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Edinburgh
EH4 2AE

Mr Demarco
5 Cluny Gardens
Edinburgh
EH10 6BE

Decision date: 5 October 2020

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

Amendment to Permission (ref: 19/04488/FUL) relating to new vehicle entrance, boundary wall and changes to external stairs to lower garden at 5 Cluny Gardens, Edinburgh.

At 5 Cluny Gardens Edinburgh EH10 6BE

Application No: 20/03062/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 28 July 2020, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

Reasons:-

1. The proposal would adversely impact on the character and setting of the villa property, and fails to preserve or enhance the character or appearance of the Morningside Conservation Area contrary to Edinburgh Local Development Plan policy Env 6 (Conservation Areas - Development) and policy Des 12 (Alterations and Extensions) and the non-statutory guidance.

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

Drawings 01, 02, 03, 04, 05, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal would adversely impact on the character and setting of the villa property, and fails to preserve or enhance the character or appearance of the Morningside Conservation Area contrary to Edinburgh Local Development Plan policy Env 6 (Conservation Areas - Development) and policy Des 12 (Alterations and Extensions).

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 Lewis McWilliam directly at lewis.mcwilliam@edinburgh.gov.uk.

D R Leech

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 20/03062/FUL
At 5 Cluny Gardens, Edinburgh, EH10 6BE
Amendment to Permission (ref: 19/04488/FUL) relating to
new vehicle entrance, boundary wall and changes to external
stairs to lower garden at 5 Cluny Gardens, Edinburgh.**

Item	Local Delegated Decision
Application number	20/03062/FUL
Wards	B10 - Morningside

Summary

The proposal would adversely impact on the character and setting of the villa property, and fails to preserve or enhance the character or appearance of the Morningside Conservation Area contrary to Edinburgh Local Development Plan policy Env 6 (Conservation Areas - Development) and policy Des 12 (Alterations and Extensions).

Links

<u>Policies and guidance for this application</u>	LDPP, LEN06, LDES12, NSG, NSLBCA, NSHOU, OTH, CRPMON,
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Report of handling

Recommendations

1.1 It is recommended that this application be Refused for the reasons below.

Background

2.1 Site description

The proposal relates to a semi-detached villa property located on the north side of Cluny Gardens in a residential area. The site contains a garage to the east with planning consent to be converted to a separate dwelling.

This application site is located within the Morningside Conservation Area.

2.2 Site History

The site has the following planning history:

1994- planning permission refused for part change of use to children's day nursery (reference a 02055/94).

1995- appeal against above refusal of planning permission for part change of use to children's day nursery dismissed.

1999- planning permission granted for alterations, extensions and subdivision of house to form 2 flats (reference 99/01974/FUL).

2000- planning permission refused for extension to dwelling on three levels (reference 00/00253/FUL). The reason for refusal related to Local Plan policy and the scale, design and materials proposed for the extension.

2001- planning permission granted to extend the dwellinghouse. It was a revised scheme, original scheme ref 01/00523.

2009 - Planning permission refused for extension and conservatory (Ref: 09/00239/FUL). The reason for refusal relates to the proposed use of materials inappropriate for the conservation area.

2019 - Planning permission granted for the transformation of two flats into a single dwelling and demolition of existing extension (Ref: 19/04486/FUL).

2019 - Planning permission granted for the sub division of plot and conversion of existing garage/studio to dwelling (as amended). (Ref: 19/04488/FUL).

2020 - Planning permission granted for a new vehicle turntable within existing driveway, boundary wall and changes to external stairs to lower garden for new house in grounds of 5 Cluny Gardens (Ref: 20/03062/FUL).

Recent Enforcement History:

2010 - Hardstanding to front - Unauthorised development (Hardstanding) - Enforcement Notice Served (Ref: 10/00420/EOPDEV).

2014 - Hardstanding to front - Non-compliance with enforcement notice - No Further Action (Ref: 14/00772/ECOND).

2018 - Solar Panels to front - Unauthorised development (Hardstanding) - No Further Action (18/00261EOPDEV).

Main report

3.1 Description Of The Proposal

The application proposes the following works;

-New vehicle access

In addition, the plans include the following:

-Formation of boundary wall, vehicle turn table and changes to external staircase (including steps and railings): These works have been assessed under the corresponding planning application 20/03061/FUL which has consent.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Do the proposals comply with the development plan?

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

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

3.3 Assessment

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

a) The scale, form, design and impact on conservation area

- b) There would be no unreasonable loss to neighbour's residential amenity
- c) There would be no adverse impact on road safety
- d) Any material comments have been received.

a) Scale, form, design and impact on conservation area

The proposal is for a new vehicular access to serve the main property 5 Cluny Gardens. The existing access would serve the garage with consent to be converted to a dwelling under planning application 19/04888/FUL.

The works to form a new vehicular turn table, stone boundary wall and alterations to the staircase have been granted permission subject to a condition for detail of all external materials. These elements of the proposal have therefore not been assessed as part of this planning application.

LDP policy Env 6 (Conservation Area - Development) states:

Development within a conservation area or affecting its setting will be permitted which:

- a) preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal;
- b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area; and
- c) demonstrates high standards of design and utilises materials appropriate to the historic environment.

The Morningside Conservation Area Character Appraisal (MCACA) emphasises that:

'The architectural character of the conservation area is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas which are in variety of architectural styles are unified by the use of local building materials.'

Within this conservation area, the arrangement of the villa with its front garden and boundary wall is a key characteristic of the area. It is important that this relationship is maintained. Where driveways have been introduced, these are largely located to the side of the original villa to maintain the front garden and limited to one driveway to a villa property.

The Guidance for Householders refers to the loss of original walls or railings and adverse effect this can have on the character and setting of an area.

For this property, in line with the majority of the conservation area, the existing stone boundary wall delineates the front boundary of the proposal site and its width mirrors that of the adjoining villa. It forms part of the property's frontage and in tandem with natural features is part of the extensive setting of the villa property.

The position of the existing vehicular access to the west side of the site, is mirrored on the adjoining villa to the east. The extent of these openings is modest and their position to the far side of the property's boundaries preserves the front garden and appears discreet in the context of the overall villa setting.

The proposal would remove a 3m wide section of the existing boundary wall adjacent to the existing opening and add a second vehicle access. This is disruptive to the setting of the original villa by virtue of eroding a feature that contributes positively to the character and setting of the property. It is recognised that the design and material of the gate is in keeping with those prevalent in the area. However, its inclusion results in further visible exposure of extensive hardstanding designed primarily for parking within the property's front garden. In this regard, it incrementally erodes the character and setting of the original villa property.

On Cluny Gardens, previous alterations have been carried out to the front boundary wall. However, the existing openings are primarily for pedestrian access gates and a single vehicle access to the side of properties. The exception to this is 15 Cluny Gardens, where there are two vehicle accesses at the front. This arrangement predates current policy and there is no planning history for these works. It therefore does not set a precedence for the assessment of this proposal.

Notwithstanding the above, two vehicular accesses is not a prevalent characteristic of the conservation area. The cumulative width of the two openings is in excess of properties in the surrounding area. The level of interference with the front boundary wall detracts from the setting of the villa property and leads to incremental erosion to the detriment of the character and appearance of the conservation area.

It is recognised the plot has been subdivided and permission granted (ref: 19/4488/FUL) to convert the garage to a residential dwelling. The external alterations to the garage are minimal in scale and the existing vehicle access retained under this consent as a communal entrance for both properties. In this regard, this permission did not raise the same issues outlined in this proposal in terms of the adverse impact on the original villa and its setting.

Further, the associated works approved under the separate permission (20/03061/FUL) form an informal boundary to the two properties and omit parking for the main property. No highway objection was received regarding the loss of parking for no.5 and the granting of this previous consent does not give grounds to approve additional vehicular accesses as part of this subsequent proposal.

In light of the above, the proposals fail to preserve or enhance the character or appearance of the conservation area. The proposal is therefore contrary to the Local Development Plan (LDP) Policy Env 6, Policy Des 12 and the non-statutory guidance.

b) Neighbouring Amenity

The proposal does not result in any unreasonable impact on neighbour's amenity.

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

c) Road safety

No objections have been received from highways subject to the inclusion of informative / conditions where appropriate should permission be granted.

d) Public comments

No comments have been received.

It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons/informatives

Reasons:-

1. The proposal would adversely impact on the character and setting of the villa property, and fails to preserve or enhance the character or appearance of the Morningside Conservation Area contrary to Edinburgh Local Development Plan policy Env 6 (Conservation Areas - Development) and policy Des 12 (Alterations and Extensions) and the non-statutory guidance.

Risk, Policy, compliance and governance impact

4.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

5.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Consultation and engagement

6.1 Pre-Application Process

Pre-application discussions took place on this application.

6.2 Publicity summary of representations and Community Council comments

No representations have been received.

Background reading / external references

- To view details of the application go to
- [Planning and Building Standards online services](#)

Statutory Development

Plan Provision	Policies - Edinburgh Local Development Plan - Urban Area
Date registered	28 July 2020
Drawing numbers/Scheme	01, 02, 03, 04, 05, Scheme 1

David R. Leslie
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lewis McWilliam, Planning Officer
E-mail: lewis.mcwilliam@edinburgh.gov.uk

Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

Relevant Non-Statutory Guidelines

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

Non-statutory guidelines 'GUIDANCE FOR HOUSEHOLDERS' provides guidance for proposals to alter or extend houses or flats.

Other Relevant policy guidance

The Morningside Conservation Area Character Appraisal emphasises that the architectural character of the conservation area is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas which are in variety of architectural styles are unified by the use of local building materials.

Appendix 1

Consultations

Roads Authority:

No objections subject to the following conditions/informatives:

Any off-street parking space should comply with the Council's Guidance for Householders dated 2018

http://www.edinburgh.gov.uk/info/20069/local_plans_and_guidelines/63/planning_guidelines including:

- a. Off-street parking should be a minimum of 6m deep and a maximum of 3m wide;
- b. Access to any car parking area is to be by dropped kerb (i.e. not bell mouth) and at a maximum width of 3.0m (4.8m with transistions);
- c. A length of 2 metres nearest the road should be paved in a solid material to prevent deleterious material (e.g. loose chippings) being carried on to the road;
- d. Any gate or doors must open inwards onto the property;
- e. Any hard-standing outside should be porous;
- f. Electric vehicle charging infrastructure should be considered for this development;
- g. The works to form a footway crossing must be carried out under permit and in accordance with the specifications. See Road Occupation Permits <https://www.edinburgh.gov.uk/roads-pavements/road-occupation-permits/1>

END

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100318552-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	JM Planning Services		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	John	Building Name:	
Last Name: *	MacCallum	Building Number:	31
Telephone Number: *		Address 1 (Street): *	Kilburn Wood Drive
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Roslin
Fax Number:		Country: *	UK
		Postcode: *	EH25 9AA
Email Address: *			

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Dan"/>	Building Number:	<input type="text" value="5"/>
Last Name: *	<input type="text" value="Demarco"/>	Address 1 (Street): *	<input type="text" value="Cluny Gardens"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH10 6BE"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="5 CLUNY GARDENS"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH10 6BE"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="670859"/>	Easting	<input type="text" value="324604"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Amendment to Permission (ref: 19/04488/FUL) relating to new vehicle entrance, boundary wall and changes to external stairs to lower garden

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See Supporting Statement

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Application Drawings; Decision Notice; Officer's Report of Handling; Photographs of the Site; Images of Streetscene Examples; Document containing Trail of Emails; JMPS Supporting Statement

Application Details

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

20/03062/FUL

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

20/07/2020

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

05/10/2020

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr John MacCallum

Declaration Date: 19/10/2020

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100287943-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Amendment to Permission reference 19/04488/FUL relating to new vehicle entrance, boundary wall and changes to external stairs to lower garden at No.5 Cluny Gardens, Edinburgh

Is this a temporary permission? * Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) * Yes No

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Iain Cameron Architect		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	Iain	Building Name:	<input type="text"/>
Last Name: *	Cameron	Building Number:	14
Telephone Number: *	<input type="text"/>	Address 1 (Street): *	Forthview Terrace
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	Edinburgh
Fax Number:	<input type="text"/>	Country: *	Midlothian
		Postcode: *	EH4 2AE
Email Address: *	<input type="text"/>		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	Dan	Building Number:	5
Last Name: *	Demarco	Address 1 (Street): *	5 Cluny Gardens
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	Edinburgh
Extension Number:	<input type="text"/>	Country: *	Scotland
Mobile Number:	<input type="text"/>	Postcode: *	EH10 6BE
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

5 CLUNY GARDENS

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH10 6BE

Please identify/describe the location of the site or sites

Northing

670859

Easting

324604

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

Material Variation new application required

Title:

Mrs

Other title:

First Name:

Anna

Last Name:

Grant

Correspondence Reference Number:

5 Cluny Gardens

Date (dd/mm/yyyy):

08/07/2020

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

937.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

dwelling house

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

2

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

2

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Do your proposals make provision for sustainable drainage of surface water?? * (e.g. SUDS arrangements) *

Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- Yes
 No, using a private water supply
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

Yes No

If Yes or No, please provide further details: * (Max 500 characters)

Existing arrangements retained

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Iain Cameron

On behalf of: Mr Dan Demarco

Date: 27/07/2020

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

Site Layout Plan or Block plan.

