

# Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/01786/FUL  
at 2 Mortonhall Park Terrace, Edinburgh, EH17 8SU.  
To create a 2 bedroom level access house in the garden of  
No. 2 Mortonhall Park Terrace.**

**Item number**

**Report number**

**Wards**

B16 - Liberton/Gilmerton

## Summary

---

The proposal is contrary to the Edinburgh Local Development Plan.

The proposal is of an inappropriate design in scale, form and position that will have a detrimental impact on the established character of the townscape. It will result in the substantive loss of corner plot green space which is a positive characteristic of the surrounding area and will be damaging to its character and appearance.

The proposal will result in loss of open space that is of amenity value and will have a harmful impact on the quality and character of the local environment. The design of car parking is inappropriate, as it is visually dominant on the street frontage and is at the expense of private open space.

The applicant has submitted information identifying that the proposal is designed for the owner with protected characteristics.

On balance, the resultant adverse impact on the quality and character of the local environment and detriment to the public interest are not outweighed by the benefit to the applicant as a person with protected characteristics, or, the level of benefit the proposal may have to advancing identified issues of equality of opportunity.

## Links

---

[Policies and guidance for this application](#)

LDPP, LDES01, LDES04, LDES05, LEN09, LEN18, LEN21, LTRA02, LTRA03, LTRA04, LHOU01, LHOU03, NSG, NSGD02,

# Report

## **Application for Planning Permission 21/01786/FUL at 2 Mortonhall Park Terrace, Edinburgh, EH17 8SU. To create a 2 bedroom level access house in the garden of No. 2 Mortonhall Park Terrace.**

### **Recommendations**

---

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

### **Background**

---

#### **2.1 Site description**

The proposal site is garden space within the grounds of a semi-detached dwelling located on a corner plot, at the north-west end of Mortonhall Park Terrace at its junction with Mortonhall Park Drive.

The site is bordered by a hedgerow of varying density and height on the boundary with the public footway.

The immediate area is primarily residential in character. Two-storey semi-detached properties of a consistent scale, form and design to the south of the site on Mortonhall Park Terrace. Two storey detached dwellings to the north-east on Mortonhall Park Drive.

#### **2.2 Site History**

21 May 2018 - Planning application refused for the erection of a two bedroom, single storey, detached house and walled garden in the side garden of the existing house on grounds that the proposal was contrary to LDP policies Env 18, Hou 3, Des 1, and Tra 4) - (application reference: 18/01678/FUL).

20 August 2018 - Resultant review against refusal of planning application 18/01678/FUL upheld by the Local Review Body (review reference: 18/00107/REVREF) on grounds that the proposal was contrary to LDP policies Hou 3, Des 1 and Tra 4.

## Main report

---

### 3.1 Description of the Proposal

The planning application is for the erection of a single storey residential property with associated garden ground, boundary fencing and one car parking space.

The building has a maximum height of 3.2m, maximum width of 8.5m and depth of approximately 16m. The proposed materials include Siberian Larch stained black and a green roof. Large, glazed openings would face the south-west side of the site onto the boundary with Mortonthall Park Drive.

The property contains an internal floor space of 85 square metres including two bedrooms and a bathroom. The living and dining room face the rear of the property providing access to the private garden via glazed patio doors. The rear garden consists of lawn and paving of 45 sqm in total.

A vehicular access will be formed from Mortonthall Park Terrace at the north-east boundary of the site. This will provide access to one car parking space via a car port. A pedestrian access will also be formed here.

### 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.

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, the Committee needs to consider whether:

- a) The proposal is acceptable in principle;
- b) The proposal is of an acceptable scale, form and design;
- c) The proposal will result in loss of open space;
- d) The proposal will result in the creation of a satisfactory residential environment;
- e) The proposal will have a detrimental impact on the amenity of neighbouring residents;
- f) The proposal will have transport impacts;
- g) The proposal will not lead to an increased flood risk;
- h) The proposal will does not raise matters of archaeology;
- i) The proposal raises issues of equalities or human rights;
- j) Material issues raised in representations have been addressed.

a) Principle of the Proposal

The proposal site is located in the urban area as designated in the Local Development Plan (LDP). LDP Policy Hou 1 (Housing Development) prioritises the delivery of housing land supply and the relevant infrastructure and identifies four criteria (a-d) on where this can be achieved.

