

# Development Management Sub-Committee Report

**Wednesday 17 August 2022**

**Application for Planning Permission  
Land to rear of, 30 Canaan Lane, Edinburgh**

**Proposal: New dwelling and driveway (amendment to 18/04505/FUL).**

**Item – Committee Decision  
Application Number – 21/05402/FUL  
Ward – B10 - Morningside**

## **Reasons for Referral to Committee**

The application is presented to the Development Management Sub-Committee due to the degree of public representation. Under the Council's Scheme of Delegation the scheme 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 proposed form and design are appropriate to the surrounding character and would not have a significant impact on the character and appearance of the conservation area. No significant loss of residential amenity arises.

The proposal complies with the Local Development Plan and with Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 and with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. No other considerations outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The site stands on Jordan Lane but was previously the southern section of garden ground belonging to a house to the north, at 30 Canaan Lane. The site extends to 432 square metres and is enclosed by a high stone wall, which screens it from Jordan Lane. Six immature trees stand against this south boundary wall, the most significant being a group in the south-west corner.

The site lies at a transition point in the form and character of Jordan Lane: with four storey tenements to the immediate west; and lower cottages and houses to the east and south. The road (which is a cul-de-sac) also narrows from two lane to single lane at this same point.

The north-west section of the lane up to the western boundary of the site is of tenemental form. Other than one further tenement to the east, the lane is otherwise characterised by one and two storey traditional houses, all with traditional slate roofs. There are two existing buildings on the lane which do not fit this overall character: a 1970s chalet-style house to the immediate east of the site, with a red tile roof; and a recently constructed, two storey block to the south-west, with a flat roof. These two structures now contribute to the wider mix of styles on the lane.

Three cottages on the south side of Jordan Lane, on the opposite side from the site, are each listed category C. Each (11, 12 and 13 Jordan Lane) was listed on 29 April 77 references 27479, 27474 and 27479 respectively.

The site lies in the Morningside Conservation Area.

### **Description of the Proposal**

The application proposes a single storey house, finished with a mixture of natural stone and smooth render. It would have a traditional pitched slate roof, with a dormer finished in black zinc.

The application represents an amendment in form and design in relation to a live and extant planning permission for a house in the same position and of the same footprint but of different form and design: originally approved with a flat roof instead of pitched, and with a substantial basement level element. The basement has proven structurally non-viable and is now omitted. The lost volume is moved to the proposed attic.

The vehicle access and parking is unaltered from the original scheme and this element of the works has already begun. The garden layout and tree retention also remain as agreed.

### **Supporting Information**

The application included a Design Statement, Tree Survey and Report and Surface Water Management Plan.

### **Relevant Site History**

18/04505/FUL

Land To Rear Of 30

Canaan Lane

Edinburgh

EH10 4SU

New dwelling house and driveway accessed from Jordan Lane (as amended)

Granted

17 January 2019

18/04505/VARY  
Land To Rear Of 30  
Canaan Lane  
Edinburgh

Non-Material Variation to planning consent 18/04505/FUL - variation to house design.  
VARIED  
16 July 2020

### **Other Relevant Site History**

No other relevant site history.

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

Roads Authority

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

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 22 October 2021

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

**Press Publication Date(s):** 29 October 2021;

**Site Notices Date(s):** 26 October 2021;

**Number of Contributors:** 27

## **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 of Listed Buildings

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 considers impact on setting. This is usually interpreted as meaning impact on a view from a public street to the listed building (s)..

In this instance the site itself does not contain a listed building, nor does any immediately adjacent plot hold a listed building. However, three conjoined listed cottages are situated on the opposite side of Jordan Lane, to the south of the site, and objectors have raised the issue of impact on setting. These cottages, 11, 12 and 13 Jordan Lane, are listed category C. In terms of public views of these cottages, the bulk of the proposal would remain behind its own unaltered outer boundary wall. The proposal would not block or impede the public view of the listed buildings. The roof of the proposal would be visible to a small degree when viewing the listed buildings from the west but would not have any significant impact on that view.

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

There is no adverse impact on the setting of the listed buildings and the proposal complies with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that the character and appearance of a conservation area is retained.

Due to the outer boundary wall, which encloses the site, the bulk of the proposal would be hidden from public view. The dormer and small sections of the roof would be visible from certain locations, but not readily from the immediately adjacent pavement and road due to the height of the boundary wall. From the west, the dormer front would align with the tenement to the west, running at first floor level. The tenement would hide the west gable of the proposal. A glimpse view of the dormer and apex of the east gable would be visible over a short section of Jordan Lane to the south-east and would be seen against the backdrop of the four-storey tenement gable. This alteration is not significant on the existing view of the blank gable.

The changes to streetscape are not significant and the streetscape will remain largely unaltered.

The proposed form and appearance of the building would be appropriate and would preserve the character and appearance of the conservation area.

