

Mr Cruickshank
8 Salisbury Walk
Dunbar
EH42 1WJ

Decision date: 28 January 2021

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

Removal of existing shed and replacement with new shed (in retrospect)
At 16 Western Gardens Edinburgh EH12 5QD

Application No: 20/05305/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 30 November 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 and Enforced** 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:-

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not compatible with the character of the existing property or neighbourhood in scale or form.
2. The proposals are contrary to development plan policy on extensions and alterations as interpreted using the non-statutory Guidance for Householders as they are detrimental to neighbourhood character and not compatible with the existing house.

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

Drawings 01-05, 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:

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 Tom Hutchinson directly at tom.hutchinson1@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.

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Report of Handling

**Application for Planning Permission
16 Western Gardens, Edinburgh, EH12 5QD**

**Proposal: Removal of existing shed and replacement with new shed
(in retrospect)**

**Item – Local Delegated Decision
Application Number – 20/05305/FUL
Ward – B06 - Corstorphine/Murrayfield**

Recommendation

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

Summary

The proposal is not of an acceptable scale, form or design. It would not comply with Edinburgh Local Development Plan Policy Des 12 or the non-statutory Guidance for Householders as it is not compatible with the character of the existing building or the neighbourhood. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application relates to a lower villa flat located in a residential area.

Description Of The Proposal

This application is for the removal of an existing shed and replacement with a new 9.02m X 3.51m shed.

21 July 2020 - enforcement investigation regarding commencement of alleged unauthorised works on site - subject to enforcement, an officer has visited the site and seen the erected shed (application reference 20/00383/EOPDEV).

Relevant Site History

No relevant site history.

Consultation Engagement

No Consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 28 January 2021

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 6

Section B - Assessment

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.

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?

Assessment

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

- a) the proposed scale, form and design is acceptable and will not be detrimental to neighbourhood character;
- b) the proposal will cause an unreasonable loss to neighbouring amenity;
- c) any impacts on equalities or human rights are acceptable; and
- d) any comments raised have been addressed.

a) Scale, form, design and neighbourhood character

Policy Des 12 of the Edinburgh Local Development Plan states that planning permission will be granted for alterations and extensions to existing buildings which in their design and form, choice of materials and positioning are compatible with the character of the existing building and will not be detrimental to neighbourhood amenity and character.

The Guidance for Householders refers to the need for proposals in gardens to be in keeping with the overall spatial pattern of the area and for enough private garden space to be left after development to avoid over-development.

The application is in retrospect and has involved the removal of an existing shed and installation of a new 9.02m X 3.51m timber shed on the side of the rear garden of a lower villa flat. A gravel bed has been constructed adjacent to the shed to allow drainage.

In principal, replacing an existing shed with a new shed, to be used for storing equipment, could be acceptable. However, to be compatible with the existing property and surrounding area, the proposals must be appropriate in terms of scale, form and design.

The erected shed results in a visually dominant unsympathetic addition which detracts from the character and appearance of the property and is out of character with the surrounding area. Though the shed is at the rear of the property, it is still visible to surrounding properties, including the property's upper villa flat.

The erected shed is not in keeping with the overall spatial pattern of the area, which consists primarily of rear gardens that are open and offer greenspace with the occasional smaller shed. As such, the scale of this shed is out of character with that of the local area.

Additionally, the erection of such a large shed leaves the rear garden over-developed. Though the application retains a little over the 30 sqm suggested in the Guidance for Householders, this guide depends on the spatial pattern of the area, which in this case are small rear gardens devoid of large development. Whilst the shed leaves approximately 33 sqm of private rear garden open, 4.3 sqm are unusable as they are between the shed and the rear of the property which the shed doors open into. The remaining 28.7 sqm of rear garden consists of a long, thin strip adjacent to the shed and is limited in terms of use.