Criteria d) prioritises the delivery of housing on other suitable sites in the urban area in recognition that windfall sites can contribute to land supply. To comply with Hou 1 d), proposals must be compatible with other policies in the plan.

The site is located adjacent to existing residential development and is served by Lothian and Borders bus services on Howden Hall Road and Frogston Road East. These services are accessible via existing public footways around the residential estate, that link to these main roads. Howden Hall Road via a public footpath accessed from Mortonhall Park Crescent east of the site, and Frogston Road East via the footways from Mortonhall Park Gardens to the south.

The site is located in proximity to sustainable modes of transport and there is established residential development in the surrounding area. The site is a suitable location for new housing, subject to compliance with all other relevant policies. These are outlined below.

b) Scale, form, design and neighbourhood character

LDP policy Des 1 - Design Quality and Context, states development will be granted for development that contributes towards a sense of place. Design should be based on an overall design concept that draws upon positive characteristics of the surrounding area. Permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area.

Supporting paragraph 151 states the purpose of the policy is to encourage innovation in design and layout, provided the existing quality and character of immediate and wider environment are respected and enhanced.

LDP policy Des 4 - Development Design - Impact on Setting, states permission will be granted for development where it is demonstrated that it will have a positive impact on its surroundings, character of the wider townscape and landscape including, height and form, scale and proportions, position, materials and detailing.

There is a regular pattern to development in the immediate area. Corner plots of greenspace retain a sense of openness to the estate that contribute positively to the character of the area. On Mortonhall Park Terrace, properties are set back from the street separated from the footpath by front gardens, driveways and garages, and small areas of greenspace. This arrangement: the regular scale, form, position and spacing of properties along the street creates a settled townscape character.

The proposed dwelling will appear entirely incongruous in these surroundings. Its position forward of the building line, form, layout and coverage of the site is at odds with the settled townscape character. Its height, elongated form and positioning are alien to the area's established character and it does not comply with policy Des 4. The dwelling's position and layout results in the substantive loss of corner plot greenspace which will result in damage to the character and appearance of the area.

It is recognised there are existing driveways and car parking spaces on the street frontage. Notwithstanding this, the setback position of properties along the south side of Mortonhall Park Terrace and retention of soft landscaping and pockets of greenspace helps create interest to the street frontage. Removal of the proposal site's corner plot greenspace results in loss of a positive feature characteristic of the surrounding area. The inclusion of a dwelling of the position, scale, and layout proposed fails to respect or enhance the townscape character.

The proposal is therefore contrary to LDP policy Des 1- Design Quality and Context and Des 4 - Development Design - Impact on Setting.

### c) Open Space

LDP policy Env 18 - Open Space, states, proposals involving the loss of open space will not be permitted unless certain criteria are met.

Open space is defined in the LDP as 'greenspace' and 'civic space' consisting of squares, market places and other paved or hard landscaped areas with a civic function. Greenspace is defined in the LDP as *Any vegetated land or structure, water or geological feature in the urban area including playing fields, grassed areas, trees, woodlands and paths.*

The policy aims to protect all open spaces, both public and privately owned that contribute to the amenity of their surroundings and the city, provide or are capable of providing for the recreational needs of residents and visitors or are an integral part of the city's landscape and townscape character. It sets out the following criteria for compliance:

*Proposals involving the loss of open space will not be permitted unless it is demonstrated that:*

*a) there will be no significant impact on the quality or character of the local environment and*

*b) the open space is a small part of a larger area or of limited amenity or leisure value and there is a significant over-provision of open space serving the immediate area and*

*c) the loss would not be detrimental to the wider network including its continuity or biodiversity value and either*

*d) there will be a local benefit in allowing the development in terms of either alternative equivalent provision being made or improvement to an existing public park or other open space or*

*e) the development is for a community purpose and the benefits to the local community outweigh the loss.*

A previous planning application, (ref:18/01678/FUL) was submitted on the site for a new dwelling of a consistent footprint and design to this submission. This application was refused at delegated level and a reason for refusal was on the grounds of Env 18 - Open Space Protection, as the wider area did not have a surplus of open space and the existing space is important to the amenity of the estate.

The decision to refuse the application was upheld by the Local Review Body (LRB) at appeal however not on the grounds of Env 18 as the garden area was not identified as Open Space in the Local Development Plan. The application was refused on Hou 3 - Private Green Space, as the proposal removed an open space serving the amenity needs of the wider estate. The current proposal is assessed against policy Hou 3 in section e) below.