Elevations.

Floor plans.

Cross sections.

Roof plan.

Master Plan/Framework Plan.

Landscape plan.

Photographs and/or photomontages.

Other.

If Other, please specify: * (Max 500 characters)

Supporting Statement to clarify proposals

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

Yes N/A

A Design Statement or Design and Access Statement. *

Yes N/A

A Flood Risk Assessment. *

Yes N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

Yes N/A

Drainage/SUDS layout. *

Yes N/A

A Transport Assessment or Travel Plan

Yes N/A

Contaminated Land Assessment. *

Yes N/A

Habitat Survey. *

Yes N/A

A Processing Agreement. *

Yes N/A

Other Statements (please specify). (Max 500 characters)

Supporting statement

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Iain Cameron

Declaration Date: 27/07/2020

Payment Details

[REDACTED]

Created: [REDACTED]

Proposal Details

Proposal Name	100318552
Proposal Description	New vehicle entrance, boundary wall and changes to external stairs to lower garden
Address	5 CLUNY GARDENS, EDINBURGH, EH10 6BE
Local Authority	City of Edinburgh Council
Application Online Reference	100318552-001

Application Status

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

Attachment Details

Notice of Review	System	A4
Site Location Plan	Attached	A3
Existing Site Plan	Attached	A3
Proposed Site Plan	Attached	A3
Proposed East Elevation	Attached	A3
Street Elevations	Attached	A3
Planning Application Form	Attached	A4
Report of Handling	Attached	A4
Architects Supporting Statement	Attached	A4
Decision Letter	Attached	A4
CG1 - 20_03061_FUL Location Plan	Attached	A3
CG2 - 20_03061_FUL Existing Site Plan	Attached	A3
CG3 - 20_03061_FUL Proposed Site Plan	Attached	A3
CG4 - Existing Wall and Hedge	Attached	Not Applicable
CG5 - Existing Wall and Hedge	Attached	Not Applicable
CG6 - Existing Wall and Hedge	Attached	Not Applicable
CG7 - Existing Wall and Hedge	Attached	Not Applicable
CG8 - 2 Cluny Gardens	Attached	Not Applicable
CG9 - 8 Cluny Gardens	Attached	Not Applicable
CG10 - 25 Cluny Gardens	Attached	Not Applicable
CG11 - 29 Cluny Gardens	Attached	Not Applicable
CG12 - 36 Cluny Gardens	Attached	Not Applicable

CG13 - 42 Cluny Gardens	Attached	Not Applicable
CG14 - 46 Cluny Gardens	Attached	Not Applicable
CG15 - 47 Cluny Gardens	Attached	Not Applicable
CG16 - 60 Cluny Gardens	Attached	Not Applicable
CG17 - 61 Cluny Gardens	Attached	Not Applicable
CG18 - 66 Cluny Gardens	Attached	Not Applicable
CG19 - 71 Cluny Gardens	Attached	Not Applicable
CG20 - 105 Cluny Gardens	Attached	Not Applicable
CG21 - Trail of Emails	Attached	A4
JMPS Supporting Statement	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0

July 2020



Chartered Architect
www.iaincameronarchitect.co.uk

5 Cluny Gardens, Edinburgh

Material Amendments to Planning Consents

Supporting Statement

Planning Consent was approved on 22 November 2019 for :

1. Application for the reinstatement of the main house into one dwelling and the demolition of the existing extension at lower ground. **19/04486/FUL**
2. Application for the sub division of the plot and conversion of the existing garage/studio to a single dwelling. **19/04488/FUL**

The proposed amendments are minimal but overall they will assist in creating easier and more practical accessing arrangements for the 2 individual properties by separating out the accessing arrangements for each. In that respect, the dedicated means of access for each property, both in terms of foot access to the buildings and for access to and from the car parking areas, will help to improve residential amenity for the occupiers of each property, more so compared with the previously approved access arrangements.

An initial enquiry to Anna Grant was made on 8th July and Anna confirmed that the changes were material and would require a new application.

Two separate applications have been made and they should be considered in tandem.

1. Variation to 19/04486/FUL

Retain the existing vehicle access as dedicated access whilst providing a vehicle turntable which will enable the vehicle to turn within the site and exit in forward gear.

Remove the existing external stair, which is currently shared and provide a dedicated stair to the lower garden.

Provide a new low stone boundary wall/hedge between the front driveways to separate parking.

2. Variation to 19/04488/FUL

Form new 3 metre wide vehicle entrance for dedicated access to the main house. Provide new electrically operated and remote controlled sliding gate.

Remove the existing external stair, which is currently shared and provide a dedicated stair to the lower garden.

Provide a new low stone boundary wall/hedge between the front driveways to separate parking.



Existing street view of 3 – 7 Cluny Gardens

Conclusion

These proposals are minor amendments and aim to improve access and ownership arrangements. There will be no increased parking as a consequence.

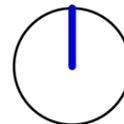
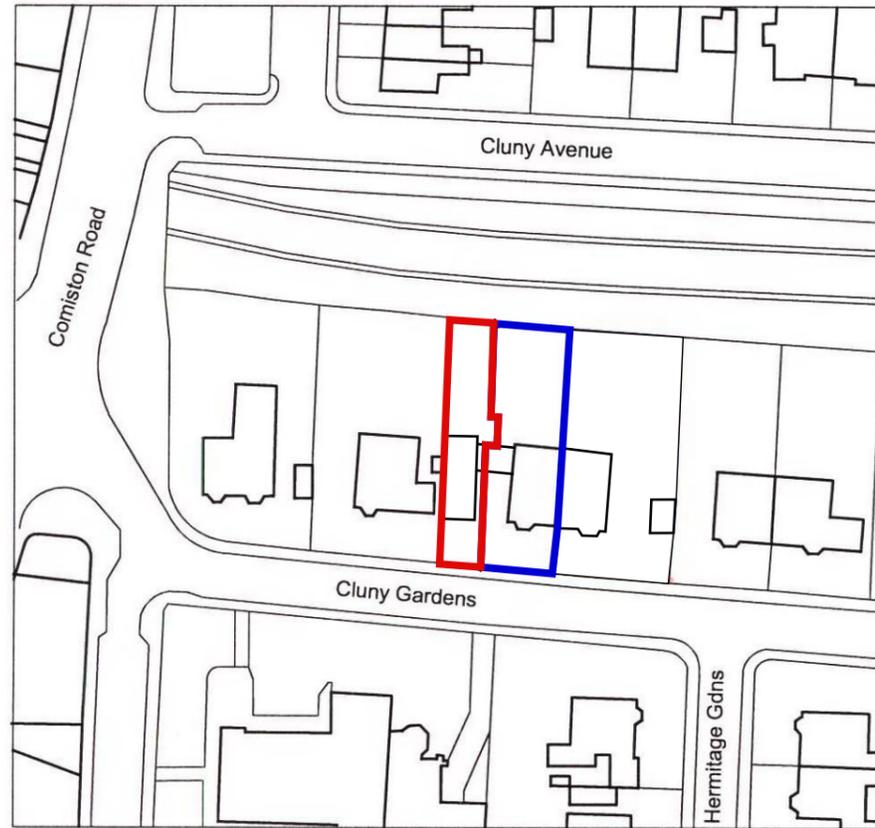
We look forward to receiving your decision on this application.

Iain Cameron

B Arch (Hons) Dip Arch RIBA RIAS

application boundary 

land under same ownership 



PLANNING

A3 LOCATION PLAN 1:1250
DRAWING No 330 - P LP

MR D DEMARCO
5 CLUNY GARDENS, EDINBURGH

JULY 2020

**IAN
CAMERON**

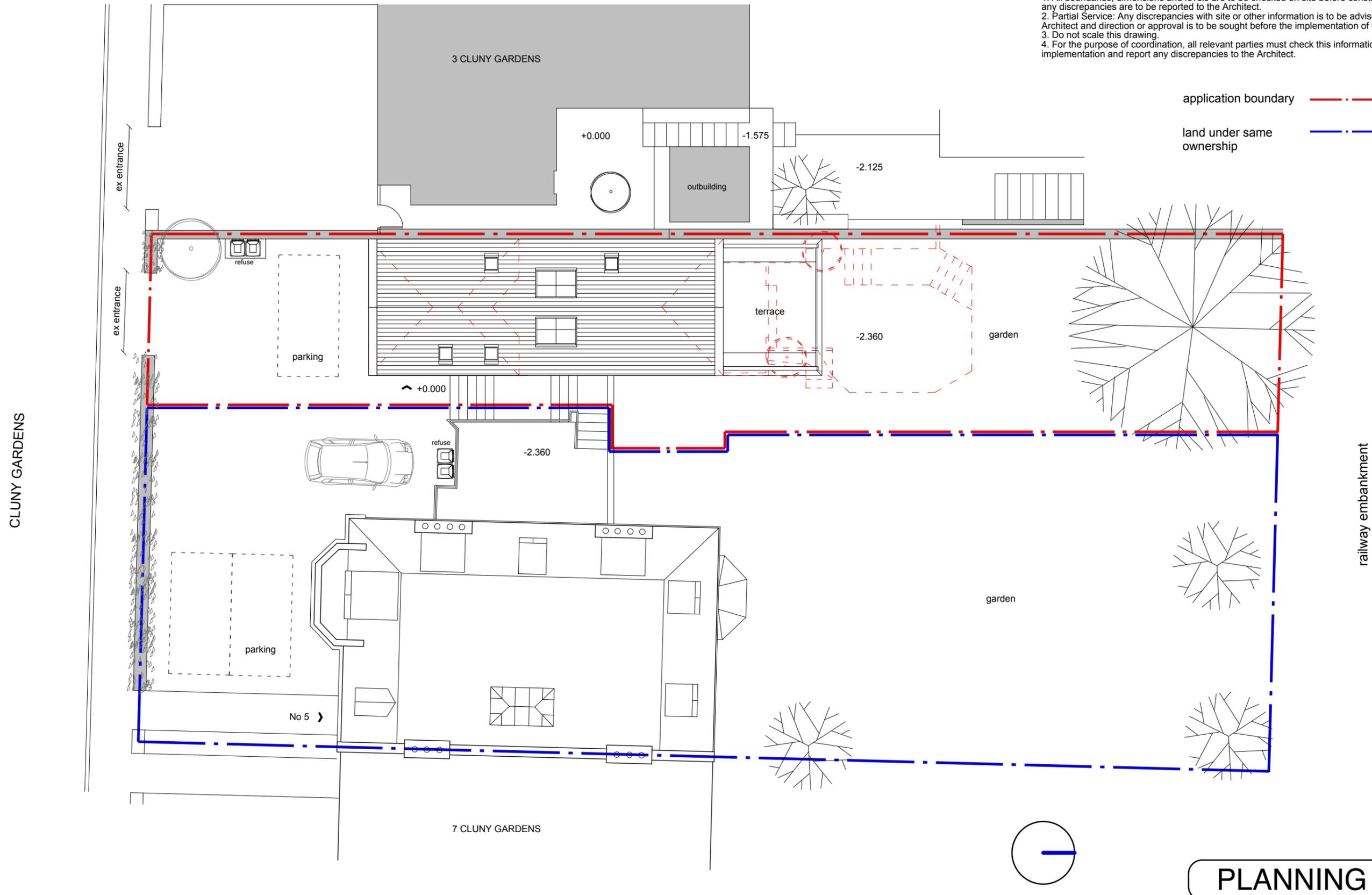
Chartered Architect

www.iaincameronarchitect.co.uk | 0131 467 0579

NOTES:

1. All boundaries, dimensions and levels are to be checked on site before construction and any discrepancies are to be reported to the Architect.
2. Partial Service: Any discrepancies with site or other information is to be advised to the Architect and direction or approval is to be sought before the implementation of the detail.
3. Do not scale this drawing.
4. For the purpose of coordination, all relevant parties must check this information prior to implementation and report any discrepancies to the Architect.

application boundary - - -
 land under same ownership - - -



PLANNING

NOTES:

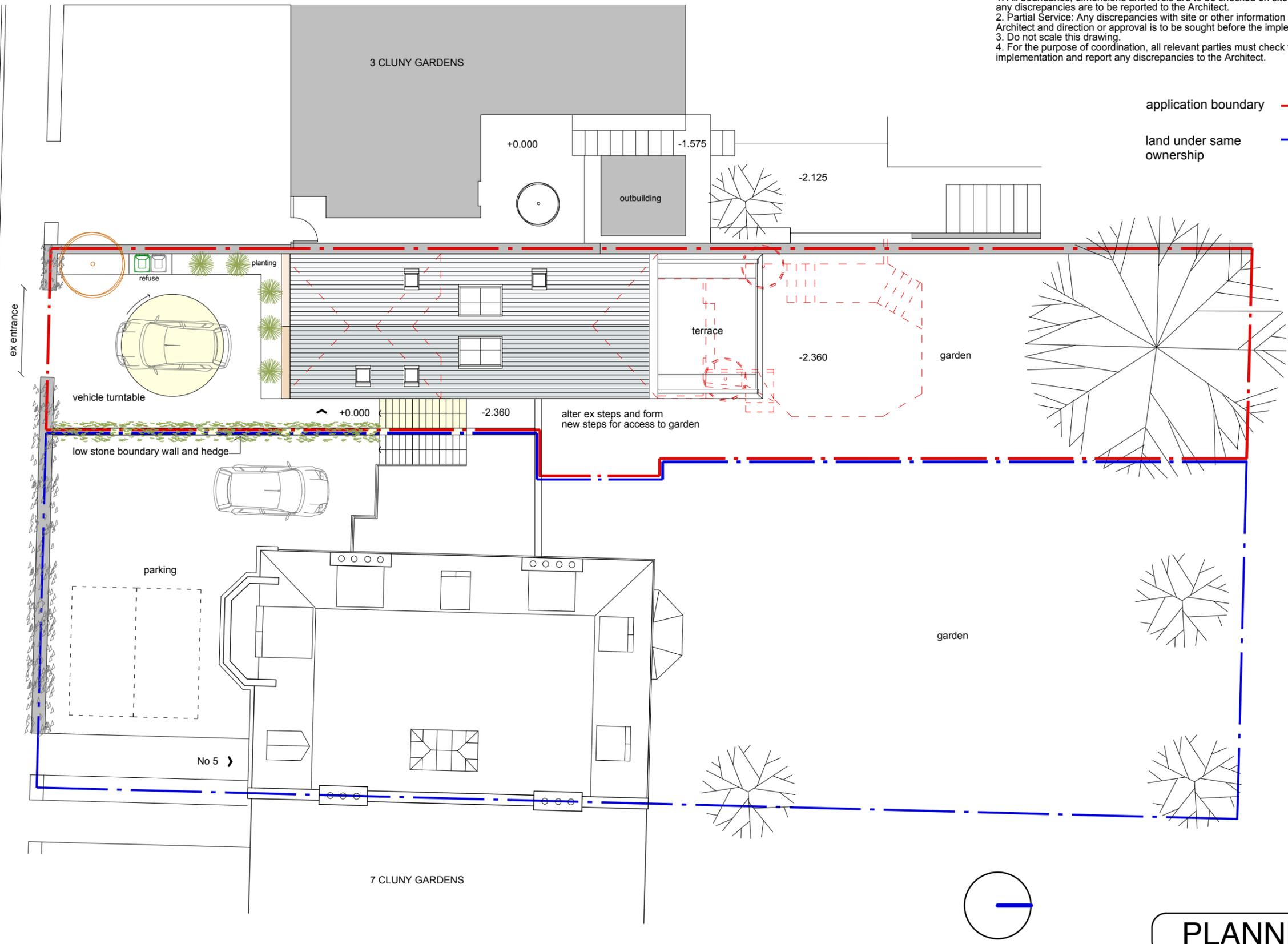
1. All boundaries, dimensions and levels are to be checked on site before construction and any discrepancies are to be reported to the Architect.
2. Partial Service: Any discrepancies with site or other information is to be advised to the Architect and direction or approval is to be sought before the implementation of the detail.
3. Do not scale this drawing.
4. For the purpose of coordination, all relevant parties must check this information prior to implementation and report any discrepancies to the Architect.

application boundary - - -

land under same ownership - - -

CLUNY GARDENS

railway embankment



PLANNING







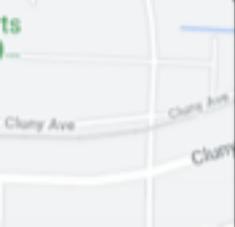


2 Cluny Gardens

Edinburgh, Scotland



Street View



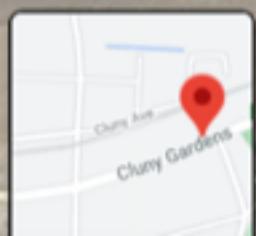
Google



8 Cluny Gardens
Edinburgh, Scotland



Street View



Google

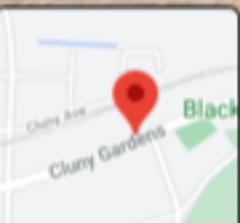


25 Cluny Gardens

Edinburgh, Scotland

Google

Street View

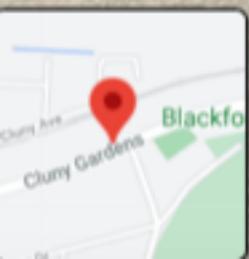


29 Cluny Gardens

Edinburgh, Scotland

Google

Street View



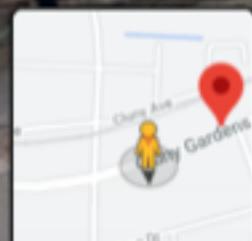
Google

36 Cluny Gardens

Edinburgh, Scotland



Street View



Google

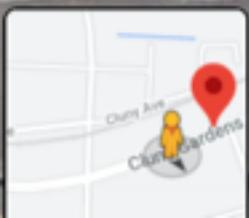


42 Cluny Gardens

Edinburgh, Scotland



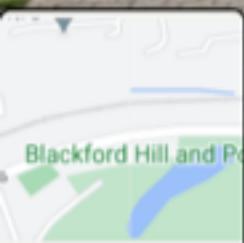
Street View



46 Cluny Gardens
Edinburgh, Scotland

Google

Street View



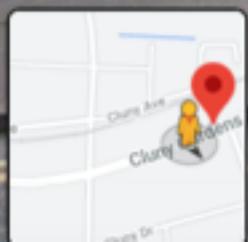
Google

47 Cluny Gardens

Edinburgh, Scotland



Street View



Google

PRODUCTION CG21

Email Trail between Planning Officials, Anna Grant and Lewis McWilliam and Agent, Iain Cameron Architect

Note – contact details have been removed for the purposes of compliance with GDPR.

On 28 Sep 2020, at 16:28, Anna Grant wrote:

Dear Iain,

I understand that Lewis has subsequently been in contact and the reports are not with me for signing off. Whilst I cannot get directly involved in the discussion of the merits of an application; I am happy to discuss any complaints you have regarding the management and handling of the application.

This week is tricky for me for as I'm focussed on training new starts so it would need to be next week. If you would like to arrange a day/time so I can call you? 9-10am is looking pretty clear next week (except Friday).

Kind Regards

Anna

From: Iain Cameron
Sent: 28 September 2020 11:56
To: Anna Grant
Subject: Fwd: Ref: 20/03062/FUL 5 Cluny Gardens

Dear Anna,

I emailed Lewis on Friday following our telephone discussion. I have not had a response and the determination date was yesterday. You have indicated your reluctance to get involved, can a Team Manager or Service manager please call me.

Thank you

Iain

From: Iain Cameron
Subject: Re: Ref: 20/03062/FUL 5 Cluny Gardens
Date: 25 September 2020 at 11:20:05 BST
To: Lewis McWilliam

Lewis,

Thank you for calling this morning.

It was extremely helpful to understand your reasons for refusing the application. You agreed that the feature that gives Cluny Gardens its character is the large stone properties. The wall in your own words is subservient and despite agreeing with me that this feature is not unique to the area and has been eroded over the years you felt that the loss of a small section of the wall was more important than the other benefits to road safety with the vehicle turntable and high quality design, all of which you approve.

I am disappointed with your evaluation of the application and the singular reason, Policy Env 6 is very weak. You did not agree that there were compelling reasons to approve the proposal as offered in Section 64. The application is targeted for determination on 27th September. I would like to agree to extend this until 1 October to allow me to discuss with my client and I would also like to discuss this with your Team Manager. Can you please provide the name and contact details.

I regret that you give me no alternative but to pursue this to appeal with the LRB.

Regards
Iain Cameron

On 24 Sep 2020, at 23:18, Iain Cameron

Dear Lewis,

I look forward to your call this morning. Is it possible you can call before 10am.

I have consulted and taken advice from John McCallum, Planning Consultant who has over 30 years experience. My comments are therefore shared and very much supported by John. To allow you to prepare, here is a brief list of the relevant issues which I have already raised which I would like to discuss:

1. Site visit : Have you made a visit to the site to observe the existing streetscape and can you advise when this was carried out.
2. Are you confident/certain that the alterations to existing properties precedes the adoption of the Edinburgh Local Development Plan.
3. If no approvals or enforcement actions have been made against these alterations, are they not then considered to be accepted.
4. Policy Env 6 : You have advised that the proposals are contrary to this Policy.

174 The purpose of the policy is to protect and, where possible, enhance the character and appearance of Edinburgh's main conservation areas. By controlling the demolition of buildings and ensuring new development is of an appropriate design and quality...

- (i) This is the single reason for your refusal
- (ii) the proposals use materials appropriate to the conservation area and are to a high standard of design
- (iii) new walls are constructed in natural stone and where possible salvaging stone from the existing building
- (iv) new gates will be traditional cast iron and will provide enclosure and maintain the character of the streetscape
- (v) you have confirmed that there is no planning control over the hedge.

(vi) the hedge will be retained to retain enclosure, privacy and maintain the character of the streetscape
(vii) the formation of a new vehicle access will not adversely impact on the character of the area and it has been documented that a sizeable number of properties have removed hedges and formed larger openings in the boundary walls which I assume were carried out to improve access and visibility
(viii) you have agreed to the vehicle turntable, new access stairs to lower ground and the new stone boundary wall between properties

5. It is also important and significant that the applications received no comments/objections from the public or the various Conservation Groups.

6. Transportation : they had no objections and we have agreed to comply with all conditions including electric vehicle charging points to both properties. The provision of a vehicle turntable within the existing entrance will allow vehicles to exit in a forward gear and will greatly improve road traffic safety. This must be seen as a very positive addition. The vehicle turntable is dependant on the approval of the new access.

7. Listed Buildings and Conservation Areas (updated February 2019) Part 2 Conservation Areas : the proposals comply with this non statutory guidance.

8. The loss of the hedge which would be permissible would in my opinion have a far greater impact on the streetscape

These proposals together with the approved consent to convert the existing garage/studio and reinstate the main house to single ownership are being carried out with the main objective to retain the existing street pattern and character. In short, your only objection is the loss of a small section of wall which you interpret as contrary to LDP Policy Env 6.

Section 64 of the Planning (Listed Buildings and Conservation Areas) Scotland Act 1997 allows for any compelling reasons for approving the proposals if they do not comply with the development plan.

Regards

Iain

On 24 Sep 2020, at 08:34, Lewis McWilliam wrote:

Hi Iain,

I am happy to give you a call on Friday morning on my return from leave.

Lewis

Lewis McWilliam | Planning Officer| Locals 2 and Householders – City Wide | Planning and Building Standards | Place Directorate | The City of Edinburgh Council | Waverley Court, Business Centre G2, 4 East Market Street, Edinburgh, EH8 8BG

From: Iain Cameron

Sent: 24 September 2020 08:25

To: Lewis McWilliam

Cc: Anna Grant

Subject: Re: Ref: 20/03062/FUL 5 Cluny Gardens

Dear Lewis,

Thank you for your email and note your comments.