Overall it is considered that the footprint and scale of the shed is out of proportion for the size of the garden and it is a visually inappropriate and intrusive addition to the rear gardens that impacts on the spatial pattern of the area and is not in keeping with a residential property.

As such, the proposals do not comply with Local Development Plan Policy Des 12 and the non-statutory Guidance for Householders.

b) Neighbouring amenity

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

There is an existing fence standing 2m tall along the boundary between the applicant's property and the neighbouring garden. The shed has been erected directly against this boundary and stands at 2.33m. As a result, there is 2.98 sqm of overshadowing to the neighbouring garden, which is approximately 67.5 sqm. As such, it is deemed that though there is a slight impact in terms of overshadowing, this is limited.

There is no impact in terms of privacy or loss of daylight or sunlight and the proposals comply with the non-statutory Guidance for Householders in terms of neighbouring amenity.

c) Equalities and human rights

This application was assessed in terms of equalities and human rights. No impact was identified.

d) Public comments

Six comments were received. One comment in support. Five objections, summarised below;

- The shed is too big;
- The shed is out of keeping with the area;
- The shed takes up more than 50% of the property's rear garden;
- The shed is not used solely for storing disabled equipment, but for business cycle repair. Its use for business purposes could increase parking requirements in the area - The application has applied for a replacement shed, to be used for storage and not for business.
- The height of the shed, which is taller than the existing boundary fence will lead the neighbouring garden to feel more enclosed.

Non-material comments:

- The garden will be destroyed and as such this shed will have an environmental adverse impact;
- Wood deliveries to the shed have occurred throughout the night on several occasions;
- The shed is a security risk and child protection concern. If someone stands on top of the shed they can see into the windows of the child's bedroom in the upper villa flat;
- Water could seep from the roof into the neighbouring gardens and could rot the boundary fence;
- No drainage proposed for the new shed, which could impact neighbouring properties;
- Contempt for planning laws as an application was only applied for after an enforcement case was carried out.
- The size of the shed is not within permitted development rights for the ground floor flat
- flats have limited permitted development rights hence the requirement for planning permission.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

Reasons

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not compatible with the character of the existing property or neighbourhood in scale or form.
2. The proposals are contrary to development plan policy on extensions and alterations as interpreted using the non-statutory Guidance for Householders as they are detrimental to neighbourhood character and not compatible with the existing house.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 30 November 2020

Drawing Numbers/Scheme

01-05

Scheme 1

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

Contact: Tom Hutchinson, Planning Officer
E-mail:tom.hutchinson1@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 20/05305/FUL

Application Summary

Application Number: 20/05305/FUL

Address: 16 Western Gardens Edinburgh EH12 5QD

Proposal: Removal of existing shed and replacement with new shed.

Case Officer: Tom Hutchinson

Customer Details

Name: Mr Steven Cumming

Address: 4/5 Western Gardens Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The size and especially the height of this Structure is quite frankly an eyesore to most of the neighbours around here. Not only that, they were already reported to the Police for having Wood deliveries for said shed throughout the night on several occasions.

To say "Removal of Shed and replacement with new Shed" is completely laughable.

Comments for Planning Application 20/05305/FUL

Application Summary

Application Number: 20/05305/FUL

Address: 16 Western Gardens Edinburgh EH12 5QD

Proposal: Removal of existing shed and replacement with new shed.

Case Officer: Tom Hutchinson

Customer Details

Name: Mr Steven Cumming

Address: 4/5 Western Gardens, Edinburgh EH12 5QD

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

- Councillor's Reference

Comment: The size and especially the height of this Structure is quite frankly an eyesore to most of the neighbours around here. Not only that, they were already reported to the Police for having Wood deliveries for said shed throughout the night on several occasions.

To say "Removal of Shed and replacement with new Shed" is completely laughable.

Comments for Planning Application 20/05305/FUL

Application Summary

Application Number: 20/05305/FUL

Address: 16 Western Gardens Edinburgh EH12 5QD

Proposal: Removal of existing shed and replacement with new shed.

