

Lothian Plans.  
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**Decision date: 25 November 2021**

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

Front porch amendment and rear garden amendment / additions (as amended and in part retrospect).

At 89 Charterhall Grove Edinburgh EH9 3HT

**Application No:** 21/03155/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 8 June 2021, 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:-**

1. The proposal will have a detrimental impact on the amenity of neighbouring residents by virtue of privacy . The proposal is therefore contrary to Edinburgh Local Development Plan policy Des 12 (Alterations and Extensions) and the non-statutory Guidance for Householders.

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

Drawings 01, 02, 03A, 04, 05A, 06B, 07, 08, 09, 10, 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 development does not comply with LDP Policy Des 12 or the non-statutory Guidance for Householders as it would result in an unreasonable loss of privacy to neighbouring properties.

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 Jane Iannarelli directly at [jane.iannarelli@edinburgh.gov.uk](mailto:jane.iannarelli@edinburgh.gov.uk).



**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

## NOTES

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

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

# Report of Handling

**Application for Planning Permission  
89 Charterhall Grove, Edinburgh, EH9 3HT**

**Proposal: Front porch amendment and rear garden amendment / additions (as amended and in part retrospect).**

**Item – Local Delegated Decision  
Application Number – 21/03155/FUL  
Ward – B15 - Southside/Newington**

## **Recommendation**

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

## **Summary**

The development does not comply with LDP Policy Des 12 or the non-statutory Guidance for Householders as it would result in an unreasonable loss of privacy to neighbouring properties.

## **SECTION A – Application Background**

### **Site Description**

This application relates to a 2 storey, semi-detached dwelling house situated in a predominately residential area. On this side of the street, the rear gardens generally slope down to the north.

### **Description Of The Proposal**

The proposal is seeking planning permission, in part retrospect, for:

- Landscape works within the rear garden ground including raising the ground level and a raised deck - this work involves raising the level of the garden so it is in line with the roof of the applicant's single storey garage;
- Raised deck to the rear of the existing dwelling;
- Replacement garage;
- A timber fence along the boundary with No. 91;
- Alterations to the existing porch including a ramp into the property.

It is noted that part of this application is in retrospect. The following works have been completed: the ground works and raised deck to the rear of the garden, the deck on the rear elevation of the dwelling and the replacement garage.

The following works have not been completed: proposed boundary fence, porch and ramp in the front garden.

### **Amended scheme**

Amended plans were submitted showing details of the proposed garage and including a close boarded fence on the shared boundary with No. 91. The proposed fence would be 1.2m above the new finished ground level of the garden of the application property.

### **Relevant Site History**

No relevant site history.

### **Consultation Engagement**

No Consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 25 November 2021

**Date of Advertisement:** Not Applicable

**Date of Site Notice:** Not Applicable

**Number of Contributors:** 1

## **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

Concerns were raised regarding the measurements on the plans, this was clarified with the applicant and an amended section was submitted providing additional details. This information was sufficient to allow the application to be determined.

In terms of the works that are proposed, the porch and ramp to the front of the dwelling are of an acceptable scale and form. The porch will replace an existing structure in the same location. There are examples of porches of a similar scale within the immediate area and therefore the development will not have an adverse impact on neighbourhood character.

As previously noted, the replacement garage has been completed. The garage replaced an existing garage in the same location and raises no issues in terms of scale, design or location.

In terms of the raised access deck directly to the rear of the house, this is of an acceptable scale and form and mirrors a similar development on the neighbouring property.

With regards to the other landscaping works that have been carried out, the rear garden ground level has been raised so that garden is one level and no longer slopes to the rear. This has resulted in an area of raised deck at the northern end of the property which sits above the garden of the neighbouring property. Planning permission is required for a deck or raised platform if any part of the platform would exceed a height of 0.5m above ground level. Given the topography of the site the proposal exceeds this requirement at the northern end of the garden.

It is noted that historically the garden had a similar gradient to the adjoining property at No. 91, sloping to the north with large retaining walls separating the residential properties from separate garage properties and the railway line to the north. The raising of the ground level and the consequential raised deck does change the character of the garden in terms of the surrounding properties but the visual impact is limited and it is considered acceptable in terms of scale, form and design.

The amended proposal includes a close boarded fence along the shared boundary with 91 Charterhall Grove. There is currently a post and wire fence separating the two properties. It is understood that fencing was removed to accommodate the development that has taken place. It is noted that in this location a fence of up to 2 metres could be erected along the boundary under the permitted development rights.

The proposed fence would be 1.2m above finished ground level of the application property; but given that the applicant's garden has been raised, the fence height would range from 1.2m to 2.1m from the perspective of the neighbouring property at No. 91 with the fence at its highest at the northern most point of the garden. In terms of scale, form and design of the fence, it is acceptable and typical of the type of fencing often used to separate the rear garden grounds of adjoining properties.