I specifically said that I am not suggesting this sets a precedent but what it does illustrate, if you actually were able to make a site inspection, and I have many times, is that the character of boundary walls/hedges along Cluny Gardens has been eroded over many years, and whilst I appreciate the spirit of Policy Env 6, your implementation of the Policy and the minor loss of wall that this application proposes is really negligible to the street pattern and character. You have formed an opinion and I had hoped that you would have accepted my invitation to discuss this on the telephone but unfortunately

you have not given me that opportunity. Can I assume that you have been unable to make a site visit and therefore Google Street Views and your own personal assessment are the basis of your decision. This application and the approved consent for the conversion of the studio/garage have been carried out to a very high standard and with the intention of maintaining the street pattern and character.

I had also hoped that you might have informed me that you had discussed this with colleagues and reviewed my comments with them. We will not withdraw the application but I would very much wish to discuss this with Anna Grant and by copy of this email can I ask Anna if you call me to discuss further.

I am on site meetings all morning and my mobile number is XXXXXXXXXX

Many thanks

Iain

On 24 Sep 2020, at 07:35, Lewis McWilliam wrote:

Dear Iain,

Thank you for your response.

I note the images highlighted below of properties on the street. Predominantly, these alterations appear to have been carried out before the adoption of the Edinburgh Local Development Plan. In this regard, they don't set precedence for the assessment of this proposal. Notwithstanding this, the loss of the front boundary wall, would further erode the character of the conservation area and is contrary to policy and guidance.

You would have the right to appeal against the City Council's decision to the Local Review Body. If you can update the plans to include all external materials for application 20/03061/FUL and send these across to me by the end of this week I can put that application forward for approval. I am on leave today, but can pick up any updated drawings sent through tomorrow.

Kind regards,

Lewis

Lewis McWilliam | Planning Officer| Locals 2 and Householders – City Wide | Planning and Building Standards | Place Directorate | The City of Edinburgh Council | Waverley Court, Business Centre G2, 4 East Market Street, Edinburgh, EH8 8BG

From: Iain Cameron
Sent: 22 September 2020 14:32
To: Lewis McWilliam
Cc: Anna Grant
Subject: Re: Ref: 20/03062/FUL 5 Cluny Gardens

Dear Lewis,

Thank you for your email and I note your comments.

I had hoped that you would have called me to allow us to discuss the proposals in detail. Your comments are generally supportive of the proposals, however as you highlight there is no planning control over hedges, so the only issue we have is the removal of a 3 metre section of low wall. This will be replaced with traditional gates to retain the sense of enclosure. I don't believe these proposals have an adverse impact on the character of the area for the reasons previously outlined and the improvements to the existing vehicle access and safety must be considered with the minor loss of the hedge and low boundary wall. I have read Policy Env 6 and agree with the spirit of the Policy but when I look at the properties along Cluny Gardens it is very clear that the character of walls and hedges has already in the majority of properties been widened and hedges thinned. I have attached a random selection from Google Street view.

<image002.png><image003.png><image004.png><image005.png><image006.png><image007.png>
<image008.png><image009.png><image010.png><image011.png><image012.png><image013.png>
<image014.png>

Anna,

I have left you a message and would welcome the opportunity to discuss this with yourself.

I look forward to hearing from you.

Many thanks

Iain Cameron
Dip Arch B Arch (Hons) RIBA RIAS

On 22 Sep 2020, at 13:50, Lewis McWilliam wrote:

Dear Iain,

The additional works (including proposed retaining wall, vehicle turn table and stairs) are acceptable subject to the plans for the corresponding application 20/03061 being updated to show all external materials. If these plans can be updated and I can put that planning application forward for approval. If this can be done by Friday 25th I can put the recommendation forward the following week.

In regard to planning application 20/03062/FUL, the creation of the vehicular access would impact on the conservation area through the loss of the front wall and hedging. There is no planning control over the hedge, however, in tandem with the front boundary wall these are features that contribute positively to the character of the conservation area. Removal of this section of the front boundary wall would not preserve or enhance the conservation area contrary to the LDP policy Env 6. The design of the replacement gate is noted, however the proposal is still unacceptable in terms of the loss of these features.

It is noted that no representations have been received, however, the applications are primarily assessed having regard to relevant policy and guidance.

The application (20/03062/FUL) will be recommended for refusal on the 28th September - you would have the right to appeal against the City Council's decision to the Local Review Body.

Kind regards,

Lewis McWilliam | Planning Officer| Locals 2 and Householders – City Wide | Planning and Building Standards | Place Directorate | The City of Edinburgh Council | Waverley Court, Business Centre G2, 4 East Market Street, Edinburgh, EH8 8BG

From: Iain Cameron
Sent: 21 September 2020 11:25
To: Lewis McWilliam
Subject: Re: Ref: 20/03062/FUL 5 Cluny Gardens

Dear Lewis,

I trust you enjoyed your short break and thank you for forwarding the response from Transportation. This is very helpful and together with your own response on 16th September I would like to make the following comments:

The proposals are intended to improve the vehicle access to the properties and also to clarify the boundaries. The treatment of new low stone boundary walls between the plots is proposed to maintain the character of the existing properties and the area itself. We have consulted with immediate neighbours and it is also important and significant that the applications received no comments/objections from the public or the various Conservation Groups.

Listed Buildings and Conservation Areas (updated February 2019)

1. The property is within the Morningside Conservation area. I cannot see any reference in Part 2 of this document that would oppose the formation of a new vehicle entrance.
2. There is no Policy that would prevent anyone from removing the hedge in its entirety. There is evidence at various properties on Cluny Gardens where partial widening and removal of hedges have been undertaken. I assume that this has been done to improve access and visibility and that no permissions have been obtained and/or were necessary. I am not suggesting this sets a precedent and indeed we have no desire to remove the hedge.
3. The removal of a section of a 3 meter section of hedge and wall does not have a significant impact on the streetscape or the character of the area.
4. Traditional steel gates area proposed to the new entrance and this maintains the sense of enclosure. In addition a vehicle turntable is proposed within the existing entrance and will allow vehicles to exit safely in forward gear. This is surely a very welcome and positive proposal to vehicle and pedestrian safety.
5. In response to Transportation comments, I have discussed this with the applicant and they would be prepared to provide electric vehicle charging to both properties. All other comments are noted and will be complied with too.

I would appreciate if you would review your position and would welcome the opportunity to discuss this with you.

Kind regards

Iain Cameron
Dip Arch B Arch (Hons) RIBA RIAS

On 21 Sep 2020, at 08:58, Lewis McWilliam wrote:

Hi Iain,

Thanks for the email, apologies for the delay in a response - I was also on leave myself Wednesday (16/9) afternoon until Friday (18/9).

I had emailed a highways officer in regard to the proposal who raised no objections subject to the following standard condition/ informative as appropriate:

1. Any off-street parking space should comply with the Council's Guidance for Householders dated 2018 http://www.edinburgh.gov.uk/info/20069/local_plans_and_guidelines/63/planning_guidelines including:

Off-street parking should be a minimum of 6m deep and a maximum of 3m wide;
Access to any car parking area is to be by dropped kerb (i.e. not bell mouth) and at a maximum width of 3.0m (4.8m with transistions);

A length of 2 metres nearest the road should be paved in a solid material to prevent deleterious material (e.g. loose chippings) being carried on to the road;

Any gate or doors must open inwards onto the property;

Any hard-standing outside should be porous;

Electric vehicle charging infrastructure should be considered for this development;

The works to form a footway crossing must be carried out under permit and in accordance with the specifications. See Road Occupation Permits <https://www.edinburgh.gov.uk/roads-pavements/road-occupation-permits/1>

No other consultations had been carried out as part of the assessment.

Kind regards,

Lewis

Lewis McWilliam | Planning Officer| Householders – City Wide | Planning and Building Standards | Place Directorate | The City of Edinburgh Council | Waverley Court, Business Centre G2, 4 East Market Street, Edinburgh, EH8 8BG

From: Iain Cameron
Sent: 17 September 2020 15:06
To: Lewis McWilliam
Subject: Re: Ref: 20/03062/FUL 5 Cluny Gardens

Dear Lewis,

Sorry to be chasing you again, but I would like to have the responses from the Consultations before I can take a decision on this application.

I know people will be working from home and things are taking long.

Look forward to hearing from you.

Many thanks

Iain

On 16 Sep 2020, at 11:45, Iain Cameron wrote:

Dear Lewis,

I will discuss this with my client but in the meantime can you forward the responses from Consultations for my attention.

Thank you

Iain

On 16 Sep 2020, at 09:19, Lewis McWilliam wrote:

Hi Iain,

I am also dealing with the corresponding application 20/03062/FUL, please find the following assessment below:

20/03062/FUL

The site lies within the Morningside Conservation Area, therefore LPD Policy Env 6 and the conservation character appraisal are applicable. Policy Env 6 states the following:

Development within a conservation area or affecting its setting will be permitted which: a) preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area and c) demonstrates high standards of design and utilises materials appropriate to the historic environment.

Further, the character appraisal states the following:

The gardens are well tended and are particularly important in terms of greening the area and offering a mature landscape setting. Most gardens are defined by low stone walls and hedging.

The proposal involves part removal of the front boundary wall, and hedging. This boundary treatment is characteristic of the local area. Their prevalence in bordering the front boundary of houses and visible position adjacent to the street is such that they contribute positively to the visual amenity of the area. Removal of these features and the creation of the vehicular access would have an adverse impact on the character and appearance of the conservation area contrary to the above policy and guidance. In this regard, it is not considered that the application could be supported therefore would be recommended for refusal on Monday 28th September. Should you wish to withdraw the application in advance of this please let me know.

Kind regards,

Lewis McWilliam | Planning Officer| Householders – City Wide | Planning and Building Standards | Place Directorate | The City of Edinburgh Council | Waverley Court, Business Centre G2, 4 East Market Street, Edinburgh, EH8 8BG

NOTES:

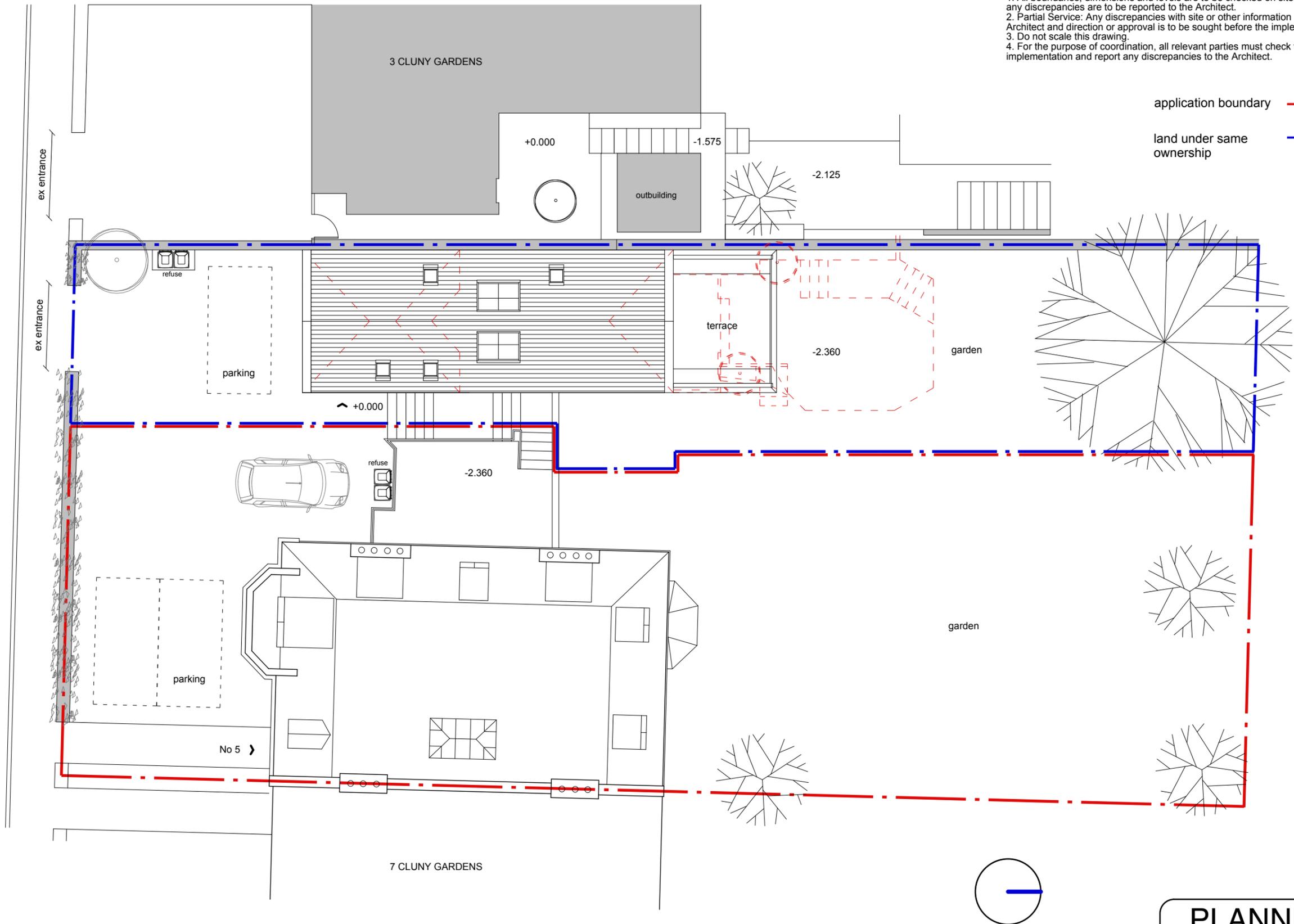
1. All boundaries, dimensions and levels are to be checked on site before construction and any discrepancies are to be reported to the Architect.
2. Partial Service: Any discrepancies with site or other information is to be advised to the Architect and direction or approval is to be sought before the implementation of the detail.
3. Do not scale this drawing.
4. For the purpose of coordination, all relevant parties must check this information prior to implementation and report any discrepancies to the Architect.

