

OiSA Designs Chartered Architect.
FAO: Gloria Lo
OiSA Studio
24A Lygon Road
Edinburgh
EH16 5QB

Ms Fiona Quinn.
13 Jordan Lane
Edinburgh
EH10 4RA

Decision date: 20 December 2021

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

Refurbish windows with slim double glazing, repair rotten timber and add brush draught strips. Create safe disabled access to house from Jordan Lane, add electric car charging point, planted areas and SUDS paving. Reuse existing gate and railings where possible, and where necessary match existing finials and railings for new. Enhance welcoming aspect of house onto Jordan Lane,
At 13 Jordan Lane Edinburgh EH10 4RA

Application No: 21/03213/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 2 July 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 is contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the works will result in a diminution of the character of the building and the works are not justified.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the loss of the original boundary wall will detract from the character and appearance of the conservation area.

3. The proposal is contrary to the Local Development Plan Policy Des 7 in respect of Layout Design, as the proposed parking layout will not ensure the safety and convenience of road users.

4. The proposal does not comply with the relevant SPP - sustainable development principles.

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

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

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

The proposal is contrary to the policies contained in the Edinburgh Local Development Plan and non-statutory Guidance on Listed Buildings and Conservation Areas. The proposal will have an unacceptable impact on the character and setting of the listed building, and will detract from the character and appearance of the conservation area. The proposal will not ensure the safety and convenience of road users. Furthermore, the proposal does not comply with the relevant SPP - sustainable development principles. It is recommended that the application be refused.

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 Adam Gloser directly at adam.gloser@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.

Report of Handling

**Application for Planning Permission
13 Jordan Lane, Edinburgh, EH10 4RA**

Proposal: Refurbish windows with slim double glazing, repair rotten timber and add brush draught strips. Create safe disabled access to house from Jordan Lane, add electric car charging point, planted areas and SUDS paving. Reuse existing gate and railings where possible, and where necessary match existing finials and railings for new. Enhance welcoming aspect of house onto Jordan Lane,

**Item – Local Delegated Decision
Application Number – 21/03213/FUL
Ward – B10 - Morningside**

Recommendation

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

Summary

The proposal is contrary to the policies contained in the Edinburgh Local Development Plan and non-statutory Guidance on Listed Buildings and Conservation Areas. The proposal will have an unacceptable impact on the character and setting of the listed building, and will detract from the character and appearance of the conservation area. The proposal will not ensure the safety and convenience of road users. Furthermore, the proposal does not comply with the relevant SPP - sustainable development principles. It is recommended that the application be refused.

SECTION A – Application Background

Site Description

The property is an early 19th century, two storey house with a projecting side addition, facing north onto Jordan Lane and includes a small front garden. The property is attached to 12 Jordan Lane.

The listing description makes reference to the low rubble wall to the front of the property, with flat coping and original decorative cast-iron railings. In addition, the listing makes reference to the property being part of a subdivided building.

A number of listed buildings are located within the lane, and the lane is characterised by a mix of building types which are residential. Houses on Jordan Lane have a pattern of long and substantial gardens to the rear.

The building is category C listed (date of listing: 29/04/1977, reference: LB27479).

Description Of The Proposal

The proposal seeks to form an off-street parking space to the front of the property, facing north onto Jordan Lane. It is proposed to remove a three metre section of the wall in which it will be replaced by a sliding gate. The existing cast iron railings are proposed to be cut and re-used on the new gate which would be painted in a colour to match the existing.

The front garden is proposed to be replaced with a two-level tiered garden forming a lower level with a kitchen herb garden and a bin storage area, and an upper level with a paved area for an EV charging point and parking for an electric vehicle.

The proposals also seek to refurbish windows with slim double glazing and repair all rotten timbers.

Note, the submitted application form describes the garden that faces onto Jordan Lane being the rear garden. However, it will be referred to being the front garden in the assessment of the proposal.

Relevant Site History

17/03513/LBC
Forming an off-street car parking space.
Refused
12 October 2017

17/03439/FUL
Forming an off-street car parking space.
Refused
20 September 2017

Consultation Engagement

No Consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 20 December 2021

Date of Advertisement: 9 July 2021

Date of Site Notice: 9 July 2021

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.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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

Do the proposals comply with the development plan?

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

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

Assessment

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

- a) the proposals will have an adverse impact on the character of the listed building;
- b) the proposals will have an adverse impact on the character of the conservation area;
- c) the proposal will impact on public safety;
- d) the proposal will impact on neighbouring amenity;
- e) any impacts on equalities or human rights are acceptable;
- f) any public comments raised have been addressed; and
- g) other material matters are considered.

a) Listed building

Policy Env 3 Listed Buildings- Setting in the LDP states that development within the curtilage or affecting the setting of a listed building will be permitted if not detrimental to the architectural character, appearance or historic interests of the building, or to its setting.

Policy Env 4 Listed buildings- Alterations and Extensions states that proposals to alter or to extend listed buildings will be permitted where those alterations are justified; would not result unnecessary damage to historic structures or diminution of its interests; and where any additions would be in keeping with other parts of the building.

The stone boundary wall is a defining feature in the setting and character of the listed building. The removal of the stone wall with the cast iron railings would adversely affect the coherence and proportion of the boundary treatment, and the loss of historic building fabric would negatively impact the overall character and setting of the property. Although the cast iron railings would be reused within the proposed sliding gate, the

uncharacteristic design of the gate would appear alien within the context of the traditional boundary treatment and would introduce an incongruous addition that would negatively impact the overall setting of the listed building.

A window survey has been requested from the agent to assess the quality and condition of the existing windows. No window survey has been received. The alterations proposed to the windows would therefore not be justified.

The application is contrary to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) Conservation Area

Policy Env 6 Conservation Areas- Development states that development within a conservation area will be permitted which preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant character appraisal.

The application site is located within Morningside Conservation Area and the character appraisal states the following:

The northern part of the area within Jordan and Canaan Lanes contains a more varied architectural mix of buildings ranging over traditional village dwellings, Georgian villas and tenements...High quality stone built architecture of restricted height, generous scale and fine proportions... The significant degree of unity resulting from the predominant use of traditional building materials: local sandstone for buildings and boundary walls and Scots slate for roofs...

The existing stone boundary wall and cast iron railing makes an important contribution to the character and setting of the listed building by virtue of its traditional design and treatment finish. The proposal will result in the loss of the stone wall, replaced with a non-traditional sliding gate and this type of alteration will be detrimental to the character and setting of the listed building. Whilst the proposal seeks to re-use the cast iron railings on the new gate, the design of the sliding gate will adversely disrupt the historic and lasting presence of the boundary walls which makes an important contribution to the character and appearance of the conservation area and its alteration is not supported.

In addition, parking arrangements within Jordan Lane are either located to the side of a property or occupying the depth of a front curtilage. The garden space to the front is constrained in terms of size and layout, in which the land slopes. The layout of the proposal would be sited across the width of the garden and this arrangement is not characteristic of buildings within Jordan Lane.

(c) Public Safety

Non-statutory 'Guidance for Householder's' advises that parking space will be allowed if the front garden is at least 6 metres deep with a maximum area of 21 square metres or 25% of the front garden, whichever is the greater.

The proposed parking space will occupy more than 25% of the front garden and this is contrary to the guidance. In addition, the introduction of further off-street parking in this

location would negatively impact on the unobstructed movement of pedestrians, adversely affecting road safety.

The proposed parking layout does not comply with policy Des 7 in the LDP.

(d) Neighbouring Amenity

The introduction of an electric charging point would have no adverse effect on the character or amenity of the area. The introduction of this feature would be acceptable if assessed independently from the remaining proposals.

The proposal will not impact on the amenity of neighbouring residents in terms of loss of privacy, sunlight or result in overshadowing.

(e) Equalities and Human Rights

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

(f) Comments

One comment in support of the proposals has been received. The comments have been summarised below and are addressed above.

- Positive impact on character of conservation Area - Addressed in Section 3.3 (b).
- positive impact from off-street parking - Addressed in Section 3.3 (c).
- Positive impact from electric charging point - Addressed in Section 3.3 (d).

e) Other considerations

Due to the development plan being over 5 years old the Scottish Planning Policy presumption in favour of sustainable development is a significant material consideration. 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.

To determine whether the proposals are sustainable development they require to be assessed against the sustainability principles as set out in Scottish Planning Policy.

The proposals are not considered to be sustainable development as they fail to accord with Principle 3 which supports good design and the six qualities of successful places, and Principle 13 which seeks to avoid over-development, protecting the amenity of new and existing development.

Emerging Policy Context

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

City Plan 2030 - While the proposed City Plan is 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.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

1. The proposal is contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the works will result in a diminution of the character of the building and the works are not justified.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the loss of the original boundary wall will detract from the character and appearance of the conservation area.
3. The proposal is contrary to the Local Development Plan Policy Des 7 in respect of Layout Design, as the proposed parking layout will not ensure the safety and convenience of road users.
4. The proposal does not comply with the relevant SPP - sustainable development principles.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 2 July 2021

Drawing Numbers/Scheme

01-04

Scheme 1

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

Contact: Adam Gloser, Assistant Planner
E-mail:adam.gloser@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 21/03213/FUL

Application Summary

Application Number: 21/03213/FUL

Address: 13 Jordan Lane Edinburgh EH10 4RA

Proposal: Refurbish windows with slim double glazing, repair rotten timber and add brush draught strips. Create safe disabled access to house from Jordan Lane, add electric car charging point, planted areas and SUDS paving. Reuse existing gate and railings where possible, and where necessary match existing finials and railings for new. Enhance welcoming aspect of house onto Jordan Lane,

Case Officer: Local1 Team

Customer Details

Name: Dr Rebecca Diggle

Address: 10c Jordan Lane Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: To whom it may concern

Please note my support for the full set of proposals.

In particular, I support the creation of a safe disabled access space and addition of an electric car charging point. Both alterations help modernise and future proof the property and make it more accessible. The addition of an electric charging point also contributes to the Council's (and Scottish Government's) commitment to become carbon neutral.

Additionally, the creation of a parking space would help alleviate the severe parking congestion on the Lane. The design is sympathetic to its surroundings and would not significantly alter the view down the Lane.

Comments for Planning Application 21/03213/FUL

Application Summary

Application Number: 21/03213/FUL

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Case Officer: Local1 Team

Customer Details

Name: Not Available

Address: Not Available

Comment Details

Commenter Type: Neighbour-Residential

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Comment Reasons:

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Please note my support for the full set of proposals.

In particular, I support the creation of a safe disabled access space and addition of an electric car charging point. Both alterations help modernise and future proof the property and make it more accessible. The addition of an electric charging point also contributes to the Council's (and Scottish Government's) commitment to become carbon neutral.

Additionally, the creation of a parking space would help alleviate the severe parking congestion on the Lane. The design is sympathetic to its surroundings and would not significantly alter the view down the Lane.

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 100536478-001

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text"/>		
Ref. Number:	<input type="text" value="QUI/2026/00004"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Fiona"/>	Building Name:	<input type="text" value="Union Plaza"/>
Last Name: *	<input type="text" value="Closs"/>	Building Number:	<input type="text" value="1"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Address 1 (Street): *	<input type="text" value="Union Plaza"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
		Postcode: *	<input type="text" value="AB10 1DQ"/>
Email Address: *	<input type="text" value="REDACTED"/>		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	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="Fiona"/>	Building Number:	<input type="text" value="13"/>
Last Name: *	<input type="text" value="Quinn"/>	Address 1 (Street): *	<input type="text" value="Jordan Lane"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH10 4RA"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="13 JORDAN LANE"/>
Address 2:	<input type="text" value="NEWBATTLE"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH10 4RA"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="671119"/>	Easting	<input type="text" value="324726"/>
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Description of Proposal

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

Refurbish windows with slim double glazing, repair rotten timber and add brush draught strips. Create safe disabled access to house from Jordan Lane, add electric car charging point, planted areas and SUDS paving. Reuse existing gate and railings where possible, and where necessary match existing finials and railings for new. Enhance welcoming aspect of house onto Jordan Lane, | 13 Jordan Lane Edinburgh EH10 4RA

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

See Notice of Review Statement

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

Yes No

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

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

Appendix 1 – Decision Notice dated 20 December 2021 Appendix 2 – Design Statement, Conservation and Accessibility Report
Appendix 3 – Jordan Lane Site Location Map Appendix 4 – Existing and Proposed Plans Appendix 5 – Existing and Proposed Elevations Appendix 6 – Elevations Showing Window Repairs as Existing and Proposed 7.7 Appendix 7 – Report of Handling

Application Details

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

21/03213/FUL

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

11/06/2021

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

20/12/2021

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

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

An inspection of the land to which the review relates is necessary in order for the LRB members to understand the layout of the Property and the proposal.