Overall, the works are of an acceptable scale and form and do not unreasonably impact on the character of the surrounding area the area. Overall, the proposals 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.

The proposed garage, porch and ramp raise no concerns in relation to impact on residential amenity and accord with the relevant guidance and policy.

In terms of privacy, the non statutory Guidance for Householders requires that all areas of decking be as close to the ground level as possible. The impact that the two areas of decking will have on privacy will be considered in turn.

First of all, with regard to the raised deck on the rear elevation of the existing dwelling, it is acknowledged that the deck is approximately 0.9m above existing ground level. However, it will mirror a raised deck on the neighbouring property and benefits from an existing screen that has been erected on the shared boundary. It therefore complies with guidance in terms of impact on privacy.

With regard to the raised deck toward the rear garden ground, the height in relation to the neighbour's garden appears visually imposing from the perspective of the neighbouring property. The height difference allows for direct views into the neighbour's garden at No. 91. Previously the gardens followed a similar topography allowing for mitigation limiting any impact on neighbouring amenity. However, the raised floor level of deck allows for elevated views directly into the neighbouring garden has an adverse impact on their privacy.

In terms of mitigation, the proposal includes fence with a height of 1.2m above finished floor level. This is not sufficient to prevent a loss of privacy. The proposed fence will still allow for views into the neighbouring property.

A privacy screen would be expected to have a height of 1.8m to limit views into neighbouring properties but given the change in ground levels at the boundary, it would not be appropriate to increase the height of the screening fence on the boundary. As noted above, a typical screen fence would have a height of 1.8m above finished floor level and in this situation, this would result in a height of approx. 2.7m to the neighbouring property. A fence of this height would not be acceptable in this location in terms of overshadowing to the patio area of No. 91 at the end of its garden.

From the supporting documentation, it is understood that there was historically an open lattice fence along part of the shared boundary with a close boarded section separating the gardens at the rear (north). It could be argued that the design of the historic fence meant that the properties did not previously benefit from private amenity space and as such a higher screening fence would not be required. However, the neighbouring patio is garden ground of high amenity value and this was originally screened by the close boarded fence when both gardens were of similar ground levels. It would therefore be reasonable for the neighbours to expect the same level of privacy in this area. The

applicant's raised deck allows for views into the neighbouring garden and patio area resulting in an adverse impact on privacy.

On balance, the proposal in its current form would result in a loss of privacy to the neighbouring property contrary to the policy Des 12 and the non statutory guidance for householders. Overall, the proposals fail to comply with Local Development Plan Policy Des 12 and the non-statutory Guidance for Householders with regard to privacy,

#### c) Equalities and human rights

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

#### d) Public comments

One representation was received to the application. The letter of objection raised the following concerns:

- inaccuracies in the plans regarding natural and finished ground level - addressed in section (a).
- Impact a privacy screen would have on amenity - considered in section (b)
- Privacy screen required at deck to rear of dwelling - considered in section (b) - it is noted that some of the works are in retrospect and there are tall steel posts connected by timber at the edge of the deck. This is not what is shown on the plans, shorter steel post that sit below the height of the back doors are shown. This application can only assess what is shown on the plans.

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

The recommendation is subject to the following;

#### **Reasons**

1. The proposal will have a detrimental impact on the amenity of neighbouring residents by virtue of privacy . The proposal is therefore contrary to Edinburgh Local Development Plan policy Des 12 (Alterations and Extensions) and the non-statutory Guidance for Householders.

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

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

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

**Date Registered: 8 June 2021**

## **Drawing Numbers/Scheme**

01, 02, 03A, 04, 05A, 06B, 07, 08, 09, 10

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Jane Iannarelli, Planning Officer  
E-mail: [jane.iannarelli@edinburgh.gov.uk](mailto:jane.iannarelli@edinburgh.gov.uk)

Appendix 1

**Consultations**

No consultations undertaken.

# Comments for Planning Application 21/03155/FUL

## Application Summary

Application Number: 21/03155/FUL

Address: 89 Charterhall Grove Edinburgh EH9 3HT

Proposal: Front porch amendment and rear garden amendment / additions.

Case Officer: Abbie Eccles

## Customer Details

Name: Mr Tomasz Krzyzelewski

Address: 91 Charterhall Grove Edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: There are number of discrepancies between the submitted plans and the site. Starting with the height of back garden decking which is at 130cm off the ground level - not 90cm as on the plans. If somebody decides to put up a 180cm fence in the future we're going to end up with a wall over 3m high next to our property. The decking was already built on top of remaining part of old retaining wall - not sure how the drawings were done without uncovering existing wall. The grass area is 50cm higher than before - not same as previous level. New raised patio is also at 50cm rather than 15cm. Already rebuilt garage is taller and longer than the previous one - it is not noted on the plans. New high metal railing is under required 110cm and there's 2m drop between the decking and garages. There's missing privacy wall on top of the backdoor decking. There are already 210cm tall posts on top of the decking - taller than on the plans.