

Mr McWilliam
36 York Road
Edinburgh
EH5 3EQ

Decision date: 25 February 2022

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

Build new extension to the front of the property.
At 36 York Road Edinburgh EH5 3EQ

Application No: 21/06475/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 9 December 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:-

Reasons:-

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not of an acceptable scale, form or design and is detrimental to the character of the neighbourhood.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it does not preserve the special character or appearance of the conservation area.
3. The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as it may have a damaging impact on protected trees.
4. The proposals are contrary to non-statutory guidance on Listed Buildings and Conservation Areas as the proposed extension does not preserve the character and appearance of the conservation area..

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

Drawings 01-03, 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 proposed works to the dwelling fail to preserve or enhance the character and appearance of the conservation area and are not in accordance with the Development Plan as they would not comply with Edinburgh Local Development Plan Policies Des 12, Env 12 or Env 6 or the non-statutory Listed Buildings and Conservation Areas Guidance. There are no material considerations which outweigh this conclusion.

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.



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
36 York Road, Edinburgh, EH5 3EQ

Proposal: Build new extension to the front of the property.

Item – Local Delegated Decision
Application Number – 21/06475/FUL
Ward – B04 - Forth

Recommendation

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

Summary

The proposed works to the dwelling fail to preserve or enhance the character and appearance of the conservation area and are not in accordance with the Development Plan as they would not comply with Edinburgh Local Development Plan Policies Des 12, Env 12 or Env 6 or the non-statutory Listed Buildings and Conservation Areas Guidance. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The site is a detached dwelling located on the east side of York Road. The property is located within the Trinity Conservation Area.

Description Of The Proposal

The proposal is for a one and half storey extension to the front of the dwelling comprising of a dining area which leads onto a proposed timber deck with a storage area underneath. Proposals will be constructed of timber cladding and materials matching the existing property, including a metal roof. The application also proposes solar panels on the south facing roof of the existing property.

Relevant Site History

21/01406/FUL

Alter and extend house, build 3x extensions; removal of trees (as amended).

Granted

3 September 2021

Consultation Engagement

No Consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 20 December 2021

Date of Advertisement: 7 January 2022

Date of Site Notice: 7 January 2022

Number of Contributors: 0

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

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

a) The proposals harm the character or appearance of the conservation area?

The Trinity Conservation Area Character Appraisal emphasises the wealth of detached villas set in substantial plots with generous spacing to their neighbours, the high quality stone built architecture of restricted height, the predominant use of traditional building materials, and the predominance of residential use.

The spatial pattern of is important to the conservation area. It is important that green space is maintained to street to preserve the green character of the conservation area and to help maintain its part secluded nature.

The proposed extension comes forward of the property towards York Road and as a result, it would impact the existing building line of the east side of York Road and therefore the existing character and appearance of the conservation area. Whilst the properties on the west side are built closer to the street, it should be noted that many of these buildings are predominantly of a different house type, on smaller plots with smaller gardens. In comparison, the buildings on the east side of York Road retain a generous space between the development and the street due to their larger plots. The proposal would bring the property closer to the street and would interrupt the set-back character of the properties along the east side of York Road.

Whilst it is acknowledged that the proposed front extension will be behind a significant boundary wall with several large trees, it is considered that the proposal would still be visible from the street, especially when the trees lose their leaves and/or from higher up York Road (which is at a higher incline).

The proposed solar panels would be considered acceptable due to their minimal visibility and therefore minor impact on the character and appearance of the conservation area.

Conclusion in relation to the conservation area

The works fail to preserve or enhance the special character and appearance of the conservation area.

The proposals comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policy Env 6
- LDP Environment policy Env 12
- LDP Design policy Des 12

The non-statutory 'Listed Building and Conservation Area' guidance and 'Guidance for Householder' is a material consideration that is relevant when considering policies Env 6, Env 12 and Des 12.

Scale, form, design and neighbourhood character

The application proposes matching materials and a hipped roof design, for the front extension, which would be in keeping with the existing non-traditional property. In addition, the proposed solar panels would not be overly visible from the street and would be considered acceptable due to the 'modern' character of the property.

However, it is considered that the proposed extension will impact on the existing setback spatial pattern demonstrated by the properties on the east side of York Road and the development will be visible from the street. As detailed in the non-statutory 'Listed Building and Conservation Area' guidance, the aim of development in a conservation area should be to preserve the spatial and structural patterns of the historic fabric and the architectural features that make it significant. Therefore, it is considered that the proposal will neither preserve or enhance the character and appearance of the conservation area as detailed in section a) of the assessment.

Neighbouring Amenity

With respect to privacy, overshadowing and loss of daylight or sunlight, the proposals have been assessed against requirements set out in the non-statutory 'Guidance for Householders'. The proposals will not result in any unreasonable loss to neighbouring amenity.

Trees

With respect to trees, all information provided in support of the application was carefully considered. Concerns were raised regarding the potential impact to the surrounding trees and their roots from the proposed construction works for the new development, despite the proposals being outwith the Root Protection Area. Furthermore, concerns were raised regarding the proximity of the existing trees to the new build and the potential damage that the trees may cause to the development once constructed, which may result in/require the removal of the trees in the future. It is not considered the measures proposed in the application are not sufficient to adequately protect the trees and as such the proposal is contrary to policy Env 12 of the Local Development Plan.

Conclusion in relation to the Development Plan

The proposals are not of an acceptable scale, form and design and fail to preserve or enhance the special character and appearance of the conservation area.

Therefore, the proposals do not comply with LDP policies Env 6, Env 12 or Des 12 or the overall objectives of the Development Plan.

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

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of

development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

It is considered that the proposal fails to comply with Paragraph 29 of SPP as the application does not comply with the guiding principles of supporting good design or protecting, enhancing and promoting access to cultural heritage, including the historic environment.

The development fails to protect the existing character and appearance of the conservation area as the proposals would impede and impact on the existing building line of the east side of York Road, which retains a generous setback from the street.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

No comments have been received.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposed works to the dwelling fail to preserve or enhance the character and appearance of the conservation area and are not in accordance with the Development Plan as they would not comply with Edinburgh Local Development Plan Policies Des 12, Env 12 or Env 6 or the non-statutory Listed Buildings and Conservation Areas Guidance. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not of an acceptable scale, form or design and is detrimental to the character of the neighbourhood.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it does not preserve the special character or appearance of the conservation area.
3. The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as it may have a damaging impact on protected trees.
4. The proposals are contrary to non-statutory guidance on Listed Buildings and Conservation Areas as the proposed extension does not preserve the character and appearance of the conservation area..

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 9 December 2021

Drawing Numbers/Scheme

01-03

Scheme 1

David Givan
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.