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: Mrs Fiona Closs

Declaration Date: 08/03/2022

Proposal Details

Proposal Name	100536478
Proposal Description	Notice of Review in respect of the refusal of planning permission at 13 Jordan Lane (Planning Reference: 21/03213/FUL)
Address	13 JORDAN LANE, NEWBATTLE, EDINBURGH, EH10 4RA
Local Authority	City of Edinburgh Council
Application Online Reference	100536478-001

Application Status

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

Attachment Details

Notice of Review	System	A4
Notice of Review Statement	Attached	A4
Appendix 1 - Decision Notice	Attached	A4
Appendix 2 - Design Conservation and Accessibility Report Part 1	Attached	A4
Appendix 2 - Design Conservation and Accessibility Report Part 2	Attached	A4
Appendix 2 - Design Conservation and Accessibility Report Part 3	Attached	A4
Appendix 3 - Jordan Lane Site Location Map	Attached	A4
Appendix 4 - Existing and Proposed Plans	Attached	A4
Appendix 5 - Existing and Proposed Elevations	Attached	A4
Appendix 6 - Elevations showing window repairs as existing and proposed	Attached	A4
Appendix 7 - Report of Handling	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0

Notice of Review Statement on behalf of Fiona Quinn

in respect of the refusal of planning permission to refurbish windows with slim double glazing, repair rotten timber and add brush draught strips, create safe disabled access to house from Jordan Lane, add electric car charging point, planted areas and SUDS paving, reuse existing gate and railings where possible, and where necessary match existing finials and railings for new enhanced welcoming aspect of house onto Jordan Lane, At 13 Jordan Lane Edinburgh EH10 4RA

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1 EXECUTIVE SUMMARY

- 1.1 On 11 June 2021, OISA Designs Chartered Architect submitted an application for planning permission (Planning Reference: 21/03213/FUL) (“**the Application**”) on behalf of Fiona Quinn (“**the Appellant**”) to The City of Edinburgh Council (“**the Council**”) for the following development proposal at 13 Jordan Lane, Edinburgh, EH10 4RA (“**the Property**”):

“in respect of the refusal of planning permission to refurbish windows with slim double glazing, repair rotten timber and add brush draught strips, create safe disabled access to house from Jordan Lane, add electric car charging point, planted areas and SUDS paving, reuse existing gate and railings where possible, and where necessary match existing finials and railings for new enhanced welcoming aspect of house onto Jordan Lane.”

- 1.2 On 20 December 2021, the Council issued its Decision Notice (Appendix 1) refusing the Application for the following reasons:

“1. The proposal is contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings – Alterations and Extensions, as the works will result in a diminution of the character of the building and the works are not justified.

2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas – Development, as the loss of the original boundary wall will detract from the character and appearance of the conservation area.

3. The proposal is contrary to the Local Development Plan Policy Des 7 in respect of Layout Design, as the proposed parking layout will not ensure the safety and convenience of road users.

4. The proposal does not comply with the relevant SPP – sustainable development principles.”

- 1.3 The Appellant submits that the Proposal complies with the Local Development Plan (“**the LDP**”) and the material considerations support the proposal.

- 1.4 The Appellant submits that the Council has taken an unreasonable approach to the assessment of the Application and has failed to balance properly the very limited impact of the Proposal with its clear benefits – both in terms of the listing of the Property and the wider considerations. The impact on the special architectural and historic interest of the listed building and conservation area is *de minimus* and there is no proper factual basis to support the Council’s decision that the proposal does not comply with the LDP. The Council’s assessment of the proposal in support of its reasons for refusing the Application amounts to a complete prohibition against making any change to the boundary of the Property. That is contrary to both the LDP and material

considerations. The Council has failed to take proper account of the current state of the Property and the surrounding area and its assessment of the impact of the proposed development is wholly unreasonable. The Council has also failed to take proper account of the benefits of the proposed development.

- 1.5 The Appellant is seeking a review of the Council's decision on the following grounds:
- 1.5.1 The Proposal complies with the Local Development Plan;
 - 1.5.2 The material considerations support the Proposal; and
 - 1.5.3 The Council's assessment of the Proposal is unreasonable, leading to a complete prohibition of works to a listed building or in a conservation area.
- 1.6 This Notice of Review demonstrates that the Proposal complies with the LDP and that the material considerations support the Proposal. The applicant submits that the Council's assessment of the Application is unreasonable and for the reasons set out in this Notice of Review the Local Review Body ("**the LRB**") should reverse the Council's decision and grant planning permission.

2 BACKGROUND

- 2.1 The Property is a category C listed building and is owned by the Appellant. The Property is located within the Morningside Conservation Area. The Morningside Conservation Area is a predominantly residential area characterised by Victorian and Edwardian villas with pockets of tenemental development at Woodburn Terrace and Comiston Road. A mixture of industrial, commercial and other mixed uses can be found on Jordan Lane. The character of the Property and its contribution to Jordan Lane which contains a mixture of uses, is not as impactful as it would be if Jordan Lane were exclusively residential.
- 2.2 In June 2021, OISA Designs Chartered Architect submitted the Application on behalf of the Appellant. The Application sought permission for the following development proposal ("the Proposal"):
- "in respect of the refusal of planning permission to refurbish windows with slim double glazing, repair rotten timber and add brush draught strips, create safe disabled access to house from Jordan Lane, add electric car charging point, planted areas and SUDS paving, reuse existing gate and railings where possible, and where necessary match existing finials and railings for new enhanced welcoming aspect of house onto Jordan Lane."*
- 2.3 A Design Statement, Conservation and Accessibility Report ("**the Design and Access Report**") formed part of the Application. The Design and Access Report outlined the context of the conservation area and character appraisals to ensure the Proposal was in line with the character

of the area. The Design and Access Report also outlined the benefit of disabled access and parking to the property with no impact on public safety. The Design and Access Report is a thorough and detailed heritage and conservation area assessment and is referred to and incorporated for the purposes of this Notice of Review at Appendix 2. The drawings which formed part of the Application can be found at Appendixes 3 – 6.

2.4 The Application received two letters of representation in support. In summary, the letters of representation states that the Proposal would have a positive impact on the Conservation Area, a positive impact on off-street parking as a result of the car park and the electric charging point. There were no objections to the Application.

2.5 On 20 December 2021 the Council refused the Application for the following reasons:

“1. The proposal is contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings – Alterations and Extensions, as the works will result in a diminution of the character of the building and the works are not justified.

2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas – Development, as the loss of the original boundary wall will detract from the character and appearance of the conservation area.

3. The proposal is contrary to the Local Development Plan Policy Des 7 in respect of Layout Design, as the proposed parking layout will not ensure the safety and convenience of road users.

4. The proposal does not comply with the relevant SPP – sustainable development principles.”

2.6 The Appellant submits that the Application complies with the Local Development Plan and is supported by the material considerations. The LRB should therefore reverse the Council’s decision and grant planning permission.

3 PRELIMINARY MATTERS

3.1 The Appellant submits to the LRB that the Report of Handling (Appendix 7) contains a number of inaccuracies and errors throughout. It is imperative that the LRB takes into account the correct and accurate facts when assessing the Application. The Appellant respectfully submits that the LRB take into account the correct information when assessing the Application as outlined below.

3.2 The Report of Handling demonstrates that the Council took an unreasonable approach to the determination of the Application which amounted to a complete prohibition of any change to a

listed building and conservation area. The Appellant submits that the Report of Handling misunderstands and misrepresents the physical setting and orientation of the Property.

- 3.3 The Report of Handling at page 2 notes that the Application refers to the garden that faces onto Jordan Lane as the rear garden. However, the planning officer chooses to refer it as the front garden. That is incorrect and misleading. The Scottish Government's Guidance on Householder Permitted Development Rights (Circular 1/2012) is helpful in identifying the front of a dwellinghouse. Factors to be considered include: the location of main door, windows, relationship to road, boundary treatment, and architectural ornamentation. The main and indeed only access door to the Property is located on the south elevation on the opposite side of the Property from Jordan Lane. Many early developments in the Morningside area including no. 5 and no. 13 Jordan Lane, and also 24 Canaan Lane (Goshen Bank House), all have their more ornate front and principal elevation facing south. The relationship of the Property to Jordan Lane is only one factor. Taking all of the factors into account, it is clear that the front of the Property faces south and the garden that faces onto Jordan Lane is the rear garden and should be referred to as such in the assessment of the Proposal.
- 3.4 The proposed parking space is for a small car that faces inwards to the depth of the rear curtilage and not across the garden as noted in the Report of Handling. This perpendicular orientation will allow for safe manoeuvring and is the same orientation as the car parking space at 12 Jordan Lane, the neighbouring property. This point is discussed in further detail at Paragraph 5.49 of this Notice of Review Statement. The Proposal in its entirety is 4.5% of the garden area, as demonstrated within the Design and Access Statement. The Proposal will create a functional, useable area for the Property from what is currently an unusable dumping ground. This is entirely in line with HES Guidance. The Appellant currently has to park down the street which is detrimental to the usability of the Property and also creates vehicular congestion elsewhere in the Conservation Area.

4 DETERMINATION OF NOTICE OF REVIEW

- 4.1 The Proposal complies with the LDP and is supported by material considerations. The Appellant submits that there is no proper factual justification for the refusal of the Application and that the Council's decision is unreasonable. The Appellant respectfully submits that the LRB should reverse the Council's decision and grant planning permission for the reasons outlined in this Notice of Review.
- 4.2 Section 43(A) of the 1997 Act provides the Applicant with the right to require the planning authority to review the decisions made by an appointed officer under the scheme of delegation. On such review, the LRB may uphold, reverse or vary a determination reviewed by them. The LRB must approach the review *de novo* (*Sally Carrol v Scottish Borders Council* [2015] CSIH 73).

4.3 **Determining Issues**

- 4.4 Section 25 of the 1997 Act requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The Proposal is in accordance with the LDP and is supported by material considerations. The LRB should therefore reverse the Council's decision and grant planning permission.

Edinburgh Local Development Plan ("the LDP")

- 4.5 The LDP was adopted in November 2016. The following LDP policies are relevant to the Notice of Review and support the approval of the Proposal.
- 4.6 Policy Env 3 – Listed Buildings – Setting. Development within the curtilage or affecting the setting of a listed building will be permitted only if it is not detrimental to the architectural character, appearance or historic interest of the building, or to its setting.
- 4.7 Policy Env 4 Listed Buildings – Alterations and Extensions. Proposals to alter or extend a listed building will be permitted where:
- 4.7.1 Those alterations or extensions are justified;
 - 4.7.2 There will be no unnecessary damage to historic structures or diminution of its interest; and
 - 4.7.3 Where any additions are in keeping with other parts of the building.
- 4.8 Paragraph 173 of the LDP further states that in determining applications for planning permission or listed building consent, the Council is to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest that it possesses. This paragraph reflects the statutory position at Section 59 of the Act. Section 59 (3) of the Act defines "preserving" as being, in relation to a building, preserving it either in its existing state or subject only to such alterations or extension as can be carried out without any serious detriment to its character" (emphasis added). Clearly, it is not the intention of either the LDP or the Act to prohibit all work to a Listed Building.
- 4.9 Policy Env 6 Conservation Areas – Development. Development within a conservation area or affecting its setting will be permitted which:
- 4.9.1 Preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal
 - 4.9.2 Preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area and

- 4.9.3 Demonstrates high standards of design and utilises materials appropriate to the historic environment.
- 4.10 Paragraph 174 of the LDP states that the purpose of the above policy is to protect, and where possible, enhance the character and appearance of Edinburgh's many conservation areas.