The Proposals Map identifies all significant areas of open space. This does not preclude other areas of open space, of lesser scale for example, that contribute in amenity terms to their surroundings and the city, being assessed against policy Env 18.

The site is an area of open space located on the north-west corner of Mortonhall Park Terrace bordering Mortonhall Park Drive. The location of this green space on a corner plot is characteristic of the surrounding estate. These areas of greenspace make a positive contribution to the quality and character of the area by enhancing its landscape value, creating a sense of openness and spaciousness that is part of the character of the townscape.

The open space is bordered by hedging near the footway. However, it still occupies a visible location from the public realm. This space is therefore of amenity value, and it is applicable to assess the loss of this area against the criteria of LDP policy Env 18 - Open Space Protection.

The proposed development will result in a significant encroachment of this open space with over 100m<sup>2</sup> of land developed. Reducing and enclosing this open space by the proposed dwelling and boundary treatment will have a detrimental impact on the open character of the local environment. There is not a significant over-provision of open space in the area. The site is standalone but is part of a network of green spaces in the locality which are an important part of its character. No alternative equivalent provision is proposed to make up for the loss and the proposal is not for a community purpose. The proposal therefore does not meet the requirements of any criteria of Policy Env 18.

#### d) Amenity of Neighbouring Residents

LDP Policy Des 5 (Design-Amenity) supports proposals that have no adverse impact on neighbouring developments in regard to noise, daylight, sunlight, privacy or immediate outlook.

Edinburgh Design Guidance outlines that private garden space of a minimum depth of 9 metres should be provided.

The new housing unit and curtilage would result in the sub-division of existing garden ground at 2 Mortonthall Park Terrace. As outlined in the submitted design statement, over 100m<sup>2</sup> of private garden would be retained for occupiers of this existing property which would still provide an adequate provision of amenity space. All other residential properties nearby are served by private gardens, and there would be no loss of private amenity space for these occupiers.

In regard to privacy, all proposed windows face the applicant's own garden space, street and proposed boundary treatments. The distance retained from these openings to all neighbouring properties will prevent any material loss of privacy.

Overshadowing as a result of the development will fall primarily on the applicant's own garden space, side gable of the adjacent property, garage and driveway. No overshadowing will occur on neighbouring property's private gardens.

In regard to daylight and outlook, the scale of the proposal in tandem with the retained distances to all neighbouring properties will prevent any adverse impact on neighbouring windows.

The proposal complies with LDP policy Des 5.

#### e) Creation of a Satisfactory Residential Environment

LDP policy Des 5 also states that planning permission will be granted for developments where it is demonstrated that future occupants will have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

LDP policy Hou 3 states that planning permission will be granted for development which makes an adequate provision for greenspace to meet needs of future residents.

The Edinburgh Design Guidance (EDG) outlines that new build two-bedroom residential properties should have a minimum floor area of 66m<sup>2</sup>. The proposal has an internal floorspace of 85m<sup>2</sup> and therefore exceeds these standards.

The proposed bedroom windows are located in close proximity to the boundary treatment which would result in restricted levels of outlook and light to these habitable rooms. However, overall an adequate level of light and outlook would be achieved for future occupiers by virtue of the scale of the glazed openings serving the open plan living and dining room on the south-west elevation facing the rear garden.

Privacy would be achieved for future occupiers by the orientation of all windows facing the boundary fence bordering the site boundary. The rear garden would occupy a partially visible location where privacy is somewhat compromised by proximity to street and the sloped nature of the site. There are front and rear gardens in the area that are located near the street therefore this arrangement is not uncommon in the surrounding residential environment. No unacceptable impact on privacy of future occupiers would occur as a result.

As noted, a reason for refusal from previous application (18/01678/FUL) was on the grounds of the proposal being contrary to LDP policy Hou 3 as the proposal removed open space serving the amenity needs of the wider estate.



The policy requires adequate provision of greenspace in new housing developments to meet the needs of future residents.

The site accommodates approximately 45 m<sup>2</sup> of usable greenspace. The private garden mainly achieves a maximum length of over 9m in line with EDG. Whilst this proportion of amenity space is less than that typical of surrounding residential properties, it is of a size that provides an adequate level of amenity space for future occupiers. The garden space is south-west facing, its orientation and separation distances to the neighbouring properties is sufficient in order to achieve appropriate levels of sunlight.