application boundary - - -

land under same ownership - - -

CLUNY GARDENS

railway embankment



PLANNING

SUPPORTING STATEMENT FOR A NOTICE OF REVIEW

To The City of Edinburgh Council's Planning Local Review Body

Application Reference 20/03062/FUL

**Amendment to Permission Ref: 19/04488/FUL (corrected as
19/04486/FUL) relating to new vehicle entrance, boundary wall and
changes to external stairs to lower garden**

at 5 Cluny Gardens, Edinburgh EH10 6BE

Prepared by

JM PLANNING SERVICES

On behalf of

Mr Dan Demarco

19th October 2020

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PL/DDM/ICA/CGE/074/LRB
Supporting Statement V1. Final
19th October 2020
John MacCallum BSc. (Hons), MRTPI
Planning Consultant

1.0 INTRODUCTION

1.1 A Notice of Review has been submitted by JM Planning Services on behalf of Mr Dan Demarco whose planning application (Ref. 20/03062/FUL) for “Amendment to Permission (Ref: 19/04488/FUL (corrected to 19/04486/FUL)) relating to new vehicle entrance, boundary wall and changes to external stairs to lower garden” at 5 Cluny Gardens, Edinburgh EH10 6BE was refused on 5th October 2020 under delegated powers. The application was originally submitted by Iain Cameron Architect.

1.2 The application was refused by the Planning Case Officer for the following reason:

“The proposal would adversely impact on the character and setting of the villa property, and fails to preserve or enhance the character or appearance of the Morningside Conservation Area contrary to Edinburgh Local Development Plan policy Env 6 (Conservation Areas - Development) and policy Des 12 (Alterations and Extensions) and the non-statutory guidance.”

1.3 Although it is not explicitly stated in the reason for refusal, it is of particular relevance to this Review that the refusal relates solely to a 3 metre section of low front stone boundary wall which is proposed to be removed (along with corresponding hedge section which exists inside the property) for the formation of a new access and driveway entrance for the property. It is evident from the Planning Officer’s assessment of the application that the other aspect of the proposal relating to the minor alteration affecting the arrangement of external stairs to the lower garden for the property is acceptable, although it is significant that a mixed decision which the Council often issues in circumstances where component parts of an application are both acceptable and unacceptable, has not been effected in this instance.

1.4 The applicant seeks a determination of the Review by written submissions only. The supporting documentation included within the Review submission papers is considered to be sufficient to assist the Planning Local Review Body (PLRB) members in their consideration of the application.

1.5 The Notice of Review and the accompanying documents which were submitted as part of the planning application are included, as required, as well as this supporting Statement. Photographs (Production Nos. CG4 to CG7) of the front view of the property showing the wall and hedge as they presently exist are included to assist the PLRB on the basis that a site inspection might not be possible at this time.

1.6 In addition, the following are also included as supporting information as part of this submission:

- (i) an email trail between the Architect and Planning Case Officer (Production No. CG21) and emails between the Transportation and Planning Case Officials (within the body of this Statement).
- (ii) photographs (Production Nos. CG8 to CG20) showing other examples of vehicular accesses along Cluny Gardens submitted by the Architect in support of the application during the consideration of the application.

1.7 This is not new information being introduced for the Review, but rather it represents additional supporting details which were the matter of discussion and consideration during the processing of the application. It is understood that they can be accepted on that basis as part of the PLRB’s consideration of this Review.

2.0 BACKGROUND

2.1 Recent Planning History

2.1.1 It is considered beneficial for the PLRB's full understanding of this Review to explain at the outset what has been granted permission in the past relative to the amendments subsequently sought. These relate to proposals under the most recent 2 planning permissions granted in 2019 for the property at No. 5 Cluny Gardens, as well as another amendment permission (Application Reference 20/03061/FUL) which was submitted concurrently with the application which is the subject of this review.

(i) 19/04486/FUL - Planning permission granted for the transformation of two flats into a single dwelling and demolition of existing extension at No. 5 Cluny Gardens

2.1.2 This application was necessary as the works to demolish an extension at lower ground level required planning permission by virtue of the main property at the time being subdivided into 2 separate flats. If no external alterations had been necessary, the reinstatement of the property to a house would not have required planning permission.

2.1.3 The application was subsequently approved with an area for car parking at the front being retained to share with the new house being created (the subject of the application below).

(ii) 19/04488/FUL - Planning permission granted for the sub-division of plot and conversion of existing garage/studio to dwelling at No. 5 Cluny Gardens.

2.1.4 This proposal sought to convert the existing garage/studio building at the (west) side of the main property (No.5) which is separated by a gap in which there is a void containing steps leading down to a lower courtyard and entrance to the lower flat at No. 5. The removal of the extension linking the main house and the rear of the garage/studio at the lower ground level, as per the application above, facilitated the separation of the 2 buildings as part of the subdivision of the property.

2.1.5 The application was approved on the basis that the design details were deemed acceptable as they preserved the appearance of the existing building to the street while other alterations to the roof and short extension to the rear were suitable to create an appropriate level of living accommodation in the conversion.

(iii) 20/03061/FUL - Planning permission granted for Amendment to Permission (Ref. 19/04488/FUL) relating to a new vehicle turntable within existing driveway, boundary wall and changes to external stairs to lower garden for new house in grounds of 5 Cluny Gardens (NOT 20/03062/FUL as it is stated incorrectly in the Case Officer's Report of Handling).

2.1.6 This application sought an amendment to the original permission for the garage conversion to enable the new house to have its own dedicated car parking directly in front of the building by making use of the existing driveway entrance. With this front parking area being enclosed by a dividing wall along its eastern boundary, thereby subdividing the existing hardstanding area, the subsequent reduction in area reduced the ability for vehicles to turn, hence the turntable was devised as a suitable solution.

2.1.8 That amendment application was approved on 29th September 2020 before determination of the amendment application which is the subject of this review and which has been submitted simultaneously.

2.2 Purpose of the Amendment Applications (20/03061/FUL and 20/03062/FUL)

2.2.1 Following the approval of the 2019 applications, which confirmed that the Council had accepted the principle of the subdivision and garage conversion to a house and the reinstatement of No.5 to a single house, the accessing arrangements for each property were given further thought. In that regard, it is considered possible that each property might, in time, wish to have their own dedicated vehicular entrance and it was deemed best, in a practical sense, to address the matter now as part of the overall proposals and hence the submission of the 2 concurrent amendment applications. Accordingly, the proposed amendments devised a suitable way for each property to have their own individual accessing arrangements.

2.2.2 While the original 2019 consents can still be implemented as approved, the new arrangements under the 2 amendment applications were considered to be an overall improvement on the situation from that which had been initially approved.

2.2.3 The consequences of the approval of the other amendment (20/03061/FUL) are that the existing property at No.5 loses its means of vehicular access to what had been previously proposed to be a shared access and car parking area at the front for both properties. The application which is the subject of this review was submitted simultaneously with the other corresponding amendment application to specifically address that potential scenario. It was intended that if one application was accepted then there was an expectation that the other would also be accepted to ensure both properties had their own dedicated vehicular access and car parking arrangements.

2.2.4 The situation is also further exacerbated if the other amendment permission (20/03061/FUL) is implemented as it will lead to pedestrian access being denied to the lower basement and rear garden of No. 5 as the stairs providing existing access to No.5 are to be removed and replaced with a dedicated set of stairs for each property. Only the set of stairs for the new house will then be able to be formed.

3.0 DETAILS OF THE PROPOSALS

3.1 Points of Clarification

3.1.1 The proposals relate to amendments to planning permission Ref. **19/04486/FUL**. However, before describing the proposals, there are several matters that require clarification for the PLRB to fully understand the application proposals.

3.1.2 Firstly, the application is NOT, as incorrectly stated in the description, an amendment to planning permission Ref. 19/04488/FUL (which relates to a separate but associated permission for the subdivision of the property and conversion of existing garage/studio building to a new house). Instead it is an amendment to planning permission Ref. **19/04486/FUL** for alteration works to No.5 which also involved its reinstatement to a single house.

3.1.3 Secondly, the application form (for this review application only) referenced the previous permission incorrectly. However, this was clearly a typing error as the Supporting Statement submitted with each amendment application clearly identifies the correct references.

3.1.4 The Case Officer's Report of Handling also states the following when describing the application details:-

“ In addition, the plans include the following:

-Formation of boundary wall, vehicle turn table and changes to external staircase (including steps and railings)”.

3.1.5 This statement is not correct, as these features form part of application Ref 20/03061/FUL and do **NOT** form part of this application – while they were shown on the Proposed Site Plan, they were for information purposes only as part of this review application to illustrate how the overall situation would appear if details contained in the other separate amendment application (Ref 20/03061/FUL) associated with the permission for the new house (Ref 19/004488/FUL) were implemented.

3.1.6 It is accepted that there are some discrepancies in the plans submitted for this review application, with regard to different red line application site boundaries shown on the Location Plan and Proposed Site Plan compared to the Existing Site Plan. However, it is important to clarify that the Location Plan and Proposed Site Plan show the correct red line application site boundaries and that the Existing Site Plan is incorrect as it shows both a red line and blue line; the blue line is not necessary. (NOTE – the red line application site boundary required to be drawn around the whole property for the original application (Ref. 19/04486/FUL) since the proposals related to the house and its entire grounds as they exist before any subdivision was to take place. As the review application is an amendment, the application boundaries as shown by the red lines require to be the same as the original application).

3.1.7 A copy of the Location Plan, Existing Site Plan and Proposed Site Plan for Permission Ref. **20/03061/FUL** have been submitted as additional information (see Production Nos. CG1, CG2 and CG3) help clarify this matter: they each show the correct red and blue lines which confirm that that application relates to the original subdivision application, correctly referenced: **19/004488/FUL**.

3.1.8 Apart from a typing error in the application form and one drawing having a blue line shown incorrectly, the 2 amendment applications as submitted by the Architect were, in the main, clear and should have been straightforward to understand. It would be fair to say that these slight discrepancies

and anomalies should ideally have been picked up at the initial application registration/validation stage. There is also an expectation that the Case Officer should have picked up on them and it is regrettable that he did not.

3.2.9 It is hoped that the explanations above have helped to clarify the position for the PLRB on the matters which are relevant for their consideration of this review application and have removed any confusion in relation to information contained in the application drawings, application form, the decision notice and Report of Handling.

3.2 The Amendment Proposals (20/03062/FUL)

3.2.1 The amendment sought requires the removal of a short 3 metre wide section of front boundary wall and corresponding hedge along the front of the property in order to form a new vehicular access dedicated for No.5 to access its own car parking area as it presently exists, as shown on the Proposed Site Plan.

3.2.2 It is also proposed to erect an electrically operated and remote-controlled sliding traditional, cast iron gate across the opening which will be painted black to match the existing pedestrian gate for the property, as shown on the Proposed Site Plan and Street Elevations drawing and as detailed in the Supporting Statement which accompanied the application.