Case Officer: Tom Hutchinson

Customer Details

Name: Mr DANIEL REID

Address: 99A Corstorphine Road Edinburgh West End

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:

Comments for Planning Application 20/05305/FUL

Application Summary

Application Number: 20/05305/FUL

Address: 16 Western Gardens Edinburgh EH12 5QD

Proposal: Removal of existing shed and replacement with new shed.

Case Officer: Tom Hutchinson

Customer Details

Name: Mrs Christine Davenport

Address: 2f2 9Western place Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The proposed new shed is out of keeping with the area. It is oversized. I do not believe the existing shed is used solely for storing disabled equipment, but for business cycle repair. The garden will be destroyed and as such this shed will have an environmental adverse impact.

Comments for Planning Application 20/05305/FUL

Application Summary

Application Number: 20/05305/FUL

Address: 16 Western Gardens Edinburgh EH12 5QD

Proposal: Removal of existing shed and replacement with new shed.

Case Officer: Tom Hutchinson

Customer Details

Name: Miss Suzanne Turner

Address: 14 Western Gardens Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

- Councillor's Reference

Comment: I have several complaints regarding the shed that has been built in the back garden of lower villa flat number 16.

1. The replacement shed is 3 times larger than the previous shed of which I have photographic evidence to prove this. This is not a like for like replacement and even with the additional information that it is for a disabled child's equipment it is still too large for even this purpose. From my communication with the tenant when he erected a 15ft Marquee in the front garden that this was because the lock up he used to store equipment etc for his business was broken into. None of the items that were in the marquee pertained to oxygen equipment etc that the tenants child required. The shed is in fact being used to store stock that is for the tenants business a cycle shop and his partners business a candle making company. It is not being used to store substantial equipment for their disabled child.

2. It is a security risk to my property. There is only 1.75 metres between the top of the shed and my sons bedroom. I have photographic evidence that show you how a person of 6ft can quite easily see into my sons bedroom, this surely is a child protection issue as well as safety issue for my property.

3. The Shed has been attached directly onto the boundary fence which I was not asked for permission for this to happen. If I had been asked then I would have said no for 2 reasons. The first is that any water seeping from the flat roof will be going directly onto the wooden fence which will over time cause it to become rotten which once the tenants have left will be partly my responsibility to fix as the owner of number 14.

The second reason is that the height is 1 metre above the boundary fence, which makes my

garden feel more enclosed especially at the part where the boundary fence is. This means I am unable to enjoy my garden to it's fullest.

4. There are also no other building of this size in surrounding gardens and this shed is definitely out of character for the area in which the property resides.

5. In the supporting documents the one title Untitled 1 showing the size of the garden and the size of the shed is in fact incorrect. I have photographic evidence that show the shed in fact takes up more than 50 % of the area of the garden at 16 Western Gardens. The actual width of the back garden at 16 Western gardens is only 5metres not the 6.35metres in the document titled Untitled 1. So the total sqm of the back garden is 51.2 sqm. This means that the shed takes up 62% of the property's garden.

6. If everyone was to build a fence of the same height and size in their gardens then it would certainly make the area feel less open and would make the use of garden space less attractive.

7. The tenant and the Landlord only made an application for planning when I brought it to the attention of the planning department who then instructed the tenant that unless a planning application was made then the building would be taken down. This shows a blatant contempt for the laws that are in place to stop these sorts of illegal buildings being erected.

Comments for Planning Application 20/05305/FUL

Application Summary

Application Number: 20/05305/FUL

Address: 16 Western Gardens Edinburgh EH12 5QD

Proposal: Removal of existing shed and replacement with new shed.

Case Officer: Tom Hutchinson

Customer Details

Name: Mr Howard Davenport

Address: 9/4 Western Place Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this application on the following basis:

The size of the shed is far greater than required for the reasons specified in the application. I understand that it may be used as part of a bike shop business, which would constitute a change of use that is not appropriate for a residential area. If used for business purposes, this could increase parking requirements in the area.