The greenspace subject to the proposal site is of wider amenity value as it contributes to the open character of the estate. However, policy Hou 3, seeks to ensure an adequate provision of green space is met for future residents. It is considered the proposal delivers adequate greenspace for future residents of the proposal site. Therefore the loss of this open space is not contrary to LDP policy Hou 3.

Adequate greenspace is retained for future occupiers of the proposal site in compliance with this policy.

The proposal will result in the creation of a satisfactory residential environment for future occupants of the proposal site and complies with LDP policy Des 5.

#### f) Transport

LDP policy Tra 2 - Private Car Parking states that car parking provision should comply with and not exceed the levels set out in Council guidance.

LDP policy Tra 3 - Private Cycle Parking states cycle parking and storage provision should comply with the standards set out in Council guidance.

The site is identified within the Edinburgh Design Guidance Parking Standards as being within the Zone 2. The EDG identifies that residential properties within this area should have a maximum car parking provision of 1 space per dwelling. There is no minimum parking provision. The proposal includes provision for one parking space in total and complies with LDP Tra 2.

The EDG standards state that residential properties within Zone 2 should have a minimum cycle parking provision of 2 spaces for a 2 bedroom dwelling.

No specific cycle storage is shown on the plans. However, this could reasonably be achieved within the curtilage of the existing property.

LDP policy Tra 4 - Design of Off-Street Car and Cycle Parking, states design considerations for parking including that these should not be located in front of buildings where the building would otherwise create an active frontage on a public space or street, car parking should preferably not be located at ground level where at the expense of an active frontage, public or private open space.

Previous planning application 18/01678/FUL on-site was in part refused at appeal on the grounds of the proposal being contrary to LDP policy Tra 4 as the position of the car port and relationship to the road would be visually dominant in the street. The position and layout of the car parking design for this proposal is consistent with this previous application.

The proposed car parking space will be located at the front of the property in a visible location adjacent to the street edge. Whilst there are existing driveways bordering the street, the location of the proposed car parking space in tandem with the dwelling's footprint will remove all existing greenspace to the front and is therefore at the expense of private open space on the property's frontage.

The design of the car park space is therefore contrary to LDP policy Tra 4 - Design of Off-Street Car and Cycle Parking.

#### *Road and pedestrian safety*

The position of the proposed development (dwelling, boundary treatments, vehicular access and car port) is near the junction between Mortonhall Park Terrace and Mortonhall Park Drive. Representations have raised concern regarding the potential impact of this location on road safety, pedestrian safety, access issues and congestion. It is noted road safety concerns were expressed during the considerations of the previous planning application.

The above considerations are noted. The Roads Authority has assessed the proposals from a roads perspective and have raised no objections. The proposal therefore does not raise any specific road or pedestrian safety issues that in isolation would justify the refusal of planning permission.

#### g) Flooding

Policy Env 21 (Flood Prevention) states that planning permission will not be granted for development that would increase a flood risk or be at a risk of flooding itself, impeded the flow of flood water or be prejudice to existing or planned flood defence systems.

An extract has been submitted from the SEPA Flood maps within the submitted Design Statement which states there is no risk of flooding from river or surface water. No further information has been submitted in regard to flood mitigation measures.

A surface water management plan is normally required in order to ensure surface water management is adequately controlled.

Should permission be granted, the submission of a surface water management plan would have been required prior to the commencement of development.

#### h) Archaeology

LDP Policy Env 9 (Development Sites of Archaeological Significance) aims to protect archaeological remains.

The City Archaeologist has been consulted and has raised no objections. There are no known archaeological implications in relation to this application.

i) Material Considerations

*Equalities and Human Rights*

The submitted design statement states the proposal is to create a single storey, level access dwelling for the owner of 2 Mortonhall Park Drive who is registered disabled, impacting on mobility and self-care independence. In addition, further information has been received in respect to the applicant's protected characteristics during the application process.

The statement details that it is the intention for one of the bedrooms to be occupied by a resident carer, the main space to be open plan enabling direct access to a garden and the bathroom designed suitably for wheel-chair use. The dwelling is to be built for the owner for permanent residence that will be near family members. This is a substantive reason for the location of the property.

Representations have detailed that the proposal supports community inclusivity through the provision of a home that provides varying needs, supported by the Scottish Government. Further, that an adaptable user-friendly home will enable enhanced independent living for a disabled individual. In addition, that granting of planning permission would demonstrate positive ethos by the City Council in promoting inclusivity and variety in homes.

