

# Development Management Sub-Committee Report

**Wednesday 17 August 2022**

**Application for Planning Permission  
1 Carlton Terrace, Edinburgh, EH7 5DD**

**Proposal: Alterations to existing rear garden, including the construction of paved terraces, re-aligned internal walling, installation of pergola and planting (in part retrospect).**

**Item – Committee Decision  
Application Number – 22/00495/FUL  
Ward – B11 - City Centre**

## **Reasons for Referral to Committee**

The application has been referred to the Development Management Sub-Committee because 29 letters of objection to the proposals have been received. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

## **Recommendation**

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

## **Summary**

The proposals comply with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan. There are no material considerations which indicate that the proposal should be refused. Therefore, the recommendation is to grant planning permission.

## **SECTION A – Application Background**

### **Site Description**

The property is a Georgian townhouse on the corner of Carlton Terrace and Carlton Terrace Lane. The property was listed category A on 16 December 1965 (Ref 49746). The rear garden slopes upwards and is surrounded by a high stone boundary wall. There is established vegetation within the garden including trees along the rear boundary.

The property is located within New Town Conservation Area and the World Heritage Site.

### **Description of the Proposal**

This is a retrospective planning application, and the following works have already been carried out:

Construction of paved terraces - with the total coverage of approximately 30% of the whole garden in hard landscaping

Re-alignment of internal walling in order to provide raised planters

Installation of timber pergola

### **Relevant Site History**

19/04104/FUL

1 Carlton Terrace

Edinburgh

EH7 5DD

Conversion of basement flat and upper house to reinstate original townhouse as single dwelling, with attendant internal alterations and increase in height of garden boundary wall (as amended).

Granted

27 November 2019

19/06034/FUL

1 Carlton Terrace

Edinburgh

EH7 5DD

Proposed kitchen extension to rear of existing townhouse (as amended).

Refused

13 July 2020

20/03242/FUL

1 Carlton Terrace

Edinburgh

EH7 5DD

Enlarge existing rear extension at basement level.

Granted

7 October 2020

### **Other Relevant Site History**

None

### **Pre-Application process**

There is no pre-application process history.

## **Consultation Engagement**

### **HISTORIC ENVIROMENT SCOTLAND RESPONSE**

Refer to Appendix 1 for a summary of the consultation response.

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 10 February 2022

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 18 February 2022;

**Site Notices Date(s):** 15 February 2022;

**Number of Contributors:** 32

## **Section B - Assessment**

### **Determining Issues**

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

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

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

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

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

- public representations and
- any other identified material considerations.

## **Assessment**

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

### **a) The proposals harm the listed building and its setting?**

The following HES guidance is relevant in the determination of this application:

- Managing Change - Setting sets out the principles that apply and how they should inform planning policies.

The proposed works are to the rear garden of the property. The works are landscaping works to resurface and re-level aspects of the garden to make the garden more useable for the applicants. A large proportion of green space is being retained and the proposed materials which are predominantly sandstone are of high quality. A new pergola is proposed towards the rear of the garden, but this is a lightweight timber construction and is not significantly visible from public view.

Overall, the proposals represent an acceptable landscaping scheme for its context and does not introduce any elements that would not be inappropriate in a private garden. The garden setting of the listed building is preserved and there is no impact on its setting.

HES has been consulted on the proposal and raised no objections to the proposed works.

### **Conclusion in relation to the listed building**

The proposals comply with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

### **b) The proposals harm the character or appearance of the conservation area?**

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

The proposed landscaping works will retain an appropriate ratio of soft and hard landscaping for the rear garden. The proposed materials are high quality and appropriate for its context. The proposed pergola is light weight and not highly visible from public view. In addition, it is a structure that would be considered typical and appropriate in a garden. The proposals preserve the character and appearance of the conservation area.

## **Conclusion in relation to the conservation area**

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

### **c) The proposals comply with the development plan?**

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

- LDP Environment policies Env 1, Env 4 and Env 6
- LDP Design policies Des 5 and Des 12

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6.

#### Impact on the setting of the listed buildings and conservation area

This has been assessed in sections a) and b) and the proposals comply with LDP Policies Env 3 and Env 6.

#### Outstanding Universal Value of World Heritage Site

The Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site is defined as the remarkable juxtaposition of two clearly articulated urban planning phenomena: the contrast between the organic medieval Old Town and the planned Georgian New Town which provides a clarity of urban structure unrivalled in Europe.

The Statement of Outstanding Universal Value emphasises the importance of maintaining the authenticity of the Site which "continues to retain its historic role as the administrative and cultural capital of Scotland, while remaining a vibrant economic centre."

For the reasons stated in sections a) and b), the proposed development will not threaten this authenticity.

The proposed external alterations will have no detrimental impact on the character or appearance of the Georgian New Town, nor its relationship with the medieval Old Town.

The development will therefore cause no harm to the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site, in compliance with Edinburgh Local Development Plan Policy Env 1.

#### Scale, form, design and neighbourhood character

The proposals are of an acceptable scale, form and design and are compatible with the existing dwelling and will preserve the character and appearance of the conservation area as detailed in section a) of the assessment.

The patio and pergola are modest additions which retain adequate garden space. The latter will not be visible from the street as there is a change in the ground level and the high stone wall will prevent from any visibility to the public.