- 4.11 Policy Des 7 – Layout Design states:

“Planning permission will be granted for development where:

a) a comprehensive and integrated approach to the layout of buildings, streets, footpaths, cycle paths, public and private open spaces, services and SUDS features has been taken

b) new streets within developments are direct and connected with other networks to ensure ease of access to local centres and public transport and new public or focal spaces are created where they will serve a purpose

c) the layout will encourage walking and cycling, cater for the requirements of public transport if required and incorporate design features which will restrict traffic speeds to an appropriate level and minimise potential conflict between pedestrians, cyclists and motorised traffic

d) car and cycle parking areas and pedestrian and cycle paths are overlooked by surrounding properties

e) safe and convenient access and movement in and around the development will be promoted, having regard especially to the needs of people with limited mobility or special needs

f) public open spaces and pedestrian and cycle routes are connected with the wider pedestrian and cycle network including any off-road pedestrian and cycle routes where the opportunity exists.

- 4.12 Policy Des 12 – Design Quality and Context states:

“Planning permission will be granted for alterations and extensions to existing buildings which:

a) in their design and form, choice of materials and positioning are compatible with the character of the existing building

b) will not result in an unreasonable loss of privacy or natural light to neighbouring properties

c) will not be detrimental to neighbourhood amenity and character”.

Material Considerations

4.13 The Proposal is supported by the following material considerations.

Proposed Local Development Plan - City Plan 2030 ("the Proposed Plan")

4.14 Policy Env 11 Listed Building – Setting states:

"Development within the curtilage of a listed building, or affecting its townscape or landscape setting, will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting."

4.15 Policy Env 12 Listed Building and structures – Alterations and Extensions states:

"Proposals to alter or extend a listed building will be permitted where:

a. there will be no harm to the special interest of the building and its features,

b. there will be no damage or loss of important historic fabric, and

c. any additions are of a high-quality design that are appropriate to the character of the building."

4.16 Policy Env 14 Conservation Area – Development states:

"Development within a conservation area, affecting its setting or impacting views of the area and from within it will be supported by this policy where it:

a. preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal

b. preserves trees, hedges, boundary walls, railings, paving and other features within the public realm which contribute positively to the special character or appearance of the conservation area, and

c. demonstrates high standards of design and utilises materials appropriate to the historic environment.

Historic Environment Scotland - Managing Change in the Historic Environment: Boundaries

4.17 Paragraph 5.5 states:

"The formation of new opening needs to be considered in light of the overall composition of the boundary and assessed as to whether it would be consistent with the existing design. Where the formation of a new opening is found to be consistent, the minimum of historic fabric should be lost and the opening should normally be detailed to match the existing openings. In some cases it might be appropriate to introduce high-quality contemporary design to new fixtures like gates."

Scottish Planning Policy (“SPP”)

4.18 The following paragraphs of SPP are relevant to this Notice of Review and support the Proposal.

4.19 Paragraph 28 and 29 deal with the policy principles of the SPP’s presumption in favour of development which contributes to sustainable development:

“28. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.”

“29. This means that policies and decisions should be guided by the following principles:

- giving due weight to net economic benefit;*
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;*
- supporting good design and the six qualities of successful places;*
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;*
- supporting delivery of accessible housing, business, retailing and leisure development;*
- supporting delivery of infrastructure, for example transport, education, energy, digital and water;*
- supporting climate change mitigation and adaptation including taking account of flood risk;*
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;*
- having regard to the principles for sustainable land use set out in the Land Use Strategy;*
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;*
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;*
- reducing waste, facilitating its management and promoting resource recovery; and*

- *avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.”*

4.20 Paragraph 141 of SPP states:

4.21 *“Change to a listed building should be managed to protect its special interest while enabling it to remain in active use. Where planning permission and listed building consent are sought for development to, or affecting, a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting. Listed buildings should be protected from demolition or other work that would adversely affect it or its setting.”*

4.22 Paragraph 143 of SPP states:

4.23 *“Proposals for development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character or appearance.”*

5 GROUNDS FOR REVIEW

5.1 The Appellant is seeking a review of the Council’s decision on the following grounds:

5.1.1 The Proposal complies with the Local Development Plan;

5.1.2 The material considerations support the Application; and

5.1.3 The Council’s assessment of the Proposal is unreasonable, leading to a complete prohibition of works to a Listed Building or in a Conservation Area.

5.2 The Appellant submits that the LRB should reverse the Council’s decision and grant planning permission for the reasons that follow.

5.3 Ground for Review 1: The Proposal complies with the LDP

5.4 The Proposal complies with the LDP and is supported by the following policies:

5.5 Compliance with LDP Policies Env 3 and 4

5.6 The Council refused the Application as they concluded it was contrary to Policies Env 3 and 4 as the works will result in a diminution of the character of the building and the works are not justified.

The Council's Report of Handling notes that the stone boundary wall is a defining feature in the setting and character of the listed building and the removal of this, and the cast iron railings would adversely affect the coherence and proportion of the boundary treatment and would negatively impact on the overall character and setting of the Property.

- 5.7 The Appellant disagrees with the Council's assessment and reason for refusal. The Council's reason for refusal is unreasonable and so restrictive that it is amounting to a prohibition against works to a Listed Building. This approach is not in the spirit of either the LDP or HES Guidance. The Council has no factual basis for concluding that the Proposal does not comply with Policies Env 3 and 4.
- 5.8 The Property is a Category C Listed Building. Edinburgh City Council's definition of a Category C Listed Building permits moderate alterations to the property. The Proposal seeks to keep the iron-gate and railings to ensure there would be no loss of character to the property or surrounding area. The rest of the Proposal can be seen as a moderate alteration to the listed building which is in keeping with the Category C listing. The alterations can be carried out without any serious detriment to the character of the Listed Building and therefore is supported by Policies Env 3 and 4.
- 5.9 The Proposal shall reuse, expose and enhance the boundary. The Proposal is to remove a very small piece of wall which is to the rear curtilage of a category C listed building. The removal of this is of very little significance to the setting or listing of the Property. There will be no serious detriment to the setting of or the listing of the Property. Any harm to the listed building is *de minimus* and is outweighed by the positive impacts on the listed building.
- 5.10 The Proposal fully complies with LDP Policies 3 and 4.
- 5.11 Compliance with Policy Env 5 – Conservation Areas – Development
- 5.12 The Appellant disputes the Council's second reason for refusal. The Council concluded that the stone boundary wall and the cast iron railing make an important contribution to the character and setting of the listed building. In addition, the Council's Report of Handling states that the Proposal will result in an alteration which will be detrimental to the character and setting of the listed building. The Council have failed to properly assess the Proposal and the impact that this will have on the Conservation Area in their Report of Handling and have only focused on the impact on the setting of the listed Building. Therefore, their conclusion that the Proposal does not comply with Policy Env 6 is not justified and has no factual basis.
- 5.13 It is submitted by the Appellant that the Proposal shall have a positive impact on the Conservation Area. The Proposal shall reuse, expose and enhance the boundary wall and the impact this shall have on the Conservation Area is *de minimus*. Any *de minimus* harm is outweighed by the positive

impact the Proposal shall have on the Conservation Area. It is submitted by the Appellant that there is no adverse impact on the character and appearance of the conservation area.

- 5.14 The Proposal seeks to keep the iron-gate and railings to ensure there would be no loss of character to the property or surrounding area. In doing so, the Proposal is preserving the railings which is wholly supported by Policy Env 5.
- 5.15 The Burra Charter on conservation encourages managed changes and adaptations to meet current needs without compromising the heritage for future generations. The Proposal has been carefully assessed and designed to consider future maintenance, accessibility and the impact that the Proposal will have on the Conservation Area. As noted in the Design and Access Statement, the Property is one of the older south facing properties in the area and the boundary wall was built at a later point in connection with the adjacent property. The wall therefore carries less significance than the rest of the listed building and makes less of a contribution to the character and appearance of the Conservation Area. The iron railings which are more defined, will be reused in situ for the gate. The Proposal will therefore have no adverse impact on the character and appearance of the conservation area. The Proposal therefore complies with LDP Policy Env 5.
- 5.16 Compliance with Policies Des 7 and 12
- 5.17 The Council's third reason for refusal was that the proposal was contrary to LDP Policy Des 7 as the proposed parking layout will not ensure the safety and convenience of the road users. The Council has not elaborated on this point. The conclusion that has been reached by the Council is entirely unfounded.
- 5.18 The Proposal will create a functional useable area for the Property from what is currently an unusable dumping ground. This complies with part (e) of Policy Des 7 by creating and promoting safe and convenient access and movement in and around the development will be promoted, having regard especially to the needs of people with limited mobility or special needs. The Council's third reason for refusal amounts to an unreasonable prohibition of a sensitive scheme which will create longevity and sustainable access for people with limited mobility or special needs. This is contrary to the Council's duty in terms of Section 149 of the Equality Act 2010. The Council must have due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic (which includes disability) and persons who do not share it. The public sector duty is a material consideration in the determination of the Notice of Review and is considered in further detail at paragraphs 5.3 – 5.7 of this Notice of Review Statement,
- 5.19 The Appellant currently has to park down the street which is detrimental to the usability of the Property and also creates vehicular congestion elsewhere in the Conservation Area. This will be alleviated by the proposed parking space and will further contribute to convenient access and movement in the area. The Proposal complies with Policy Des 7.

- 5.20 Whilst the Council have not considered Policy Des 12 in their assessment, it is submitted by the Appellant that this is relevant and should be taking into account by the LRB. The Proposal takes into account the design and form of the existing building and proposes to make use of the existing materials to ensure compatibility with the character of the building. The neighbourhood amenity and character will be protected as existing materials will be used alongside porous media, SUDS in buff colour with slight variations in colour to match the façade as closely as possible. This will ensure the Property fits the character appraisal of the Morningside Conservation Area. The Proposal complies with Policy Des 12.
- 5.21 In addition, the inclusion of the EV point is supported by the Council and will not have an impact on the amenity of the neighbouring residents. The inclusion of the EV point in the Proposal is supported by the Edinburgh Design Policy. The installation of the EV point will also encourage the use of low carbon modes of transport which is supported by the Council.
- 5.22 **Ground for Review 2 : The Proposal is supported by a number of material considerations**
- 5.23 The Proposal is supported by the following material considerations:
- 5.24 *Historic Environment Scotland Guidance (HES Guidance)*
- 5.25 Paragraph 6 of Historic Environment Scotland's Interim Guidance on the Principles of Listed Building Consent states:
- "The majority of listed buildings are adaptable and have met the needs of successive generations whilst maintaining their character. Change should therefore be managed to protect a building's special interest while enabling it to remain in active use....in general terms listing rarely prevents adaptation to modern requirements but ensures that work is done in a sensitive and informed manner."*
- "Listed Buildings will however, like other buildings, require alteration and adaptation from time to time if they are to remain in beneficial use, and will be at risk if such alteration and adaptation is unduly constrained."*
- 5.26 It is clear from HES Guidance that listed buildings require to be altered and adapted from time to time. There is no prohibition against such alteration or adaptation and it is recognised that listed buildings could be at risk if such alterations or adaptations are unduly constrained. Works should be done in a sensitive and informed manner. The Application was considerate of the impact on the listed building and evidenced that there would be no detrimental impact on the Property. The adaptation of the disabled parking space will prolong the use of the property and meet the needs of successive owners.

5.27 The Council's approach to the Application has unduly constrained the adaptations at the Property which is not in line with HES Guidance.

5.28 The formation of new openings within an existing boundary wall is supported by Paragraph 5.5 of Managing Change in the Historic Environment: Boundaries. There will be minimum historic fabric lost from the wall and the contemporary high-quality design of the gate which reuses the cast iron railings is appropriate and will enhance the Property and Conservation Area.