The planning application raises matters of equality as the purpose of the proposal is to provide a home that is designed suitably to meet the identified needs of a disabled individual and this is a material planning consideration.

The Local Planning Authority has a legal obligation to have due regard to persons with protected characteristics under Section 149 - Public Sector Equality Duty of the Equality Act 2010. The Council in determining the planning applications under Section 25 of the Town and Country Planning (Scotland) Act 1997, must consider whether this material consideration outweighs any potential non-compliance with the Edinburgh Local Development Plan.

In terms of equalities there are merits to the scheme for the applicant. The design of the dwelling as single storey with level access would provide ease of use for wheelchair users. The scale of the building on-site, has the potential to deliver a good standard of living space internally, appropriate for the use of this individual with protected characteristics. An open-plan living, dining and kitchen space with access to the garden, a second bedroom for a resident carer and proximity to a wheelchair-accessible bathroom.

The internal arrangement cannot be controlled under planning. However, it is recognised that the overall scale, design and footprint of the dwelling proposed would enable suitable accommodation to be achieved for a disabled individual, and resident carer. Further, that adaptation of the existing property may still present challenge in terms of the owner's ability to adequately use the upper floor level.

Under Section 149 - Public Sector Equality Duty of the Equality Act 2010, the public authority must have due regard to the need to advance equality of opportunity between persons who share a protected characteristic and persons who do not.

In this case, the delivery of an accessible home designed to accommodate a person's disability has the potential to advance equality of opportunity between persons who share a protected characteristic and persons who don't.

There is an identified shortage of accessible and wheelchair accessible homes at national level. This is highlighted in the 2018 Equality and Human Rights Commission (EHRC) Report which states that 61,000 people are in need of adaptations to their home and almost 10,000 disabled persons are on housing waiting lists.

Further, a principle of the Scottish Government's 'Housing to 2040' - Scotland's National Housing Strategy, is the delivery of homes that meet people's needs. The strategy states that in order to tackle inequality, and advance equality we must understand and respond to housing experiences of different groups. A core aim of Housing 2040 is identified as advancing equality of opportunity and housing outcomes between those who share a protected characteristic and those who don't.

In respect to the above, the proposal would deliver an accessible home for a disabled person where there is identified need for this house type. It is therefore recognised that delivery of this home, albeit on a small-scale, has the potential to contribute to advancing the equality of opportunity for persons who share a protected characteristic.

In considering whether this material consideration outweighs any potential non-compliance with the Edinburgh Local Development Plan, a number of factors have to be considered. Planning permission relates to the use of the land and it would not be appropriate to apply a personal consent to the future occupancy of a private dwelling house as the house would then have to be removed when the applicant no longer lives there.

Unless a legal agreement is put in place, it would not be possible to ensure that the house, if granted planning permission, is occupied by a disabled person. An Occupancy Restriction under a Section 75 legal agreement could be applied restricting the occupation of the property to people with a disability (and their dependents) as set out under the Equality Act 2010. However, the legal agreement would be tied to the property and future occupiers would have to abide by the occupancy restriction.

On balance, the non-compliance with the LDP is not outweighed by the benefits to an individual with a protected characteristic. As stated above, there are significant breaches of LDP policies Des 1, Des 4 and Env 18 and ultimately Hou1. These are not minor infringements of LDP policy but substantial ones that would cause significant harm to the neighbourhood if built.

## j) Public Comments

### **Material Comments - Objection**

- Proposals contrary to Edinburgh Local Development Plan - Addressed through consideration of LDP policies in the above report;
- Concerns about design - addressed in section 3.3 b) of the above report;
- Loss of open space -addressed in section 3.3 c) of the above report;
- Concerns about loss of amenity and greenspace- addressed in sections 3.3 d) and e) of the above report ;
- Potential pedestrian and road safety issues - addressed in section 3.3 f) of the above report
- Impact of greenspace on mental health: These matters cannot quantifiably be assessed as part of this planning application. The impact on provision of greenspace on the amenity of the area has been assessed through section 3.3 b and c) ;
- Previous planning application was refused: Referenced in sections 3.3 c) and e) of the above report.