3.2.3 The existing wall and hedge arrangement is shown on the photographs in Production Nos. CG4, CG5, CG6 and CG7.

3.2.4 An associated part of the amendment relates to the provision of an alternative set of stairs to those that presently exist to form stairs dedicated to No.5, separate from the new house adjacent, to enable pedestrian access to the lower garden ground area and existing basement access door for No.5.

4.0 REASONS FOR THE REVIEW

4.1 The reason for the submission of this Review request is to explain to the PLRB that the Planning Case Officer has placed disproportionate importance on a section of low stone wall and its apparent contribution to the streetscape.

4.2 The wall is proposed to be removed as part of an amendment to a previous consent to enable a new vehicular access to be created to an existing hardstanding area at the front of the property at No.5. It is contended that the streetscape along Cluny Gardens is varied and has already been subject to relative change over time. The change introduced would be minimal and it would neither harm nor further erode the character of the Conservation Area as wrongly perceived by the Planning Case Officer. Instead, the proposal would preserve the character of the area, as will be explained.

4.3 Despite supporting evidence being submitted to illustrate the local context and further written evidence in support of the application, the Planning Case Officer initially ignored several attempts to engage with the Architect to discuss these matters and only did so once having completed his assessment and had written his draft report with recommendation for refusal.

4.4 It is important to emphasise at the outset that the Council has already accepted the principle of subdividing the property at No.5. It is argued that No. 5 still needs to be properly accessed to function as a house, the same as it has always been, and particularly in light of the prevalence of properties along Cluny Gardens which have vehicular entrances to the front or off-set to the front to access areas of hardstanding for car parking. The Planning Case Officer has failed to fully assess this matter by first approving the other amendment application (20/03061/FUL) which proposes to form a dividing wall across the existing shared car parking area.

4.5 The refusal of this review amendment application compounds the matter and will therefore have adverse consequences for No.5 as it will remove the ability for vehicles to access the front of the property and to make use of the existing hardstanding area for its own off-street car parking area. This situation would force cars to park on-street, on a part of Cluny Gardens which has waiting restrictions, both directly outside the property (single yellow lines) and nearby along the street (double yellow lines). This would be an obvious retrograde step as it will result in additional car parking on the street. It would also significantly reduce the appeal of the 4 storey 5 bedroom villa compared to how it presently exists, and always has been, with the availability of off-street parking for convenient and ease of access to and from the property. These are regarded as significant material considerations which have been ignored by the Planning Case Officer.

4.6 There is a further consequence of the refusal in that the existing stairs leading to the lower garden area are proposed to be altered by the amendments permitted for new house consent which now represents the most viable and preferred option to be implemented. A new set of stairs to access the new house have been approved with the removal of the existing stair access to No.5 which effectively removes the ability for access to the basement door and lower garden area of No.5.

4.7 The purpose of this Statement is to demonstrate firstly, that the application proposes minimal change and that, overall, the proposals will preserve the character and appearance of the Conservation Area; and, secondly, that the adverse consequential impact of refusal, resulting in significant disadvantages to the access and parking arrangements for No.5, is a material consideration in the assessment of the application which helps to further outweigh any perceived harm to the Conservation Area by the Caser Officer that might be considered to be brought about by the change to the appearance

of the front of the property. It is considered, therefore, that the proposals overall have considerable merit and can be supported by the Development Plan.

4.8 The Review request therefore seeks the PLRB's support to overturn the Planning Case Officer's decision and approve the application as submitted.

5.0 GROUNDS FOR A REVIEW OF THE DECISION

5.1 The planning considerations associated with the review application will now be addressed in this Section relative to relevant planning policy and other material considerations. There are 2 grounds for review and each will be expanded on in this Section.

Ground 1.

The proposed removal of low boundary wall at the front of the property does not introduce a significant change to the streetscene that would cause harm to the Morningside Conservation Area and therefore there is no justification for refusal of the application.

This ground considers the matters raised by the application in relation to Conservation Areas.

Policy Env 6 (Conservation Areas – Development) in the adopted Edinburgh Local Development Plan 2016 states:

“Development within a conservation area or affecting its setting will be permitted which:
a) preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal;
b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area; and
c) demonstrates high standards of design and utilises materials appropriate to the historic environment.”

5.2 There are 2 aspects to challenging the decision reached by the Planning Case Officer on the impact of change to the front of the property in the Morningside Conservation Area: the assessment of the streetscene by the Officer and then his judgement that the front area of the property would be exposed greatly by removal of the low wall.

5.3 Firstly, the assessment of the streetscene by the Planning Case Officer is not shared. The supporting evidence submitted with the application demonstrates that the Officer has misunderstood this evidence and reached an incorrect conclusion. In the Report of Handling, the Officer states:

*“On Cluny Gardens, previous alterations have been carried out to the front boundary wall. However, **the existing openings are primarily for pedestrian access gates and a single vehicle access to the side of properties.** The exception to this is 15 Cluny Gardens, where there are two vehicle accesses at the front. This arrangement predates current policy and there is no planning history for these works. It therefore does not set a precedence for the assessment of this proposal.*

*Notwithstanding the above, **two vehicular accesses is not a prevalent characteristic of the conservation area.** The cumulative width of the two openings is in excess of properties in the surrounding area.”*

5.4 In the first instance, this contradicts the clear evidence submitted in the form of images from Google Streetview in Production Nos CG8 to CG20 which show 7 examples of driveways immediately adjacent to each other in the streetscene, namely at Nos. 8, 25, 36, 46, 66, 71 and 105 Cluny gardens. The Case Officer refers to one exception at 15 Cluny Gardens relative to 2 accesses for the one property. In terms of that particular double driveway arrangement, there is another example at No. 60 Cluny Gardens as shown in one of the images provided.

5.5 However, it is clear that the Planning Case Officer has misunderstood the evidence being presented. This is apparent from the way he has written his report in that he refers to 2 vehicular accesses, or a double driveway width, for a single property, as stated at the start of the preceding paragraph:

*“The proposal would remove a 3m wide section of the existing boundary wall adjacent to the existing opening and **add** a second vehicle access.”*

5.6 This completely misunderstands the valid point which was being raised by the Architect. The resultant 2 vehicular entrances at No.5 would not be in relation to one property but 2, following the Council’s granting of consent for the property to be subdivided into 2 separate residential units. Hence the reason that the proposal was submitted in the form of a separate amendment application. Therefore, the existing access and proposed new access will relate directly to each residential property. This is clearly the situation which was being illustrated in the examples presented. Consequently, the Planning Case Officer has reached an incorrect conclusion in his assessment of what has been presented to him which has led to this matter not being fully considered and assessed.

5.7 Any perceived adverse impact of the removal of the low wall on the character and appearance of the Morningside Conservation Area cited by the Planning Case Officer is therefore difficult to understand in the context of the prevailing street scene position, as supported by the evidence submitted. This is compounded in the correspondence between the Architect and the Planning Case Officer in which the Planner admitted in conversation that the wall is “**sub servient**” and “**not unique to the area and has been eroded over the years**” (see email dated 25th September in Production CG21).

5.8 It is important to also re-emphasise that the amendment application is only necessary as a result of the other amendment application. It would serve no purpose to submit an application for a separate entrance if it was proposed to access the existing shared car parking area because an entrance already exists and access to is retained by virtue of the 2109 consents already granted. The amendment application is not able to be assessed in its own rights as an access to the existing open car parking arrangement and therefore, by default, the formation of a new entrance can only be assessed as part of the overall amendments for No.5 and the new house, which is to create 2 dedicated parking areas separated by a dividing wall.

5.9 The Planning Case Officer also states in his Report of Handling:

“For this property, in line with the majority of the conservation area, the existing stone boundary wall delineates the front boundary of the proposal site and its width mirrors that of the adjoining villa. It forms part of the property’s frontage and in tandem with natural features is part of the extensive setting of the villa property.

The position of the existing vehicular access to the west side of the site, is mirrored on the adjoining villa to the east. The extent of these openings is modest and their position to the far side of the property’s boundaries preserves the front garden and appears discreet in the context of the overall villa setting.”

5.10 Again, it should be emphasised that the 2 amendment applications require to be assessed in the context of 2 distinct properties having been created following the Council's decision to approve the 2019 applications.

5.11 It is recognised that there is a gap on the east side of the adjoining villa (No.7 Cluny Gardens) with its (eastern) boundary, similar to that at No.5 with its western boundary. It is also worth mentioning in that regard, that not all properties along Cluny Gardens benefit from such a wide gap between the gable of the main house and the side boundary and so this feature referred to by the Planning Case Officer is not as prevalent as he suggests.

5.12 Furthermore, and more significantly, it is of relevance to highlight that, when considering the Street Elevations drawing submitted with the application, the new driveway entrance will be positioned in the gap between the main house and the new house (garage conversion). It therefore represents a relocation of the existing access further along the reduced frontage of No.5 but within the existing gap between the building and its newly created western boundary. It does still, however, maintain the sense of an opening being offset to the side of the property and therefore respects the character of the position at No.7. As a result, there is no overall loss of balance as the access for the property can still be formed to the side and not directly in front of the building of No.5 itself, albeit it does not exactly mirror the position at No.7.

5.13 In addition, it is also not reasonable for the Case Officer to focus on the balance of one semi-detached property, when there is such variety in the area and when a degree of balance is in fact being retained, as just described.

5.14 Secondly, the Planning Case Officer's perception that the hardstanding area will become more exposed following the removal of the wall is not substantiated.

5.15 In his Report of Handling, the Planning Case Officer refers to an extract in the Morningside Conservation Area Character Appraisal to describe the character of the area. He quotes from the document:

"The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads."

5.16 This description is not disputed, although this is one small reference in a section devoted to describing the architectural character of the buildings. The Character Appraisal also dates back to October 2001 and therefore it was written at a specific point in time and inevitably change can and has been allowed to take place over time, as demonstrated by the examples of driveways in Cluny Gardens presented. These have shown changes to the front garden settings, mainly by more open frontages being created by removal of hedges and vegetation but also by some alterations to walls based on the evidence submitted.

5.17 With specific regard to the property at No.5, it is of relevance that change has now been affected in the street by the subdivision of No.5 to create 2 distinct and separate houses. It would not be unreasonable to expect each house to have their own vehicle entrance and off-street car parking area, a matter which was given further consideration following the initial approvals in 2019 as explained earlier in this statement. The change is, however, minimal due to the relatively short section of wall to be removed in comparison to the section to be retained along No.5's frontage specifically (as shown on

the Proposed Site Plan), the retention of the remaining section of hedge, pedestrian access and gate for No.5.

5.18 When the prevalence of driveway entrances and open frontages in the streetscene along Cluny Gardens as referred to by way of the examples submitted are included to this context, the level of change is considered to be even less.

5.19 The Planning Case Officer accepted in correspondence with the Architect (see his email dated 22nd September in the email trail in Production CG21) that there is no planning control over the removal of the hedge. However, his defence that the removal of the wall and insertion of gates will expose the hardstanding area cannot be supported since it is evident that the removal of the entire hedge along the frontage of the property without any prior consent would cause even greater exposure of the front hardstanding area. This is NOT the applicant's proposal as the hedge forms an attractive feature and so its remaining sections along the frontage are to be retained.

5.20 Of further relevance is the proposal to erect an electrically operated and remote-controlled sliding gate across the opening. This has been designed as a traditional cast iron gate to be painted black to match the existing pedestrian gate for the property which the Planning Case Officer has accepted in terms of its design and finishing material as it is on keeping with those prevalent in the area. The inclusion of this gate in the streetscene will reinforce a sense of enclosure for the property's frontage replacing the existing wall and hedge to be removed thus helping to reduce any perceived exposure of the hardstanding area that the Planning Case Officer believes will take place.

5.21 In further support of the position, the existence of open and exposed driveways and front hardstanding areas is prevalent along Cluny Gardens, as supported by the examples submitted which illustrate that, in some cases, they are side by side and therefore cause a far greater open frontage appearance.

5.22 A further important matter to impress for the PLRB's clear understanding is that the removal of the low stone boundary wall will not be completely lost as a feature for the property. The dividing wall between No.5 and the new house across the existing hardstanding area, which will be positioned at 90 degrees to the existing boundary to separate the 2 dedicated parking areas, will be built in stone to closely match the existing wall being removed in terms of its height and finishing materials, where possible salvaging stone from the existing building

5.23 This new development has been approved under the other amendment application and has been deemed to be appropriate in preserving and enhancing the character and appearance of the Morningside Conservation Area. Retention of the sections of hedges along the frontage will further ensure this character is preserved.