Proposed Local Development Plan (PLDP)

5.29 The period for representations to the PLDP concluded on 20 December 2021. The Council are considering the representations made to the PLDP prior to submitting the PLDP for examination in 2022. The PLDP is a material consideration in the determination of this Notice of Review.

5.30 The Proposal has demonstrated that it will not be detrimental to the character of the listed building or setting. Any change will be *de minimus* and this is outweighed by the positive impact that will be had on the listed building and its setting. The Proposal complies with Policies Env 11 and 12 of the PDLP.

5.31 The Proposal has demonstrated a high standard of design, is consistent with the conservation area and contributes positively to the appearance of the conservation area. The Proposal is supported by Policy Env 14 of the PLDP.

5.32 *Public Sector Equality Duty*

5.33 The Property is currently inaccessible for disabled persons. The Proposal would provide disabled access to and around the Property. This would include access for a family member who currently is unable to access the Property to visit the Appellant and her family. In terms of Section 149 of the Equality Act 2010 public authorities must have due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic (which includes disability) and persons who do not share it. This "public sector equality duty" applies to the determination of this Notice of Review and is both as a material consideration and a statutory duty in its own right.

5.34 The Property is currently inaccessible for disabled persons. The Proposal would provide disabled access to and around the Property. This would include access for a family member who currently is unable to access the Property to visit the Appellant and her family. In terms of Section 149 of the Equality Act 2010 public authorities must have due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic (which includes disability) and persons who do not share it. This "public sector equality duty" applies to the determination of this appeal both as a material consideration and a statutory duty in its own right.

- 5.35 The Report of Handling concluded that the Application had no impact on equalities. The Appellant disagrees with this conclusion and submits that as the Proposal will provide disabled access to and around the Property, the Application does have an impact on persons with a protected characteristic. As explained above, this is having a particular impact on a family member who is currently unable to access the Property. Without the inclusion of the disabled access, the Property will remain inaccessible for disabled persons and there will not be an equal opportunity to access the Property.
- 5.36 The Appellant submits that there is an impact on persons with a protected characteristic and that the LRB should take this into account as a material consideration when considering the Application.
- 5.37 *Scottish Planning Policy (SPP)*
- 5.38 The Council's fourth reason for refusal is that the Proposal does not comply with the SPP sustainable development principles. The Council considers that the Proposal fails to accord with Principle 3 (good design and successful places) and Principle 13 (overdevelopment). The Appellant disagrees with the Council and submits to the LRB that the Proposal does align with the SPP principles.
- 5.39 The Sustainable Development principles are of relevance as the LDP is over 5 years old. Therefore paragraph 33 of the SPP comes into effect and the presumption in favour of development that contributes to sustainable development will be a significant material consideration.
- 5.40 SPP paragraph 28 states that the planning system should support sustainable places by enabling development that balances costs and benefits of a proposal over a longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost. The Proposal has sensitively considered the impact on the listed building and conservation area and has balanced the impact on the setting against the proposal over the longer term and the benefits it will bring. The Proposal shall have a positive impact on the Conservation Area. The Proposal shall reuse, expose and enhance the boundary wall and the impact this shall have on the listed building and conservation area is *de minimus*. Any *de minimus* harm is outweighed by the positive impact the Proposal shall have on the conservation area. The Proposal shall ensure the long term use of the listed building within the conservation area and whilst it may be a small scale, local development, it does contribute to sustainable development.
- 5.41 In relation to the principles listed at Paragraph 29 of the SPP, these are the principles against which policies and decisions should be guided. As evidenced in the Design and Access Statement, the Proposal supports good design and the six qualities of successful places (Principle 3), it protects and enhances the historic environment by reusing and enhancing a boundary wall which will have a positive impact on the listed building and conservation area (Principle 10) and

is avoiding overdevelopment (Principle 13). On that basis, the Proposal clearly contributes towards sustainable development and is supported by the SPP.

5.42 Furthermore, the Proposal is entirely in line with paragraphs 141 and 143 of SPP. Currently the iron railing which is a key feature of the conservation area is hidden behind overgrowth. Without the Proposal, this feature will not be visible and the area will continue to deteriorate. The Proposal is required to prevent the loss of the iron railings and secure the long term future of the asset. The Proposal has been designed to keep the iron railing and re use the materials to preserve and enhance the character and setting of the historic asset. The Proposal shall protect the special interest of the listed building and allow it to remain in active use. The Proposal is supported by paragraphs 141 and 143 of the SPP.

5.43 *Listed Building Appeal*

5.44 An application for listed building consent for the Proposal was refused by the Council on 8 December 2021. The Appellant submitted a Listed Building Appeal to the Scottish Ministers (Appeal Reference: LBA-230-2233) on 23 February 2022. The Listed Building Appeal considers relevant facts and matters which relate to the Application. On that basis, the decision of the Scottish Ministers is a significant consideration for the LRB when determining the Application. The Appellant submits that the LRB should defer determination of this Notice of Review Application until the Scottish Ministers have determined the Listed Building Appeal.

5.45 *Precedent*

5.46 It is important that like cases should be decided in a like manner so that there is consistency in the operation of the development management system. Previous decisions concerning similar facts and policies are capable of being material considerations on this basis.

5.47 The Council granted planning permission for the formation of a parking space in the rear elevation of 30 Canaan Lane, Edinburgh on 14 February 2020 (Planning Reference: 19/05932/FUL). The facts and circumstances of that application are very similar to those at issue in this Notice of Review and the Appellant submits that decision is a material consideration in this Notice of Review.

5.48 30 Canaan Lane is also located within the Morningside Conservation Area. The planning permission approved the demolition of part of the boundary wall to the primary elevation of the property. The wall at 30 Canaan Lane is 8 ft in height, whilst the height of the wall relative to the Proposal is only 1 ft. The Council considered that the location of the new vehicular access would represent a “congruous” addition to the surrounding streetscape. Removal of a taller boundary wall to the front elevation within the Conservation Area will arguably have a greater impact on the Conservation Area than removing one from the rear elevation. In addition to the removal of the wall, the Council accepted the use of new, modern materials for the new bi-fold doors to the back

of the property. The Council considered that these materials were in-keeping with the surrounding area.

- 5.49 In addition, a car parking space has been accepted by the Council at the front elevation of the neighbouring property at 12 Jordan Lane. This car parking space has a frontage to Jordan Lane, the principal elevation of the house. 12 Jordan Lane has the same orientation parking as the Proposal, which is perpendicular to Jordan Lane. The Council considered that this car parking space was in keeping with the surrounding area, however has refused the Application which is for a car park space at the rear elevation of the Property.
- 5.50 The Council's treatment of both the Canaan Lane and 12 Jordan Lane proposals is in stark contrast to its decision to refuse the Appellant's Application. There is no reason to take a different approach in the determination of this Notice of Review. The Council must apply the Act and its policies consistently. The Council has failed to do so and has acted unreasonably in its decision to refuse the Application.
- 5.51 **Ground for Review 3: The Council's assessment of the Application is unreasonable, leading to a complete prohibition of works to a Listed Building or in a Conservation Area.**
- 5.52 The Council's assessment of the Application is unreasonable for the reasons outlined below.
- 5.53 The Council's assessment of the Proposal in support of its reasons for refusing the Application amounts to a complete prohibition against making any change to the boundary of the Property. That is contrary to the LDP, the above noted material consideration and is unreasonable.
- 5.54 Any harm to the listed building and conservation area is *de minimus* and is outweighed by the positive impacts on the listed building and conservation area.
- 5.55 The Appellant submits that the Proposal preserves the building and setting of the Property and preserves and enhances the character and appearance of the Conservation. The Proposal complies with LDP policies, HES guidance and the SPP which are material considerations in the consideration of this Notice of Review.
- 5.56 It is clear from both the LDP and HES Guidance that listed buildings require to be altered and adapted from time to time. There is no prohibition against such alteration or adaptation and it is recognised that listed buildings could be at risk if such alterations or adaptations are unduly constrained. Works should be done in a sensitive and informed manner. The Application was considerate of the impact on the listed building and evidenced that there would be no detrimental impact on the Property. The Proposal has been carefully assessed and designed to consider future maintenance, accessibility and the impact that the Proposal will have on the Conservation Area. The Council's approach to the Application has unduly constrained the adaptations at the Property which is not in line with HES Guidance.

5.57 Neither the LDP nor any of the material considerations noted in this Notice of Review prohibit works to a listed building or in a conservation area. The Council's strict approach to their assessment is unreasonable. The Application has evidenced that any works will be done in a sensitive and informed manner, with any harm being *de minimus* and outweighed by the positive impacts on the listed building and conservation area.

5.58 The Appellant submits that the LRB should reverse the Council's decision and grant planning permission.

6 CONCLUSION

6.1 The Application complies with the LDP and is supported by a number of material considerations. On that basis, the LRB should reverse the Council's decision and grant planning permission.

6.2 The Proposal will enhance both the listed building and surrounding conservation area. The Application is sensitive to the impact that will be had on the listed building and conservation area and will not result in any serious detriment to either.

6.3 The Proposal will enhance the conservation area by restoring original character features of the building. The Proposal will also bring benefit by creating a safe and pleasant experience for those using the Property, upgrading it to current sustainable low carbon standards, and ensure that it would continue to be an asset to future generations.

6.4 The Council's assessment of the Proposal is unreasonable, leading to a complete prohibition of works to a listed building or in a conservation area. This is not in the spirit of the LDP or HES Guidance and SPP, which are material considerations in the determination of this Notice of Review.

6.5 The Application is supported by the LDP and material considerations as set out in this Notice of Review. It is submitted that the LRB should therefore reverse the Council's decision and grant planning permission.

BURNESS PAULL LLP
Solicitors, Aberdeen

AGENT FOR THE APPELLANT

March 2022

7 LIST OF DOCUMENTS

- 7.1 Appendix 1 – Decision Notice dated 20 December 2021
- 7.2 Appendix 2 – Design Statement, Conservation and Accessibility Report
- 7.3 Appendix 3 – Jordan Lane Site Location Map
- 7.4 Appendix 4 – Existing and Proposed Plans
- 7.5 Appendix 5 – Existing and Proposed Elevations
- 7.6 Appendix 6 – Elevations Showing Window Repairs as Existing and Proposed
- 7.7 Appendix 7 – Report of Handling



Design, Conservation and Accessibility Report for 13 Jordan Lane, EH10 4RA

Prepared for: Ms. Fiona Quinn

Prepared by: Gloria J Lo, MA Hons(Cantab), M Arch, RIAS, RIBA

6 June 2021

Project Reference: 18-53-C Jordan Lane

DESIGN, CONSERVATION AND ACCESSIBILITY REPORT

for Planning Application at 13 Jordan Lane, Edinburgh EH10 4RA

Prepared in line with the Morningside Conservation Area Appraisal (October 2001), Edinburgh Local Development Plan (November 2016), Planning Guidance for Householders (February 2019), Listed Buildings and Conservation Area (February 2019), Scottish Government NPP Creating Places (2013) and Designing Streets (2010), Edinburgh Design Guidance (January 2020). Proposal and report specifically deals with LDP policies: Des 1, Des 3, Des 5, Des 6, Des 7 Des, Des 11, Env 3, Env 4, Env 6, and Hou 3

Précis of Proposal

The proposal to create better and safer access, to improve the amenity of this rear sunken garden to the house that boundaries onto Jordan Lane. Improving the appeal towards Jordan Lane, enhancing the character of the house and environs, to give a proper sense of welcome towards the street, as well as giving disabled access to the house. Refurbishment of windows in line with conservation guidelines and details.

I - Context and Character Appraisal

Conservation Area Context

To design for the Morningside Conservation Area, it is important to understand the historical context in which the site sits. Referring to the Conservation Area Appraisal report, Morningside, located on the road from Edinburgh to Biggar was an agricultural village, represented by only a handful of houses during the 1700s. The area was described in “Old and New Edinburgh” by Grant, as “once a secluded village, consisting little more than a row of thatched cottages, a line of trees, and a blacksmith’s forge, from which it gradually grew to become an agreeable environ and summer resort of the citizens, with the fame of being the “Montpelier” of the east of Scotland.”