### **Material Comments - Support**

- Proposal site ground offers no public or private amenity; addressed in sections 3.3 b) and c) of the above report.
- Design in scale, form and position is appropriate to area and will add variety - addressed through section 3.3 b) of the above report;
- Limited visual impact on neighbouring properties, neighbourhood and environment - addressed through sections 3.3 b) and c) of the above report;
- Adequate garden space for current and future occupiers - Addressed in sections 3.3 d) of the above report;
- No adverse impact on amenity - Addressed in sections 3.3 e) of the above report;
- Adequate parking provision for occupier -addressed in section 3.3 f) of the above report
- Positive impact on applicant as a result of proposal through proximity to disabled family member, increased independence and well-being - addressed in section 3.3 i) of the above report;

- Enhanced quality of life for persons with reduced mobility - addressed in section 3.3 i) of the above report;
- Simple and valid solution to provide appropriate, user-friendly home for independent living for a disabled individual- addressed in section 3.3 i) of the above report
- Proposal meets Scottish Government objectives of housing provision and community inclusiveness; addressed through section 3.3 i) of the above report

### **Non-Material Considerations**

- Positive impact on provision of housing stock for potential buyers: This matter cannot materially be assessed under this planning application.
- Occupation, current and future residence of owner: This matter cannot be controlled by the Planning Authority;
- Location and number of cars parked in area and resultant impact traffic on surrounding area; Potential future parking arrangements out with the proposal site boundary cannot materially be assessed as part of this planning application;
- Housing mix on other developments and adequate provision of housing in area ; Each planning application is assessed on its own merits having regard to relevant policy and guidance.
- Impact on views: The protection of existing views cannot be guaranteed under the planning process;
- Noise and disturbance from construction activities: Impacts from operational or construction activities cannot materially be assessed as part of this proposal;
- Existing home may have potential to be modified and adapted to suit accessibility needs of applicant: Potential alternate schemes cannot be considered as part of this planning application;
- Potential conflict with title conditions / deeds: This is a private, civil or legal matter which cannot materially be assessed under this planning application;
- Alterations to existing houses in the area: Each planning application is assessed on its own merits having regard to relevant policy and guidance. The character and appearance of the area has been assessed through section 3.3 b) of the above report;
- Potential impact on greenfield plots: This matter cannot materially be assessed under this planning application;
- Positive impact on value of area: This matter cannot materially be assessed under this planning application;

## Conclusion

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, determination of a planning application shall be made in accordance with the local development plan, unless material considerations indicate otherwise.

The proposal in form, scale, proportions and position is incongruous to its surroundings and will have a significantly detrimental impact on the established townscape character. It will result in the substantive loss of corner plot green space, which is a positive characteristic of the surrounding area, and is of an overall design that will be damaging to its character and appearance.

The proposal will result in loss of open space that is of amenity value that contributes to the open character of the area, which will result in a detrimental impact on the quality and character of the local environment.

The design of the off-street car parking is visible on the street frontage and is at the expense of private open space.

In light of the above, the proposal not in accordance with the Edinburgh Local Development Plan as it is contrary to policies Des 1, Des 4, Env 18 and Tra 4.

The applicant has submitted information stating the proposal is designed for a person with protected characteristics. This is a material planning consideration. There is a duty under the Equality Act 2010 for the Local Planning Authority to assess the weight to be given to this material consideration in determining the planning application against the LDP, and all other relevant factors.

This material planning consideration brings significant merit to the scheme, the provision of an accessibly designed home would help to meet the required needs of a disabled individual. The proposal would provide a level access dwelling appropriately designed for wheelchair use, with a second bedroom providing space for a resident carer.

The proposal is contrary to several LDP policies therefore the degree of departure from the Edinburgh Local Development Plan is not minor. On balance, the resultant adverse impact on the quality and character of the local environment and detriment to the public interest are not outweighed by the benefit to the applicant as a person with protected characteristics, or, level of benefit to advancing identified issues of equality of opportunity. It is not considered that an occupancy restriction or any other restriction via a legal agreement or condition would satisfactorily address the significant departures from the Edinburgh Local Development Plan.

In light of the above, it is recommended that the planning application be refused for the following reasons.