I understand that the current shed was erected without planning permission 2 or 3 years ago. The proposed new shed takes up even more space, reducing the outdoor space, with resultant impact on wildlife, insects and birdlife.

I see no drainage proposed as part of the shed, which could impact on neighbouring properties.

I do not believe this size of shed is within permitted development rights for the ground floor flat.

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 100398102-001

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

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="Adrian"/>	Building Number:	<input type="text" value="8"/>
Last Name: *	<input type="text" value="Cruickshank"/>	Address 1 (Street): *	<input type="text" value="Salisbury Walk"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="██████████"/>	Town/City: *	<input type="text" value="Dunbar"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="East Lothian"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH421WJ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="██"/>		

Site Address Details

Planning Authority:

City of Edinburgh Council

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

Address 1:

16 WESTERN GARDENS

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH12 5QD

Please identify/describe the location of the site or sites

Northing

673079

Easting

322102

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)

Removal of existing shed and replacement with new shed (in retrospect) At 16 Western Gardens Edinburgh EH12 5QD

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.

Please refer to the attached documentation.

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)

My initial application focussed on the physical attributes of the shed. I believe further information regarding my tenant's medical needs and the purpose of the shed may provide further context which should be taken into consideration by the review board. Please see attached documentation for further details.

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)

Planning Application Ref - 100337102 - 16 Western Gardens - Request for review.docx Community Occupational Therapist Letter.pdf Highly Specialist Physiotherapist Letter.pdf Occupational Therapy Assistant Practitioner Letter.pdf List of Consultants.jpg Neighbouring outbuilding 1.jpg Neighbouring outbuilding 2.jpg Neighbouring outbuilding 3.jpg Shed next to fence.jpg

Application Details

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

100337102

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

29/11/2020

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

28/01/2021

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

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

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 Adrian Cruickshank

Declaration Date: 20/04/2021

Please see below for responses to the conditions of refusal and further information regarding the specific circumstances of my tenant and the medical requirements of her child.

Conditions:-

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not compatible with the character of the existing property or neighbourhood in scale or form.
2. The proposals are contrary to development plan policy on extensions and alterations as interpreted using the non-statutory Guidance for Householders as they are detrimental to neighbourhood character and not compatible with the existing house.

Additional Points related to appearance, placement and dimensions of the shed

- 1) Previous shed (as shown on property map - [Property summary for MID197829 - ScotLIS - Registers of Scotland \(ros.gov.uk\)](#)) was approximately the same width and height as the new shed. The new shed only differs in length and position in the garden. The new shed was repositioned to minimise it's visibility to neighbouring properties.
- 2) The previous shed was in a state of disrepair and was in my opinion less in keeping with the character of the property than the new one.
- 3) The timber and roofing used for the new shed were chosen to be in keeping with the surrounding fences, sheds and structures in colour and materials.
- 3) There are outbuildings very close to my property which are 1.5-2 times larger than the shed. The outbuilding on 17 Riversdale Road is an example. This is clearly visible from my property and the surrounding properties as can be seen from attached photos ("Neighbouring outbuilding 1.jpg", "Neighbouring outbuilding 2.jpg" & "Neighbouring outbuilding 3.jpg")
- 4) The new shed is located in the back garden of the property, the garden is surrounded by tall, mature trees on 2 sides and the main property on another. On the remaining side only 40cm is visible above the neighbour's fence. The shed cannot be readily seen from any of the surrounding public footpaths or roads.
- 5) I believe my tenant's neighbour has claimed the new shed is attached or touching her fence. This is not the case, as can be seen from attached photo ("Shed next to fence.jpg")
- 6) I would be very keen for a representative of the council to visit the property to see for themselves how secluded the shed is and how it is almost impossible to see from any of the surrounding streets.

Additional mitigating circumstances relating to my tenant and her child's medical needs