For this site, it is worth exploring this specific growth, as on first inspection, the house would seem quite peculiarly situated with its rear elevation towards the street. Which, upon further exploration would prove not to be so strange after all.

Mapping the site History

The development of this intriguing region had been charted through various maps over the era. Research with maps from the National Library of Scotland Map Library reveals the development of the area between these dates from farmland to “Montpellier”. Studying these allowed some connection from the past to the present, where it emerged a strong pattern, despite small scale changes over time. The main east west connection between Southside Newington and Morningside was via Grange Loan through to Newbattle Terrace, connecting Mayfield Road (Radcliffe Terrace) and Morningside Road. The main



Kirkwood map of 1817

connection northwards from Grange Loan was Whitehouse Loan to join up at Bruntsfield, Whitehouse Loan terminated at Grange Loan, and to the south of Grange Loan was farm land.

Kirkwood map of 1817, the earliest map of Edinburgh including this area, illustrates Canaan Villas at the 'elbow' of Canaan Lane to the east (Site of current Astley Ainslie Hospital) and Falcon Hall occupying the interior of the 'square' between Morningside Road, Canaan Lane and Newbattle Terrace. Jordan Burn that leads to Pow Burn was a major notable feature, one direct path connected Canaan Lane to Jordan burn



Scott map of 1820



Davies map of 1838



Chalmers OS map of 1855

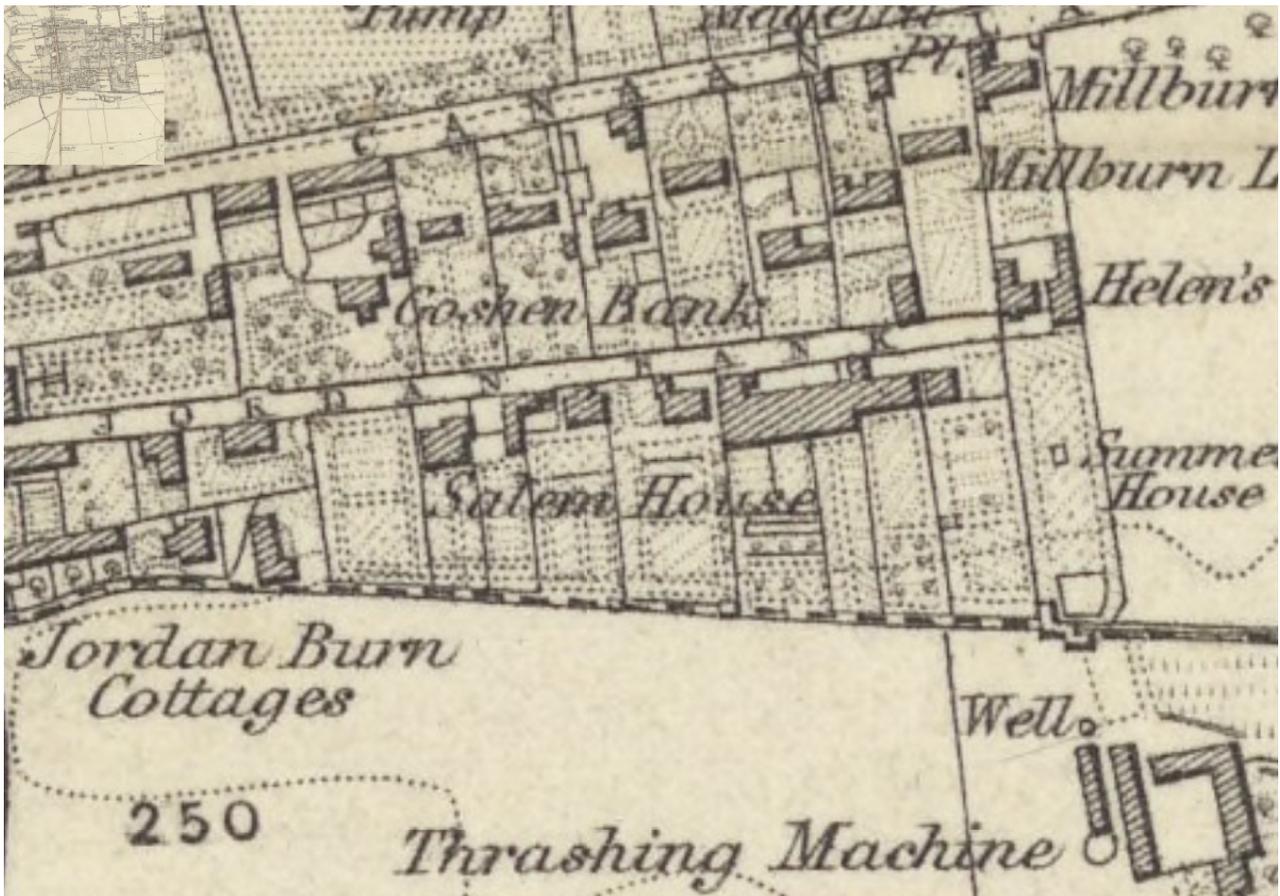
where it stopped. To the south of the Burn an area called Egypt, two houses surrounded by 'plough lands' and Blackford Hills. None of these grand halls and villas remain today, however some boundary lines, the road and waterway features do.

Robert Scott's map of 1820, a mere three years later, annotated several additional pathways now connect directly to Jordan Burn (which joins with Pow Burn to the east). These connections link the major east west trunk road, Grange Loan, with Jordan Burn. Jordan Burn was carefully annotated as a tree lined avenue, which indicates it as somewhat of a thoroughfare, even though not developed as a carriage way, and of course it would not make sense to build a road on a watercourse. Houses were indicated in the Jordan Lane area, although perhaps not very accurately located.

1838 map by Benjamin Rees Davies is not as detailed, larger scale with less annotations. It shows some paths running north south between Canaan Lane and Newbattle Terrace, however these do not carry over onto later maps. The watercourse Jordan Burn remains a major feature.

The first Ordnance Survey Map was drawn in 1855 by David Chalmers. This clearly shows the property in question 13 Jordan Bank (it would appear now renamed, Jordan Lane). Jordan Burn Cottages and Helen's Place are shown (although the current buildings are no longer original), as are nos. 4, 5, 11, 14, 15, 16, 17, 18, Jordan Lane in its modern day numbering.

On the north side of Jordan Lane, not many of the buildings from 1855 remain, only Goshen Bank House, no. 24 Canaan Lane remain as a listed building. 30 and 32 Canaan Lane are not listed buildings, and without



Detailed extract of Chalmers 6" OS Map of 1855

information to date the current buildings, although the footprint is seen from mid 19th Century plan.

Looking closely at the plan, further details are afforded us, owing to the then newly established ordinance surveying methods being in place. Jordan Burn as an access route is clear, albeit, since the better new paved road of Jordan Bank, it may now indeed be dual access to some of those houses, both north and south. The pathways for sites no. 8, 11, 13, 14 and 16 (modern day numbering) seem to indicate this direct connection onto Jordan Burn Close, a close which seemed to stretch along much further than just in front of the cottages by Morningside Road. A number of the houses labeled as Goshen Bank seems to also have that pattern, dual access front (Canaan Lane) and back (Jordan Lane).

Character of Houses in the Area - Old and New

The area just north and south of Jordan Burn, formerly known as Little Egypt, with biblical associated local names such as Jordan, Canaan, Nile and Egypt Mews, embarked on major development phase starting in 1881 with Nile Grove and completing the Cluny area by 1890s. It is with the unified frontage following the ideals of new town planning that much of these development faces the street with some grandeur.

Other than the numbers listed above from the 1855 map, the area wholesale changed during that period of development, and it is this later 1880-90's development that dominate and characterise Morningside as an



Bartholomew map of 1921

developments on the site are potentially without influence of prior developed access, a south facing aspect would be best appointed for sun, and for welcoming guests. Further more, observing the garden paths of the 1855 map, especially those of 13 Jordan Lane, 24 and 32 Canaan Lane, one can imagine that following the Age of Enlightenment (c1700-1820) that the affluent (who occupy this area by this time) would want to display



Front elevation of 13 Jordan Lane, facing south

obfuscated and built over. The development towards the end of 19th century has taken on the current 'modern grain' of Edinburgh, the long thin plots, some more sensitively inserted than others.

Spatial Character of Morningside - Charm and Disenchanted

The charm of Morningside, is in the main road of boutique shops, the hub that is part of the main route out of Edinburgh towards Biggar. The wider planned roads such as Nile Grove, with its unified charm of elegantly proportioned Victorian houses, loosely linked with a few on Jordan Lane (nos 8-10) of the 1880's stock.

area. The Bartholomew map of 1921 still maintains that Jordan Bank as a major notable feature on the small scale map.

Significance of these earlier developments can be found from Historic Environment Scotland list descriptions, for no. 5 , no. 13 Jordan Lane and also 24 Canaan Lane (Goshen Bank House).

We note that these earlier developments of a similar period between 1820 and 1855, all have their more ornate front elevation facing south regardless of their (current) main access. There could be several reasons for this, of the most obvious, as earlier

a certain knowledge in landscaping and perspectival viewing of their house, including a non-direct path approach to the front door, a certain suspense and sense of grandeur in discovery.

For our current site, no. 12 Jordan Lane did not exist at the time, and it was possible for no. 13 to explore this entrance approach, on the side of the house, through the gardens and then look up the slope of the hill (which would make the house look more grand) to the south facing front of the house.

Since then, plots have been subdivided, giving the modern long thin grain of plots, and Canaan Lane has disintegrated altogether without a trace of its former glory.

On a modern map, Jordan burn is mostly completely

At the same time, insertion of sandstone tenement developments, along the main Morningside Road, Woodburn Terrace and the red sandstone version on Jordan Lane are completely different scale to the earlier housing, yet exhibit a continuity through their uniform height, use of stone and slated roofs. The area further south from Jordan Burn all carry a similar new town feel that is unmistakable.



Morningside Road with tall tenements and Nile Grove semi-detached, detached, and terraced housing.

Despite the historical significance of the area, being the earliest to be developed in that quadrant since the 1800s, the side roads of Canaan Lane has seen developments such as Falcon Court, (together with the area up to Falcon Avenue, a development so disenchanting for all, that it can no longer be included in any Conservation Area and become the only stretch of Morningside Road not covered by any Conservation Area) and now the school development (in Grange Conservation Area) has recently taken down a long stretch of original walling that lies on the two century old boundary that divided Falcon Hall from the farm fields to the south. Goshen Bank House of Canaan Lane is completely surrounded by newer buildings, that this historically significant building, is completely blocked in, and cannot be seen from either streets at all.



Canaan Lane recent developments and modifications to historic walls.

Jordan Lane although retained more buildings to the south side, the north side has been full of changes, tenements for much of the length leads to high forbidding walls, and Helen's Place, a new development. The recent addition of a new dwelling to the rear of no. 30 Canaan Lane, that will be accessed from Jordan Lane meant significant changes are forthcoming also. The earlier buildings of Jordan Lane has for a long time been "trying to ignore a large garage" (description from Pevsner Architectural Guide - Edinburgh p.622) which has been latterly developed into housing nos. 10a-e. Yet the hinterland continues to have its less residential sports bar disco venue on Jordan Burn Close, where used to be cottages on the burn close thoroughfare, now a dire dead end back alley for loitering, perhaps a vibrant nightlife that is somewhat out of place with "Montpellier" living.



Jordan Lane recent development examples, and boundary wall modifications

On the one hand, Jordan Burn a long time landmark through last few centuries, has disappeared to a scarce trace, on the other, the railway line cuts right across along Cluny Avenue to Maxwell Street tries its best to hide itself from view. It is perhaps worth noting at this juncture that the key views, vistas, landmarks and focal points of Morningside Conservation Area, as the Character Appraisal report identifies, lies southwards from Nile Grove. Along these vistas and key views, the site on Jordan Lane is nowhere to be seen, far into the cul de sac.