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

### **3.4 Conditions/reasons/informatives**

#### **Reasons:-**

1. The proposal is contrary to Edinburgh Local Development Plan Policy Des 1 - Design Quality and Context, as the proposal fails to draw upon positive characteristics of its surroundings and is of an inappropriate design that will be damaging to the character and appearance of the area.
2. The proposal is contrary to Edinburgh Local Development Plan Policy Des 4 - Development Design - Impact on Setting, as the form, scale, proportions and position of the dwelling is an incongruous addition in its surroundings that will have an unacceptable impact on the established character of the townscape.
3. The proposal is contrary to Edinburgh Local Development Plan Policy Env 18 - Open Space, as the development will result in the loss of open space on a corner plot that is of amenity value and will have a significant impact on the quality and character of the local environment.
4. The proposal is contrary to Edinburgh Local Development Plan Policy Tra 4 - Design of Off-Street Car and Cycle Parking as the position of the car port and driveway will result in a car park dominated street frontage at the expense of private open space.

## **Financial impact**

---

### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

## **Risk, Policy, compliance and governance impact**

---

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

## **Equalities impact**

---

### **6.1 The equalities impact has been assessed as follows:**

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.



## **Sustainability impact**

---

### **7.1 The sustainability impact has been assessed as follows:**

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

---

### **8.1 Pre-Application Process**

There is no pre-application process history.

### **8.2 Publicity summary of representations and Community Council comments**

37 representations have been received (21 supporting comments and 16 objections)

## **Background reading/external references**

---

- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

## **Statutory Development**

### **Plan Provision**

Urban Area

### **Date registered**

1 April 2021

### **Drawing numbers/Scheme**

01-06,

Scheme 1

## **David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Lewis McWilliam, Planning Officer

E-mail: [lewis.mcwilliam@edinburgh.gov.uk](mailto:lewis.mcwilliam@edinburgh.gov.uk)

## **Links - Policies**

---

### **Relevant Policies:**

#### **Relevant policies of the Local Development Plan.**

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

LDP Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

LDP Policy Env 18 (Open Space Protection) sets criteria for assessing the loss of open space.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

LDP Policy Tra 4 (Design of Off-Street Car and Cycle Parking) sets criteria for assessing design of off-street car and cycle parking.

LDP Policy Hou 1 (Housing Development) sets criteria for assessing the principle of housing proposals.

LDP Policy Hou 3 (Private Green Space in Housing Development) sets out the requirements for the provision of private green space in housing development.

### **Relevant Non-Statutory Guidelines**

**Non-Statutory guidelines** Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

# Appendix 1

## Application for Planning Permission 21/01786/FUL At 2 Mortonhall Park Terrace, Edinburgh, EH17 8SU To create a 2 bedroom level access house in the garden of No. 2 Mortonhall Park Terrace.

### Consultations

---

#### Archaeology:

*The 1892-1905 25" OS map overlay below shows the site overlying the western side of a large sand quarry pit dating to the second half of the 19th century and infilled by the 1930s.*

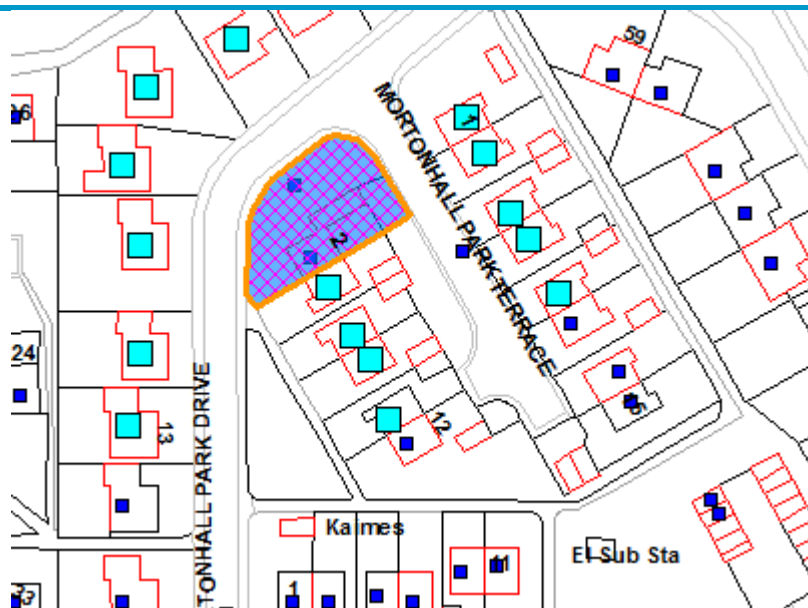
*Given this recent development history and scale of the proposed development, it has been concluded that there are no known archaeological implications in relation to this application.*

#### Transport:

*No objections.*

### Location Plan

---



© Crown Copyright and database right 2014. All rights reserved. Ordnance Survey License number 100023420  
**END**