would be sited in a prominent location within the side garden, notably reducing the open area of this part of the garden and significantly impacting on the open character and nature of the garden ground. Both of these features would form highly visible built interventions which would have a detrimental impact on the open nature of the garden ground and the overall spatial character of the wider Hainburn Park/Howe Park estate.

In addition to the above, the extension and relocated fence would also be sited beyond the main principal elevation of the neighbouring premises to the south, disrupting the established building line of the estate, to the further detriment of its wider spatial character.

The proposals are not of an acceptable scale, form and design and are not compatible with the existing dwelling and the surrounding area. The proposal does not comply with NPF 4 policy 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 loss of daylight or adverse overshadowing to any neighbouring premises.

The proposals would involve raising the height of the existing patio in the rear garden from its current height of 70 centimetres above ground level to 1.1 metres in height. The existing boundary fence extends to a height of 2 metres above the level of the existing patio. However, following the raising of the patio, the fence would only extend to a height of 1.6 metres above the floor level of the patio. The reduced height of the boundary fence would potentially allow individuals to look directly into the neighbouring premises to the west, negatively impacting on the amenity of neighbouring residents.

The proposals would result in a loss of neighbouring privacy and do not comply with NPF 4 policy 16g)iii) and LDP Policy Des 12b) and c).

Loss of Off-Street Parking

The application premises includes a section of paving which can be accessed via a dropped kerb and which can be used for the off street parking of vehicles. While it is situated within the curtilage of the application premises, there is currently no restrictive measure or barrier which would prevent vehicles not belonging to the applicant from being parked on this section of paving. The proposed new location of the boundary fence would reduce the depth of the hardstanding to such an extent as to make parking by vehicles other than motorcycles essentially impossible, resulting in the effective loss of these spaces.

The issue of the loss of off-street parking spaces was considered during the assessment of application 04/04605/FUL in 2005. This application proposed the

construction of an extension within the rear garden and the relocation of a the boundary fence to a position which would have resulted in the loss of the two off street parking spaces located within the curtilage of the premises. The report on handling for this application stated that the planning records of the original 1980s applications are incomplete, but sufficient to indicate that in addition to the garage/driveway provision for the houses, the original scheme included around 65 communal/visitor parking spaces, some in lay-bys and some in-curtilage spaces. The consultation response from Lothian Regional Council Highways Department at the time recommended that *"the developer includes in the plot feus that the 33 curtilage parking spaces must remain as such and not be fenced in or built upon in any way in perpetuity"*.

No condition was ever applied to the original planning permissions to require the off street parking spaces to be maintained in perpetuity once the development was completed. Consequently, there is no mechanism by which the planning authority can control their loss. The principle of the loss of these spaces is therefore not a material planning consideration in respect of this application.

Concerns have been raised in representations that the loss of these off street spaces would be in contravention of the terms of private title deeds for properties on the estate. However, the alleged contravention of title deeds is not a material consideration and the planning authority cannot take these matters into account when determining an application. Such matters are a civil legal consideration and must be addressed separately through the courts.

Conclusion in relation to the Development Plan

The proposals have due regard to global climate and nature crisis. However, the proposal would have a detrimental impact on the spatial character of the surrounding area and would adversely affect neighbourhood character. In addition, the proposal would also have a detrimental impact on the amenity of neighbouring residents. Therefore, the proposal does not comply with the overall objectives of the Development Plan.

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

The following material planning considerations have been identified:

Emerging policy context

On 5 April 2024 the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the proposed modifications have been fully considered.

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

27 letters of objection to the proposal have been received. Two petitions of objection were also received. One petition raised objection to the proposal on the grounds of loss of communal parking and had 50 signatories. A second petition raised objection to the proposal on the grounds of the building being beyond the building line and had 45 signatories.

material considerations

Proposal will have an adverse impact on the character and appearance of the surrounding area - addressed in section a)

Proposal extends beyond the build line of Hainburn Park - addressed in section a)

Height of fence is not appropriate - addressed in section a)

non-material considerations

Proposal involves contravention of private title deeds - Matters relating to private title deeds are not a material planning consideration and cannot be taken into account by the planning authority. Matters relating to alleged contravention of the terms of private title deeds are a civil legal matter and must be addressed through the courts.

Loss of Parking - Whilst this is a non-material consideration, it has been addressed within section a) of the main report.

Proposal may create a precedent for similar developments - there is not statutory concept of precedent within the Scottish Planning System

Proximity of proposal to a lamppost on the street - The proposal does not involve any works to the adopted road or pavement. Matters relating to electrical connections to the extension would be assessed as part of the building standards process.

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 have due regard to the global climate and nature crisis. However, the proposals would have a detrimental impact on the spatial character of the surrounding area and would adversely affect neighbourhood character. In addition, the proposal would also have a detrimental impact on the amenity of neighbouring residents. The

proposals do not accord with the provisions of the development plan, or the Council's Non-Statutory Guidance for Householders. There are no material considerations which indicate that the proposals should be approved, and the proposals are not therefore acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal

1. The proposals are contrary to NPF Policy 16 g) i) as they would have a detrimental impact on the character of the surrounding area.
2. The proposals are contrary to NPF 4 policy 16 g) ii as they would have a detrimental impact on neighbouring properties in terms of overlooking.
3. The proposals are contrary to policy Des 12 of the adopted Edinburgh Local Development Plan (LDP) as they would have a detrimental impact on the character and appearance of the surrounding area and the amenity of neighbouring residents.
4. The proposals are contrary to the Council's Non-Statutory Guidance for Householders as they would have a detrimental impact on the character and appearance of the surrounding neighbourhood, and the amenity of neighbouring residents.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 12 February 2024

Drawing Numbers/Scheme

01 - 04

**David Givan
Chief Planning Officer
PLACE**

The City of Edinburgh Council

Contact: James Allanson, Senior Planning Officer
E-mail: james.allanson@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 Allanson

Date: 25 July 2024

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): Emma Fitzgerald

Date: 30 July 2024