II - Proposal

Significance Appraisal & Proposal Sensitivity:- Connection with Historic Roots, Material and Scale

Spatial character of Morningside is clearly much defined by the new town planning model from Nile Grove southwards, whether it be road width, plot width, terraced, semidetached or detached houses. When it comes down to the design details of houses and boundary walls, it is clear that prior to 1880s there has been a mix match of development. And as explored above, Canaan Lane and Jordan Lane as an area has seen great amount of change throughout the modern era also. Significance of walls and railings along Jordan Lane as seen from the long history is perhaps very much debatable. From the deeds of no.13 and from the 1855 map, there had been an outshoot or annex on the west side of the house rather than east side, and which extends to the edge of the street line, This annex was latterly taken down, possibly when no.12 was built. This meant that any "original wall" if it existed back then, would have had an opening where the old annex to the building was, or that the wall was added later when no. 12 was built or thereafter. In either case, the current opening

would not have been original when the entrance to the entire property was via no.12. It is also clear that the current off-street parking for no.12 has made significant modifications to the wall at that point. The stone pier to the side of no.12 may indeed had been the edge of the original estate boundary wall, but it is not echoed at the other end at no.13.

Currently, the area is a dead end, untrodden even by the home owners, it has become somewhat of a forgotten sunken wild corner for bins and rubbish. There will be much better incentive to look after an area that is well used and welcoming, and somewhere visitors to the house would pass through. A steep set of concrete stairs that currently lead down the side of the house as access is positively dangerous. It is most certainly not disabled or ambulant disabled friendly. To heave the waste and recycling bins up and down these steps for collection is also an onerous and treacherous task.



Aerial photograph and on the ground photographs of the proposed site area as existing

The recent survey as of July 2020/January 2021, shows that various walls along Jordan Lane have been modified, rebuilt, altered, and of course, built at different times in the first place. Railings have been replaced



with modern versions in metal, timber, plastic netting, and new metal or timber not necessarily matching the railings. Stone walls have been altered, low walls given concrete copes, or otherwise. Off street parking whether gated or garaged, with walls cropped to widen openings for modern wider vehicles. Of course, the entire street being built over the years at different era, a complete palimpsest of development covering the ages, and this wall is no more or less significant than the wall opposite that has been altered many times and currently being modified with a recent development.



Connection with Historic Roots - Pre-ambulation

and discovery in turning perspectives, harking back to the true roots of the building of late eighteenth early nineteenth century. A modest entrance, but one that offers welcome, a winding route, first descending through a constriction of space beside the house and the sudden opening out to the garden and final destination. Although the modest approach on Jordan Lane in this new proposal is not as grand as the gardens of enlightenment era, (and indeed no.12 next door cannot be unbuilt,) the aim for a garden entrance that the house deserves is in the spirit of the design.

Material - Significance of the late Victorian railings, although not original, is noted, understanding that it is one of the two properties that has such a feature on the lane. This must be respected, and managed as part of conservation design in the proposal. The proposal offers to relocate existing opening and reuse existing materials, both stone and railings, in the infill of current gate area, as well as re-use of existing metal work in the creation of the new gate. The remainder of the gate shall be made in matching style and afford a continuous top line as per currently existing. As seen with the two very separate schemes at the end of the cul de sac, Jordan House and Helen's Place, alterations to existing railings and stonework does not have to be detrimental to the character of the building or to its setting. It is proposed that any hard landscaping be done with porous media, SUDS in buff colour with slight variations in colour to match the facade as closely as possible.

Scale - Sensitivity in scale of development and preservation of mature trees on the site is also a high priority. The proposed scheme occupies 4.5% of the total garden area, and 6.7% of the total site. The design further considers carefully a balance of hard landscaping and soft landscaping to the front garden. Minimising the

parking space area, functional amenities and maximising planting areas. 77.7% of the proposed area is garden greenery, plants, shrubs and tree.

Neighbouring Amenity and Amenity to the Street

The proposal creates a sense of welcome, and embodies the spirit of Scottish Government Place Making guidelines - a scheme that has the qualities to enrich lives, be safe and pleasant, easy to move around, welcoming, adaptable and efficient long term investment to the property. The openness and safer access will enable better connection between street and house, placing at the heart of the design ergonomics for daily and weekly chores, which in turn encourages healthy active lifestyles. The addition of electric vehicle charging point further deals with reduction of carbon footprint.

The design includes retaining the existing rowan tree and clematis along the fence, as well as new plants such as yew hedge to match in with neighbours at no. 12, and other native plants in the proposed planting areas. Careful consideration has been taken to screen the bins from sight with planting areas, yet accessible by ramp, so that passers by would only see the positive aspects of a garden and yet allowing the home owners to service their refuse collection with ease.

The proposals will have zero impact on neighbouring amenity, whether it be daylight, sunlight, privacy or outlook. There are no mature / protected trees in the proposal area. As to listed building and conservation area guidelines recommendation with regards to parking in front of buildings, this was considered very carefully for this particular case. While it would be atrocious and unacceptable to park in front of well proportioned and



Rear elevation (no.13) versus front elevation (no.8-10), and existing less welcoming parking strategies on Jordan Lane

detailed Georgian and Victorian facades such as those of 8-10 Jordan Lane, this particular house has its front elevation facing south, away from the street. This rear elevation is by contrast, a drear aspect, blank or merely functional windows. The proposed scheme is an improvement to the existing situation of a blank unwelcoming rear elevation. Compared with the various situations of garages, blank forbidden and high access gates along Jordan Lane, this should be a welcomed move, to create a place of positive interest along the lane.

Sustainable, Connected, Low Carbon Resilience

Proponent of sustainable and resilient future encourages electrifying transport, travel light so as to use less energy to move a smaller mass. A single driver commuter or a small family should have no need for driving a 7

seater van. The proposal allows for a 3880mm length space, although not a 'standard length', there are a large number of electric cars that would fit, given the changing consumer market needs and urban parking scenarios, there is no shortage of cars that would suit. It was also carefully considered which electric cars would offer mobility alterations, and what space is required to access such, yet minimising the hard landscaping area.

The practicality of electrifying transport results in the need for means of charging. Given the narrow nature of the street and no public electrical charging points available in the vicinity the only way to achieve the sustainable target is to provide one's own private charging point. Should this be the case, the safest option is to charge the car off street, else there would be the trip hazard of the cable crossing the pavement.

Impact on Public Safety

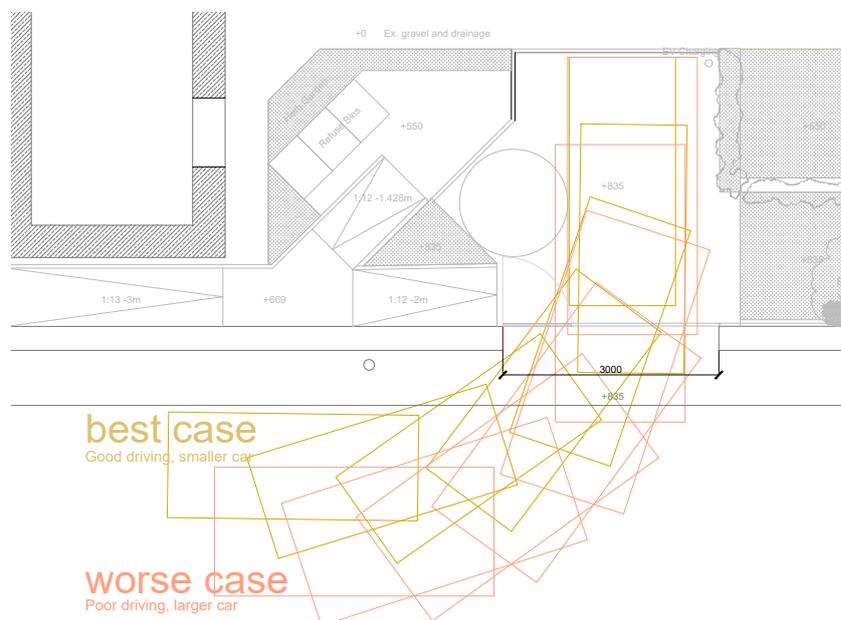
Following the Designing Streets Guidance, tracking assessment has been carried out. Risk and impact of a driving out a vehicle from the space as proposed is minimal, and no worse than parking designated in front of no 22 Jordan Lane. The worse case scenario for a poor driver with a larger car/wheel base is to reach the centre of the lane, the lane being 3.75m wide kerb to kerb. The opening width of the gate is gauged for safe turning on the narrow lane, in accordance with the tracking assessment findings. (A narrow opening would constitute coming further out into the road before turning.) It also allows adequate ambulant access while the parking space is being occupied. The proposal is not a hazard and poses minimal inconvenience to pedestrians. Jordan Lane is also a low footfall area to a dead end road and not a thoroughfare. In accordance with the place and movement matrix within the Guidance, it places residential streets as low to medium movement function, and medium to high place function. The scheme certainly puts place function in the centre of the design, and the movement function considered in great detail also.

Accessibility, Equality and Human Rights

As the sole access to the house it is important that disabled access is considered for friends and family, young, elderly and infirm.

"Designing Places for an Ageing Population" - a review in 2016 highlighted that urban locations such as Jordan Lane, should

encourage initiatives and active promotion of developments that would increase opportunity to retain older



Tracking and safety assessment for entering and exiting the site as proposed for 13 Jordan Lane



Existing narrow gate and sudden drop in level at entrance to 13 Jordan Lane

adults, a population that will increasingly provide positive benefits to communities.

Department of Transport document “Inclusive Mobility” provides good practice guidance into developing streets for Disability Discrimination Act. While “Lifetime Homes” encourage accessibility in urban planning and housing design both for young and old, similar design requirements encompassing prams, push chairs for young children, wheelchairs and mobility scooters for elderly. The guidelines are followed where possible given the existing site, and with due respect to the historic fabric of the listed building.

Private Open Space, Enhance Natural Asset and Biodiversity and Daylight

LDP policy Hou 3 recommends 10 sq.m. of open space per household with minimum of 20% of total site area being green space. This proposal meets the criteria with 719.5 sq.m. of open space and 81.7% of the site being green space. The Guidance for Householders recommends 30 sq.m. of garden space and maximum coverage of all buildings, garages, parking and access driveways should not exceed 40% of the site area. The current scheme offers 693.7 sq.m. of garden and 25.8 sq.m green planted area off Jordan Lane, with 17.7% of the site being buildings, driveway and access path area.



Existing garden area to the south of 13 Jordan Lane

The idea to separate parking, cycle and refuse areas with planting with the intention to plant more varieties of flowering species to the front garden, serves the triple purpose of 1) a welcoming space to family and friends, 2) a contribution to the amenity to the street, and 3) enhance and attract wildlife and increase biodiversity.

In considering the private open space within the proposed scheme, daylight to the existing property is considered an important aspect also. Therefore the scheme is detailed to step down from the hard landscape

at street level to a lower soft landscape in front of the windows, to maximise the light into the ground floor windows as well as views onto green vegetation.

III - Conclusion

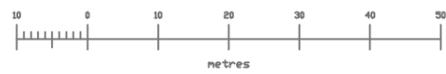
The proposed design takes into account the importance of the site, historically and its current situation, of its surroundings and neighbours. It is developed based on current place making guidelines, planning local development policies and conservation area appraisals amongst other detailed design guides. Careful consideration and attention to detail places the users, neighbours' and others' experience of the street as a place, at the heart of the design. Thought has been given to the adaptability of Lifetime Homes ideal, creating a safe and pleasant experience for those using the property, upgrading it to current sustainable low carbon standards, and ensure that it would continue to be an asset to future generations.

In light of the above, we respectfully request this development be recommended for approval.