5.24 The Planning Case officer makes reference to Section 64 of the Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as being important and that it requires to form the basis of a decision on development in Conservation Areas. Section 64 states:

“General duty as respects conservation areas in exercise of planning functions.

(1)In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

(2) Those provisions are—

(a) the planning Acts,”

5.25 In a decision dated 28th July 2010 of the Outer Court of Session, Lord Brailsford debated the matter of the relevance of Section 64 in decision making and concluded:

*“In my judgment, character or appearance can be said to be preserved where they are **not harmed**. The statutory desirable object of preserving the character or appearance of an area is achieved either by a positive contribution to preservation or **by development which leaves character or appearance unharmed, that is to say preserved**”*

5.26 Based on the above further compelling evidence submitted in addition to that provided at the time of the application, the loss of the low boundary wall is not so significant that it would further erode the character of the Conservation Area at Cluny Gardens, contrary to the Planning Case Officer’s perception. As a result, by approving the application, the character and appearance of the Conservation Area would not be harmed and could therefore be regarded as being preserved, particularly in that the remaining sections of wall and hedge will be retained thus reducing the extent of exposure of the front hardstanding area.

Ground 2.

The consequential impact of the refusal, resulting in significant disadvantages to the access and parking arrangements for No.5, is a material consideration in the assessment of the application which helps to further outweigh any perceived harm to the character and appearance of the Conservation Area considered by the Case Officer brought about by the removal of the low boundary wall which, based on the first ground for the review, would result in only minimal change while still preserving the character.

5.27 The Case Officer did not assess the 2 amendment applications together, as alluded to in the Report of Handling, although there is some confusion from what he states as he appears to contradict himself in his report when referring to the other amendment application. At the outset of the report he states:

*“The works to form a new vehicular turn table, stone boundary wall and alterations to the staircase have been granted permission subject to a condition for detail of all external materials. **These elements of the proposal have therefore not been assessed as part of this planning application.**”*

5.28 Yet at the end of his report, he has clearly considered the other amendment application in his assessment of this review amendment application when he states:

“Further, the associated works approved under the separate permission (20/03061/FUL) form an informal boundary to the two properties and omit parking for the main property. No highway objection was received regarding the loss of parking for no.5 and the granting of this previous consent does not give grounds to approve additional vehicular accesses as part of this subsequent proposal.”

5.29 Clearly, the implications of approving one amendment application only and not both and the significant adverse consequential impacts of leaving No.5 without an access and parking area have been ignored. The amendment application 20/03061/FUL now represents the most viable and preferred option to be implemented in the conversion to a house. The approval to form a dividing wall across an area approved as a shared car parking area under the 2019 consents has the effect to deny No.5 the access rights and availability of off-street car parking it presently has.

5.30 The Planning Case Officer has sought to justify his position on the amendment application which is under review, as stated in the Report of Handling, by referencing the Transportation comments on the other amendment application (20/03061/FUL). The consequences were greatly underestimated by the Transportation Official who commented on that other application as below:

*"From: Cameron Baillie
Sent: 16 September 2020 08:48
To: Lewis McWilliam
Subject: RE: 5 Cluny Gardens 20/03061/FUL*

Morning Lewis,

The parking standards allow for a maximum level of car parking this means that 0 car parking is acceptable in terms of the parking standards.

Cluny Gardens does appear to have waiting restrictions (double and single yellow lines) which means on-street parking would be limited. But I don't see any major issue that would raise significant concerns from ourselves.

*Hope this helps,
Cameron"*

5.31 Regardless of the Council's parking standards, it is considered that both the Transportation and Planning Officials should have considered the wider implications of approving an application which would adversely impact on another property.

5.32 In effect, the Planning Case Officer has failed to reach a balanced decision on the proposals affecting the overall property, in particular the reduction in amenity for No.5 as a result of being denied the existing access and car parking arrangements. This is a retrograde step for the property making it less accessible than it is presently. This situation is further exacerbated by the existence of single and double yellow lines controlling on-street parking outside and near to the property on Cluny Gardens which will result in the residents having to park their vehicles elsewhere and further away from the property which will be an obvious inconvenience and detriment to the enjoyment of the house.

5.33 Furthermore, and to add to the appropriateness of the amendment application under this review, there is clear Transportation support for the creation of the new vehicular entrance in the comments received to this review amendment application. This is shown in the email correspondence between the Transportation and Planning Officials as below.

*"From: Cameron Baillie
Sent: 16 September 2020 12:08
To: Lewis McWilliam
Subject: RE: 5 Cluny Gardens 20/03062/FUL
Hi Lewis,*

Yeah I don't think there would be any objections from us on this subject to the following conditions/informatives:

- 1. Any off-street parking space should comply with the Council's Guidance for Householders dated 2018 http://www.edinburgh.gov.uk/info/20069/local_plans_and_guidelines/63/planning_guidelines including:
 - a. Off-street parking should be a minimum of 6m deep and a maximum of 3m wide;*
 - b. Access to any car parking area is to be by dropped kerb (i.e. not bell mouth) and at a maximum width of 3.0m (4.8m with transistions);*
 - c. A length of 2 metres nearest the road should be paved in a solid material to prevent deleterious material (e.g. loose chippings) being carried on to the road;*
 - d. Any gate or doors must open inwards onto the property;*
 - e. Any hard-standing outside should be porous;*
 - f. Electric vehicle charging infrastructure should be considered for this development;*
 - g. The works to form a footway crossing must be carried out under permit and in accordance with the specifications. See Road Occupation Permits <https://www.edinburgh.gov.uk/roads-pavements/road-occupation-permits/1>**

If you need a formal response you will need to ping it through uniform in the usual manner,

*Cheers,
Cameron"*

Summary of Issues raised Grounds 1 and 2

5.34 The Planning Case Officer has reached a judgement on the amendment application for No. 5 which has failed to take account of a number of key issues which are considered to be key in reaching a fair and balanced decision on the proposed amendments. These are summarised below:

- The context of the streetscene which contains variety in the form of driveway entrances close to one another, visible hardstanding areas for car parking and exposed and open garden frontages and settings has not been fully understood.
- The area of hardstanding providing existing off-street car parking in the front curtilage of the property is a valuable asset for No.5.
- The Council has already accepted the principle of subdividing the property and that the amendments sought for each property (the new house and existing house at No.5) will create

dedicated access and parking arrangements which are considered to be an overall improvement to the original approved positions.

- The creation of the new entrance will retain the offset appearance of it being to the side of the building, not directly in front of it. This helps to retain a degree of balance with the other semi-detached property at No.7.
- Not all properties along Cluny Gardens have a hedge feature to the front.
- The removal of the existing hedge could be carried out without the need for planning or any other permissions (hedges do not fall under the same control as trees in Conservation Areas or other protection such as Tree Preservation Order).. Retention of the hedge to preserve the existing character cannot therefore be guaranteed and, if it was entirely removed, would result in the exposure of the hardstanding area which would have far greater impact than that which would be created by just the removal of the 3 metre wide section of low wall and hedge as proposed. The intention is to retain the remaining parts of the existing hedge along the frontage thus the character of the frontage is preserved.
- The inclusion of a new traditional cast iron gate across this new entrance in the streetscene will reinforce a sense of enclosure for the property's frontage and will help to reduce any perceived exposure of the hardstanding area that the Planning Case Officer believes will take place.
- The design and finishing material for the new gate is appropriate as it will be in keeping with those prevalent in the area, as confirmed by the Planning Case Officer in his report, which further support the suitability of the proposals in preserving the character and appearance of the Morningside Conservation Area.
- The significant adverse consequential impacts of leaving No.5 without an access and parking area.
- The changes required to the stairs to access the lower garden area and basement door for No.5 will not be able to be implemented due to the approval of the other amendment application resulting in access now being prevented to these areas.

5.35 It is hoped that by explaining the proposals and their merits in more detail as part of this Review request, the Council's PLRB will be more understanding of the proposals as submitted relative to the policy criteria and recognising the significant consequences of the refusal of the review application combined with the approval the other associated amendment application for the new house to the side which has a significant bearing on the overall proposals for this property.

5.36 The weight attached to applying the terms of Policy Env 6 is disproportionate and it is evident that a greater importance has been afforded to the removal of a 3 metre section of low front boundary wall, notwithstanding it is within a Conservation Area, and removal of a hedge which does not fall under planning control (and so could be removed in any event and exposing the front hardstanding area) without considering the consequential loss of the ability to access an existing car parking area at No.5. The situation has arisen as a direct result of the Planning Case Officer approving the other amendment application which provides for its own dedicated access and parking for the new house in advance of the review application and without considering those consequences.

5.37 The end result being that the ability to access the property at No.5 for car parking and rear garden and basement access will now be removed to the significant disadvantage of the residents of No.5. This will have the further adverse effect of forcing cars to park on-street, instead of off-street as they presently do, and at a considerable and inconvenient distance away from the property. Whereas approval of the application would prevent this from occurring and without any detriment to the character or appearance of the Morningside Conservation Area.

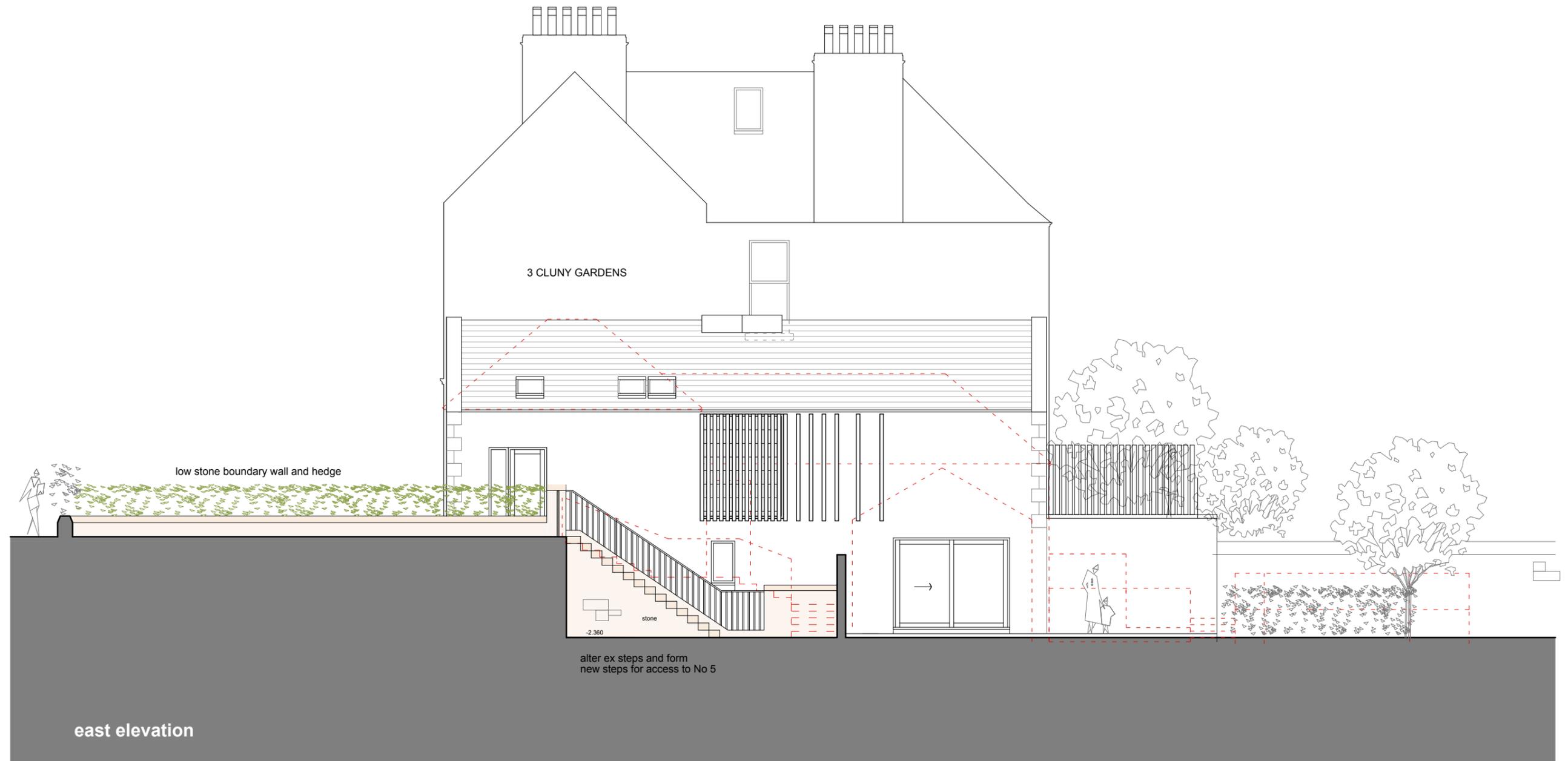
5.38 In that regard, the decision reached by the Case Officer is considered to be both unreasonable and unjustified, having failed to take all these key issues into account when determining the 2 amendment applications.