The design, size and width of pergola will appear modest in relation to the adjacent boundary wall and the property. In this regard it will not appear an overly dominant or incongruous addition on the streetscene which is residential in character.

The proposal therefore complies with LDP Policy Des 12.

### Amenity

The proposals have been assessed in terms of amenity and no impacts were identified.

In regard to privacy, the introduction of formal seating areas within the garden including beneath the pergola will potentially increase the use of the garden and change perceptions of privacy and overlooking. However, planning cannot control noise and use of a private garden space. The gardens are sloping and the existing change in levels already results in a degree of overlooking into neighbouring gardens. There has been no change to the garden levels as part of this scheme. There is a stone boundary wall separating the property from its neighbour and some vegetation which helps to reduce overlooking at present and the proposed trellis that would be installed to the back of the pergola would help to reduce views. Taking the existing situation into account and the fact that the garden levels have not changed, there will be no material loss of privacy for neighbouring occupiers.

In regard to daylight and sunlight, the proposal complies with the criteria of the guidance therefore will not result in any unreasonable impact on neighbouring occupiers.

The development will not impact on neighbouring residential amenity, complying with LDP Policy Des 12.

### Trees

The applicant has removed one tree from the rear garden prior to landscaping work. The site is located within the conservation area where trees are generally retained in the interest of character. Whilst it is accepted that in this instance the tree has been removed, a condition is appended to this permission requiring a replacement tree to be planted

### **Conclusion in relation to the Development Plan**

The proposals are of an acceptable scale, form and design and are compatible with the existing dwelling and will preserve the special character and appearance of the conservation area.

Therefore, the proposals comply with LDP policy Env 6 and Des 12 and the overall objectives of the Development Plan.

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

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

Draft National Planning Framework 4 has been consulted on but has not yet been adopted. Therefore, little weight can be attached to it as a material consideration in the determination of this application.

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

Equalities and human rights

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

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

Public representations

A total of 32 representations were received and all comments have been addressed in the report above. A summary of the representations is provided below:

*material considerations*

- overdevelopment, overshadowing, loss of sunlight;
- loss of privacy;
- inappropriate materials and design for conservation area and setting of listed building;
- negative impact on conservation area;
- visually intrusive;
- adverse impact on setting of listed building;
- contrary to Policy Env 3, Env 4 Env 6;
- changes in land level are not appropriate;
- disruptive to the Carlton Terrace Lane and World Heritage Site;
- contrary to HES Managing Change: Setting;
- impressive and aesthetically pleasing garden;
- better living standard.

### *non-material considerations*

- set up precedent -there is no precedent in planning as each application is considered on its own merits;
- noise and disturbance- this would be controlled under other legislation if a statutory nuisance was identified.

### **Conclusion in relation to identified material considerations**

#### **Overall conclusion**

The proposals comply with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan. There are no material considerations which indicate that the proposal should be refused. Therefore, the recommendation is to grant planning permission.

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

The recommendation is subject to the following;

#### **Conditions:-**

1. Prior to the commencement of works on site, details of the planting of two trees within the rear garden ground, to replace the trees that have been lost (Sorbus tree or otherwise agreed) shall be submitted for approval by the Planning Authority. The trees should be standard size (8-10cm girth) or larger and supported by a suitable stake and guard. The agreed trees will then be planted within 12 months of the commencement of the approved development and maintained thereafter.

#### **Reasons:-**

1. In order to safeguard protected trees.

#### **Informatives**

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

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

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

**Further Information - Local Development Plan**

**Date Registered: 3 February 2022**

### **Drawing Numbers/Scheme**

01-05

Scheme 1

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

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## Summary of Consultation Responses

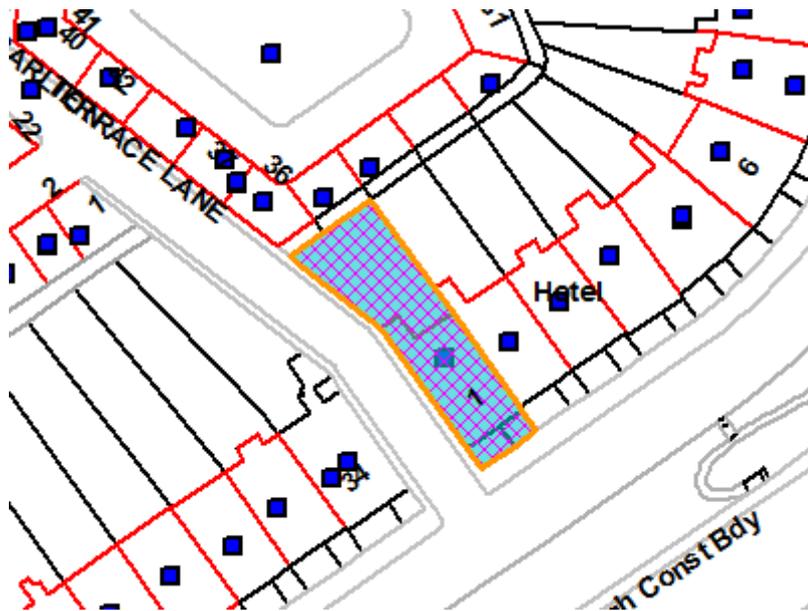
NAME: HISTORIC ENVIROMENT SCOTLAND RESPONSE

COMMENT: No comments.

DATE: 24 February 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

## Location Plan



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