Note:
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Rev.	Amendment	Arr'd by	Date
			
Chartered Architect OISA Studio • 24A Lygon Road Edinburgh • EH16 5QB 0131 516 9784 • mail@oisadesigns.com			

Project: Access Improvement Scheme
13 Jordan Lane EH10 4RA

Client: Ms F Quinn

Drawing Title: Site Location Map
Ordnance Survey

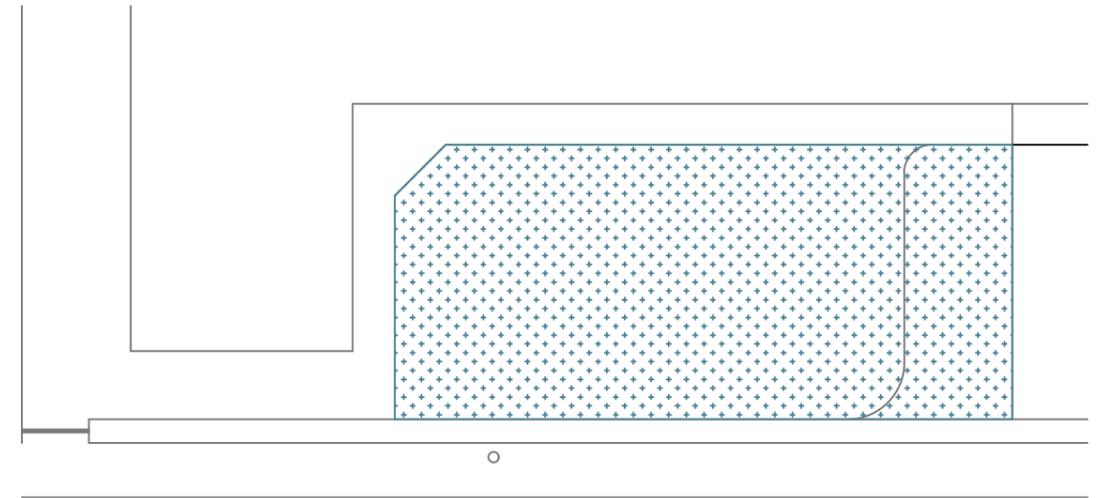
Job No. 18-53-C Dwg No. 001

Scale @ A3 1:1000 Drawn By GJL

Status: Planning

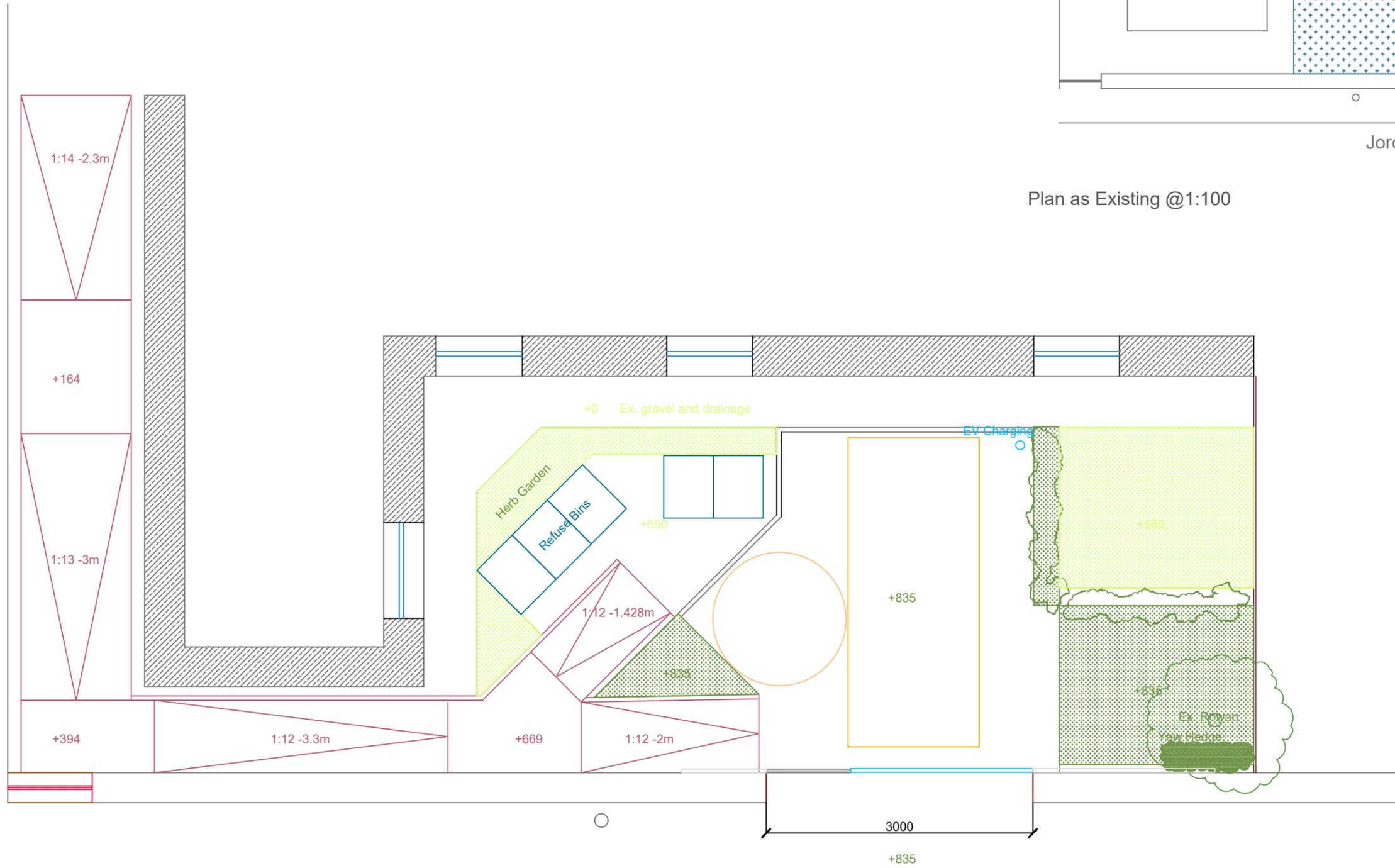
Checked By: []
Date Created: 06.07.2020

Note:
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Jordan Lane

Plan as Existing @1:100



Jordan Lane

Proposed Plan @1:50

Windows Refurbished as existing:
All windows are refurbished as essential maintenance, with rotten timber being replaced, casement and sills repaired, slim double glazing and brush draught strips to be fitted to sashes, and any replacement to be like for like.

Front Garden:
Existing rowan tree and yew hedge to be kept, clematis and other species of note existing to be relocated to suitable locations. Tiered garden to maximise light into ground floor windows. low dividing hedges to edge for safety edge protection. Lower planting area to be developed as kitchen herb garden to give views from kitchen as well as hide bin storage area.

Paved area to be in rain permeable SUDS, and drained to existing drains where necessary.
EV charging point to be provided for a small electric car.

Disabled access: turning circles, ramp and landings designed for disabled access to house, in accordance with life time homes standards where possible (only one section slightly steeper to accommodate existing level at door to side of house).

Design takes into account the significance of conservation area and is sympathetic in nature in the proposed changes. The design also considers environmental responsibility, and the proposals reflect thoughtful scrutiny for long term future adaptability and flexibility in spatial use, ease of access, electrical car charging, and planting for biodiversity. (See full Design Statement, Conservation and Accessibility Report)

Rev.	Amendment	Arr'd by	Date
 Chartered Architect OISA Studio • 24A Lygon Road Edinburgh • EH16 5QB 0131 516 9784 • mail@oisadesigns.com			

Project
Access Improvement Scheme
13 Jordan Lane EH10 4RA

Client
Ms F Quinn

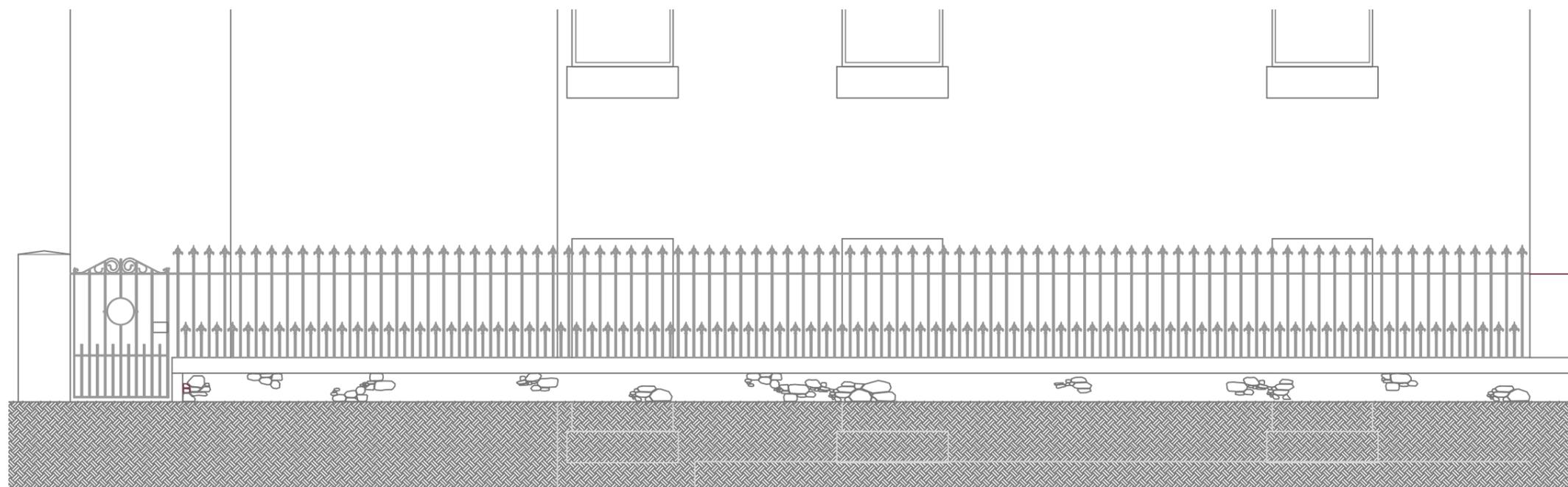
Drawing Title
Detail Plans
As Existing and Proposed

Job No. 18-53-C
Dwg No. 002

Scale @ A3 1:100 & 1:50
Drawn By GJ:L
Checked By

Status Planning
Date Created 16.07.2020

Note:
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Existing Elevation



Proposed Elevation

Refurbish Windows
Repair as existing, attend to all rotten sills, casements and timber frames where necessary.
Brush seals to draught proof windows, replace sash cords and pulley wheels where necessary. Reuse ironmongery where possible or new where necessary and add simplex hinges to allow bottom sash to be swung inwards for maintenance.
Use slim double glazing to do windows with astragals.
Repoint around casement with traditional sand mastic pointing, and paint windows white.

Gate and Fence
Reuse existing gate to path in new location. Use existing fence from new opening to extend over the existing gate opening to ensure original fence continues without interruption. Create new sliding gate and new gate posts with matching finials to existing.

Rev.	Amendment	Arr'd by	Date
			
Chartered Architect OISA Studio • 24A Lygon Road Edinburgh • EH16 5QB 0131 516 9784 • mail@oisadesigns.com			

Project: Access Improvement Scheme
13 Jordan Lane EH10 4RA

Client: Ms F Quinn

Drawing Title: Elevations
As existing and Proposed

Job No. 18-53	Dwg No. 003	Rev.
Scale @ A3 1:50	Drawn By GJL	Checked By
Status Planning	Date Created 30.04.2021	

Note:
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Refurbish Windows
Repair as existing, attend to all rotten sills, casements and timber frames where necessary.
Brush seals to draught proof windows, replace sash cords and pulley wheels where necessary. Reuse ironmongery where possible or new where necessary and add simplex hinges to allow bottom sash to be swung inwards for maintenance.
Use slim double glazing to retain and preserve window astragals.
Repoint around casement with traditional sand mastic pointing, and paint windows white.

As there will be no change to the window appearance the existing and proposed elevation remain the same.