6.0 CONCLUSION

6.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended, requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

6.2 It has been demonstrated in this Statement that there is compelling evidence that the proposed amendments are, in their own right, in accordance with the Development Plan as they can be supported by Policy Env 6 and Policy Des 12 in the Council's adopted Edinburgh Local Development Plan 2016. Furthermore, additional supporting evidence has been presented which represents additional material considerations relating to the significant adverse consequences to the residents of No.5 that would result if the decision to refuse the application is upheld. This evidence helps to outweigh any perceived harm to the Conservation Area by the Planning Caser Officer that might be considered to be brought about by the change to the appearance of the front of the property at No.5 and the streetscene generally, which, as has been demonstrated, is not able to be substantiated.

6.3 In conclusion, therefore, it is considered that there are justified planning reasons for overturning the Planning Case Officer's decision for the reasons set out in this supporting Review Statement. Consequently, it is respectfully requested that the PLRB looks favourably on the applicant's request for a review of the decision and grants planning permission accordingly.



PLANNING

A3 PROPOSED EAST ELEVATION 1:100
DRAWING No 330 - P 03

MR D DEMARCO
5 CLUNY GARDENS, EDINBURGH

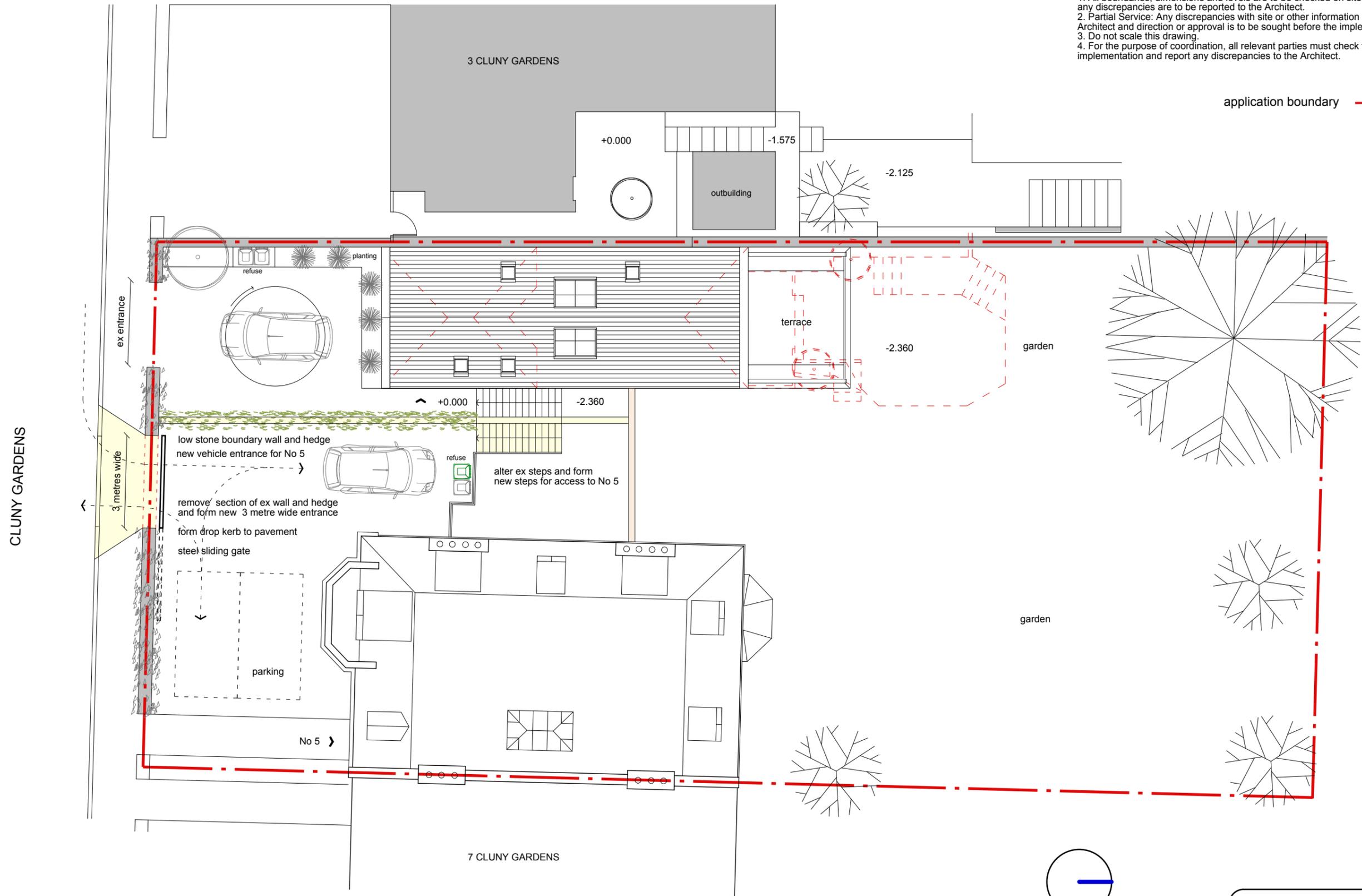
JULY 2020

IAIN CAMERON
Chartered Architect
www.iaincameronarchitect.co.uk | 0131 467 0579

NOTES:

1. All boundaries, dimensions and levels are to be checked on site before construction and any discrepancies are to be reported to the Architect.
2. Partial Service: Any discrepancies with site or other information is to be advised to the Architect and direction or approval is to be sought before the implementation of the detail.
3. Do not scale this drawing.
4. For the purpose of coordination, all relevant parties must check this information prior to implementation and report any discrepancies to the Architect.

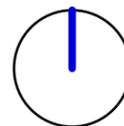
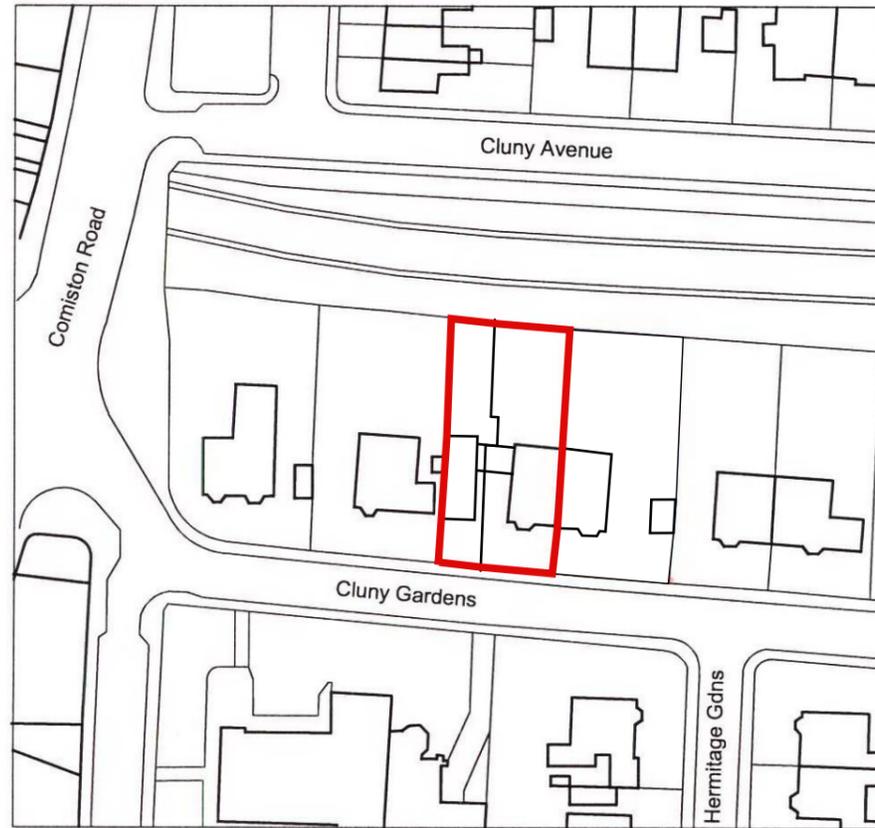
application boundary



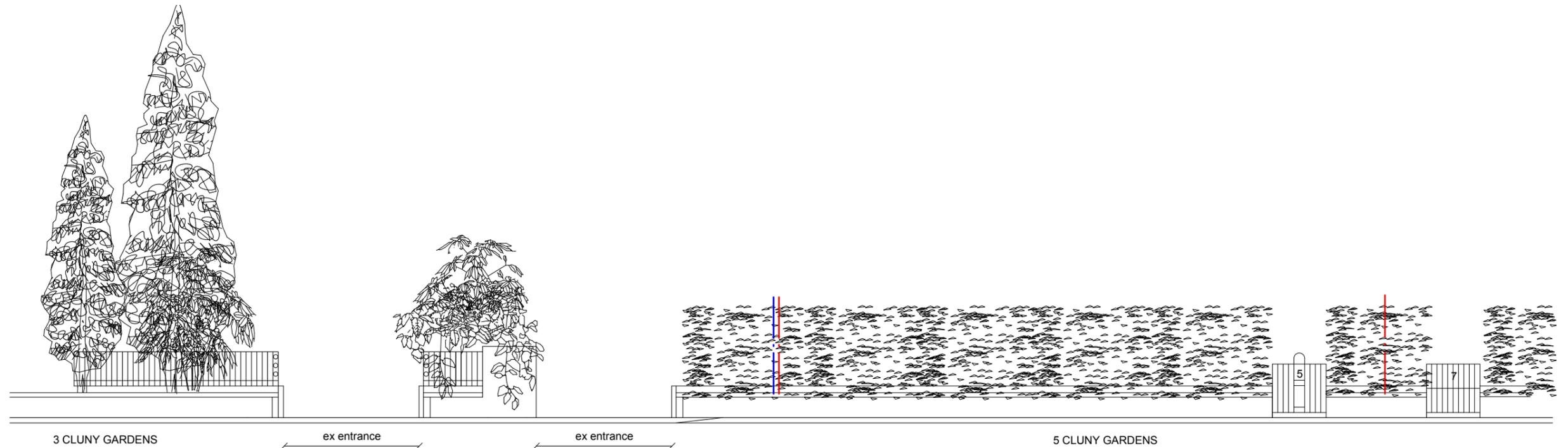
PLANNING

application boundary 

land under same ownership 



PLANNING



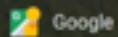
EXISTING ELEVATION TO 3-7 CLUNY GARDENS



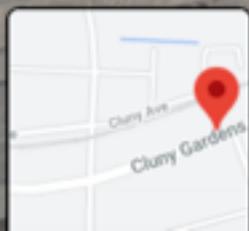
PROPOSED ELEVATION TO 3-7 CLUNY GARDENS

PLANNING

60 Cluny Gardens
Edinburgh, Scotland



Street View



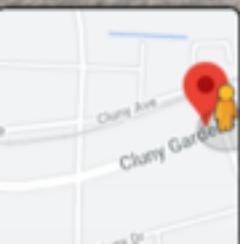
Google

61 Cluny Gardens

Edinburgh, Scotland

Google

Street View



Google

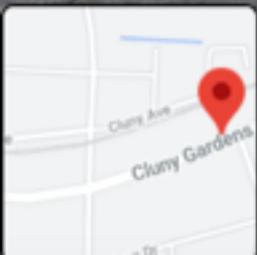


66 Cluny Gardens

Edinburgh, Scotland

Google

Street View

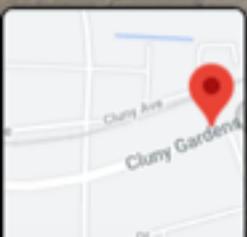


Google

71 Cluny Gardens
Edinburgh, Scotland

Google

Street View



Google

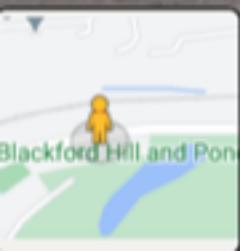


105 Cluny Gardens

Edinburgh, Scotland



Street View



Google