Existing and Proposed Front Elevation (N)



Existing and Proposed Return Elevation to Front and Section through House Hatched (W)



Existing and Proposed Rear Garden Elevation (S)

Rev.	Amendment	Arr'd by	Date
 Chartered Architect OISA Studio • 24A Lygon Road Edinburgh • EH16 5QB 0131 516 9784 • mail@oisadesigns.com			

Project
Access Improvement Scheme
13 Jordan Lane EH10 4RA

Client
Ms F Quinn

Drawing Title
Elevations showing Window Repairs
As existing and Proposed

Job No.	Dwg No.	Rev.
18-53	004	

Scale @ A3	Drawn By	Checked By
1:100	GJL	

Status	Date Created
Planning	30.06.2021



Appeal Decision Notice

Decision by Ailie Callan, a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-230-2233
- Site address: 13 Jordan Lane, Newbattle, Edinburgh, EH10 4RA
- Appeal by Fiona Quinn against the decision by The City of Edinburgh Council
- Application for listed building consent 21/03212/LBC dated 10 June 2021 refused by notice dated 8 December 2021
- The works proposed: refurbish windows with slim double glazing and repair all rotten timber, create safer disabled access to front of house, adding electric car charging point and make opening in wall to allow such access possible, reusing existing iron gate and railings sensitively to create this new opening, matching existing finials where necessary, all paving will be in SUDS and vegetation planted to aid drainage, daylight to ground floor rooms and biodiversity, considering sunken nature of garden.
- Application drawings: Site location map (drawing number 001), Detail plans as existing and proposed (drawing number 002), Elevations as existing and proposed (drawing number 003), Elevations showing window repairs as existing and proposed (drawing number 004)
- Date of site visit by Reporter: 20 April 2022

Date of appeal decision: 15 June 2022

Decision

I allow the appeal and grant listed building consent subject to the following condition. Attention is drawn to the advisory note at the end of this notice.

1. Prior to commencement of the works, details of the materials to be used in the formation of the disabled access ramp and for the hard landscaping shall be submitted for the written approval of the planning authority. The specification will include details of the colour and type of material to be used. Thereafter, the works shall be carried out in accordance with the approved details.

Reason: to preserve the setting of the listed building.

Reasoning

1. In determining this appeal, I am required by section 14 (2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended, to have special regard to the desirability of preserving the listed building or its setting, or any features of special architectural or historic interest which it possesses. As the property is within the Morningside Conservation Area, I am also required by section 64 (1) of the above-mentioned Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

2. In light of this, I consider that the determining issues in this case are the effects of the proposal on this category C listed building and its setting, and on the character and appearance of the Morningside Conservation Area.
3. The property is a traditional cream sandstone two storey house, built in the 19th century. The property including the railings was listed on 29 April 1977. The listing describes the front elevation as south facing, and the rear elevation, facing Jordan Lane, as north facing. The detailed description of the property refers to the windows, which are described as single windows at ground and first floors on both south and north elevations. It also notes the low rubble wall to the front (which I understand to be the Jordan Lane/north elevation) with flat coping and original decorative cast-iron railings. The listing includes a statement of special interest noting that the 1895 side addition to the property was built to provide a wash house and extra bedroom.
4. The council has referred to the north elevation as the front of the building in its report of handling, which is inconsistent with the listing of the property. On my site inspection, I noted that the front door of the property is on the south elevation and looks out over the large, long garden. I agree with the listing description that the south elevation is the front elevation of the property. My view is also supported by the appellant's analysis of the historic context of the building as set out in its Design, Conservation and Accessibility report.
5. The property is accessed through the existing side gate. The gate opens to a set of steps that lead down to the path which follows the side of the building around to the extensive front garden and front door. The steps also lead down to the sunken rear garden, which faces Jordan Lane. I saw that the rear garden was somewhat overgrown, and the boundary wall and railings were partially covered by vegetation.
6. The council has cited policies from the Edinburgh Local Development Plan, adopted November 2016. It refers to policy ENV 4 Listed Buildings – Alterations, and ENV 6 – Conservation Areas – Development and Planning, and to its supplementary guidance on Listed Buildings and Conservation Areas (March 2018). As the appeal is against the refusal of an application for listed building consent rather than planning permission, the development plan policies do not have the status accorded to them by section 25 of the Town and Country Planning (Scotland) Act 1997 as amended.
7. However, the policies and the guidance are helpful and provide an indication of how the council intends to achieve the statutory aims under section 14 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended, referred to in paragraph 1 above. I have taken them into account in reaching my conclusions.

Proposed alterations to boundary wall and rear garden

8. The proposed alterations would create a new vehicular access with sliding gate in the low wall facing Jordan Lane and a relocated entrance gate. The existing iron gate and railings would be reused in the new sliding gate, and matching finials would be inserted where necessary. From the drawings, the stone removed in the creation of the new access would be reused in the closure of the existing gate.
9. The appellant's view is that historic buildings should continue to be used through time, and that this includes sensitive and informed alterations and adaptations. She states that the proposal would sustain and enhance the beneficial use of the listed building and would not adversely affect its special interest.

10. The appellant drew my attention to paragraph 6 of Historic Environment Scotland's Interim Guidance on the Principles of Listed Building Consent (2019). It states that the majority of listed buildings are adaptable and have met the needs of successive generations while retaining their character. The appellant has also drawn my attention to paragraph 5.5 of Historic Environment Scotland's guidance Managing Change in the Historic Environment: Boundaries 2010, which advises that where new openings are to be formed in boundaries, the openings need to be considered in light of the overall composition of the boundary and assessed as to whether they would be consistent with the existing design. Additionally, where new openings are found to be consistent, the minimum of historic fabric should be lost and the opening should normally be detailed to match the existing openings. The proposal would, in my opinion, be in keeping with the expectations of Historic Environment Scotland's guidance.

11. The appellant has drawn my attention to paragraph 141 of Scottish Planning Policy. It states that changes to a listed building should be managed to protect its special interest while enabling it to remain in active use. I am of the opinion that this reflects Historic Environment Scotland's guidance referred to above.

12. The council has stated that the uncharacteristic design of the sliding gate would introduce an incongruous addition that would negatively impact the overall setting of the listed building. The council has, in its report of handling, raised concern under policy ENV 4 that the proposal would adversely affect the boundary treatment and adversely impact the overall character and setting of the property. Policy ENV 4 sets out criteria where proposals to alter or extend a listed building will be permitted. These include where alterations or extensions are justified, where there will be no unnecessary damage to historic structures or diminution of its interest, and where any additions are in keeping with other parts of the building.

13. I saw a variety of boundary treatments on the properties on Jordan Lane. The original low stone boundary wall is a common feature along this side of the street, however there is no consistent design of railing. There are also different approaches to gate openings. Some properties have gates in the middle of the boundary wall, others have gates to one side, and some properties have wider openings to allow parking within the garden area.

14. In my opinion, the proposal fulfils the requirements of policy ENV 4. The physical changes to the boundary wall and railings would be minimised and have been justified by the appellant. The existing railings would be reused and replicated to form part of the closure of the existing gate opening, and to form the sliding gate for the new opening. Additionally, the existing gate would not be permanently removed but instead relocated within the boundary beside the new opening. Although an element of the stonework would be lost, the overall amount lost would be minimised by reusing the material in the closure of the existing opening.

15. There would be no unnecessary damage to the appearance of the existing property and there would be no physical changes to the original dwelling or to the side addition to the property. For all of these reasons, I do not agree that the alterations would look incongruous as suggested by the council. Further in my view they would be coherent and proportionate with the existing boundary.

16. Furthermore, the council's Listed Building and Conservation Area guidance states on page 8 and 9, that railings should be maintained and repaired and, if they have to be replaced, should be erected on a like for like basis. Similarly, railings fixed to stone copes should be repaired, and any details respected and repeated. I consider that this guidance has been followed by the appellant.

17. Turning to the alterations to the rear garden, the proposal would create a two tiered space. The upper tier would form a street level parking space with electric charging point, and the lower level a kitchen herb garden and bin storage area. Disabled access ramps would also be created in place of the existing stepped footpath, in order to enable full mobility access around the property to the front door on the south elevation. No other physical changes are proposed to the property.

18. The council's Listed Buildings and Conservation Areas guidance states that careful consideration and design is needed for any adaptations for accessibility. I believe that the proposal has carefully addressed the need for accessibility whilst protecting the character of the listed building.

19. The orientation of the building and its gardens are important factors when considering any impact that these alterations would have on its setting. The house is set within an extensive front garden which gives it an air of spaciousness and grandeur, as noted in the conservation area appraisal. As such, in my view, the rear garden is secondary, and does not contribute to the setting of the listed building. The front garden provides the key context to the listed building.

20. Page 9 of the appellant's Design, Conservation and Accessibility report provides some information on the material that would be used to form the proposed hard landscaping area including the disabled access ramps. The proposed material is described as porous media, SUDs in buff colour with slight variations of colour to match the façade as closely as possible.

21. However these details are not stated on the submitted drawings. To ensure that there would be no adverse effect on the setting of the listed building, I consider that the materials require to be approved prior to the commencement of any works. I have therefore imposed a condition to this effect.

22. Taking all of this together, in my opinion, for the reasons set out above and subject to imposing the condition above, the alterations to the rear garden, wall and railings and the creation of the disabled access ramps would preserve the listed building, its setting, and the features of special architectural and historic interest which it possesses.

Proposed refurbishment and repair of windows

23. The proposed alterations to the windows, shown on drawings 003 and 004, would in my view constitute repair to the existing windows. All rotten sills, casements and timber frames would be refurbished where necessary. Only wood that is rotten would be repaired and there would be repointing around the existing window casings. The existing ironmongery would be reused, the sash cords and pulley wheels would be replaced where necessary and simplex hinges would be added to allow the bottom sashes to be swung inwards for maintenance purposes. From this description and from the drawings, I am content that the simplex hinges would be on the inside of the windows and not visible from outside. Slim double glazing would be used to retain and preserve the window astragals.

24. The council has stated that a window survey was requested but not received. I note that its Listed Building and Conservation Area guidance recommends a professional window survey for complete replacement of original windows rather than for window refurbishment or repair. Nevertheless, it was evident from my site inspection that some of the windows on the north and south elevations were in a poor state of repair. There were visible signs of damage requiring attention on some of the wooden frames.

25. Historic Environment Scotland's guidance Managing Change in the Historic Environment: Windows 2018 identifies key issues for consideration on page 4, including that maintenance and appropriate repair is the preferred means of safeguarding the character of an historic window.

26. I consider that as the proposal is for the necessary repair and refurbishment of the windows, and would retain their existing appearance and minimise the loss of any original features, it would have no adverse impact on the listed building.

Impact on the Conservation Area

27. The property is located in the northern part of Morningside Conservation Area. Jordan Lane is described in the conservation area character appraisal as containing a more varied architectural mix of buildings ranging from traditional village dwellings and Georgian villas to tenements. I saw this mix of property types on my site inspection. The extensive garden setting of buildings in the conservation area is identified as a key architectural characteristic in the conservation area appraisal. Page 8 describes that most gardens are defined by low stone walls and hedging and this was evident on my site inspection.

28. In the section on Opportunities for Enhancement on page 17, advice is given that the scale, design and materials of new developments should reinforce and protect those features that give the conservation area its special character. Development is encouraged to take into consideration the spatial pattern, scale, proportions and design of traditional properties. Specific mention is given to the stone boundary walls and railings as key features within the conservation area, and that they should be repaired and reinstated where appropriate with original architectural features preserved wherever possible.

29. Taking these key factors into account and given my reasoning and conclusions above, I consider that the proposal would not have a negative impact on the conservation area. I find that the proposed alterations would preserve the character and appearance of the conservation area.

Equality Act 2010

30. The appellant has stated that the property is currently inaccessible for disabled persons. She considers that under section 149 (1) (b) of the Equality Act 2010, a public authority must have due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic (which includes disability) and persons who do not share it. I have had regard to this duty in reaching my conclusions above.

Conclusions

31. Taking all of the points together, I conclude that the proposed development would preserve the listed building, its setting and the special features of architectural and historic interest which it possesses. I also conclude that the character and appearance of the Morningside Conservation Area would not be adversely affected by this proposal. I conclude that the proposal meets the requirements of paragraphs 14 (2) and 64 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, as amended.

32. I have considered all other matters raised but there are none that would lead me to alter my conclusions. I therefore allow the appeal and grant listed building consent.

Ailie Callan

Reporter

Advisory note

The length of the consent: This listed building consent will last only for three years from the date of this decision notice, unless the works have been started within that period. (See section 16 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended)).