**Conclusion in relation to the conservation area**

The works preserve the character and appearance of the conservation area and are acceptable in regard to 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 Env3, Env 6, Env 12 and Env 21
- LDP Housing Policy Hou 1
- LDP Design Policies Des 1, Des 3 and Des 4
- LDP Transport Policies Tra 2 and Tra 3

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6. These issues are addressed in sections a) and b)

Principle of Residential Use

LDP Policy Hou 1 (Housing Development) considers sites suitable for housing.

The site lies in a residential area and the principle of a single house on the site was accepted within the previous permission. This permission has been implemented and the principle of a house is therefore already established, in compliance with LDP Policy Hou 1. The principle of a single house on the site remains acceptable.

## Impact on Historic Environment

LDP Policy Env 3 (Listed Buildings - Settings) considers the setting of listed buildings.

As outlined in section a) the site contains no listed buildings and the impact on the setting of listed buildings on the south side of Jordan Lane is not significant.

LDP Policy Env 6 (Conservation Areas - Development) considers impact of development on the character and appearance of the conservation area. The Morningside Conservation Area Character Appraisal states *The principal feature of the urban fabric is a subtle Victorian grid structure responding to the topography by setting up views to the castle and dividing the area into unequally sized rectangular perimeter blocks. Perimeter blocks are surrounded by substantial Victorian housing composed of individual, semi detached and terraced housing that exhibit continuity through their uniform heights, massing and use of stone and slated roofs. Gardens with mature trees predominate throughout the area, having a strong greening affect throughout the area. Northern views along streets to Blackford Hill and the Braids and southern views back to the City skyline are important.*

As assessed in section b) the enclosing wall greatly mitigates the impact on the wider conservation area, with the bulk of the proposal being screened from public view.

The proposal will stand on Jordan Lane which is a street of very mixed character. The only visible element will be a small section of roof and the front dormer. These features will not have a significant impact on character or appearance of the street.

LDP policies Env 3 and Env 6 are met.

## Scale, Form and Design

LDP Policy Des 1 (Design Quality and Context) considers the form and design of a proposal drawing on the positive characteristics of the surrounding area, with the need for a high quality design which is appropriate in terms of height, scale, form, layout and materials.

The lane has an eclectic mix of building styles and dates. The proposed design is a modern bungalow, with attic accommodation in the roof space. This takes its lead from the several cottages on the lane and the structure stands largely parallel to the lane. The broken line of the frontage takes its lead from several buildings on the lane which have a similar stepped form. The proposed design fits within the existing range of building styles and is acceptable.

LDP Policy Des 3 (Development Design Incorporating and Enhancing Existing and Potential Features) supports development where existing characteristics and features worthy of retention on the site and in the surrounding area, have been identified, incorporated and enhanced through its design.

The outer boundary wall remains intact, other than the already approved new vehicular gate, and the outward appearance will be unaltered.

LDP Policy Des 4 (Development Design, Impact on Setting) states that planning permission will be granted for development where it makes a positive impact on its surroundings, including the character of the wider townscape and landscape and impact on existing views.

The impact on the existing streetscape is both minimal and acceptable and in compliance with LDP Policies Des 1, Des 3 and Des 4 .

#### Impact on the amenity of existing residences

The Edinburgh Design Guidance (EDG) considers impact upon neighbouring amenity.

##### i) Daylight and Sunlight

The proposal lies in a gable-to-gable relationship with the adjacent tenement to the west. No daylight issues arise in this direction.

Although the proposal rises higher than the previously approved, flat-roofed design, the proposal is in accordance with the 45-degree method for daylight to all other sides. Therefore, daylight to neighbouring properties is adequately maintained.

In terms of sunlight, the building's positioning alongside the tenement gable alleviates all impact to the west, and its position north of Jordan Lane means there are no impacts to the houses to the south. There will be a small impact around 6pm in relation to the house to the east, but this is acceptable given the impact of the existing four storey gable of the tenement on the same property. There is also a small but acceptable impact on winter sun at midday to the house to the north

##### ii) Privacy and Outlook

As a single storey proposal behind an enclosing wall, few privacy concerns arise.

The proposed dormer would look over the southern boundary wall, onto Jordan Lane, but is more than nine metres from the road centre. The EDG accepts lower privacy standards when matching the prevailing pattern. The dormer is less onerous in privacy terms than the predominant tenemental windows which are 1.5 metres further forward. The cottage to the south is set only six metres from the road centre. Given the existing street pattern, especially the similarity in position to the tenemental windows, and given the screening value of the south wall, the dormer is acceptable in privacy terms.

The proposals comply with the Edinburgh Design Guidance.

#### Tree Protection

LDP policy Env12 considers tree protection.

The site contains a number of immature trees with those on the southern boundary contributing to the streetscape. Trees located on the northern half of the site and one tree in the centre of the south wall are already authorised for removal. No further trees are proposed for removal beyond those already consented.

The small cluster of trees in the south-west corner is maintained and this will preserve the main view from the west, where this group form a significant element of the street character. No issues arise in relation to policy Env12.

### Surface Water Management

LDP policy 21 considers Flood Protection.

A surface water management plan has been submitted. This shows that all paving shall be porous and excess water shall be addressed by a soakaway system in the south-west section of the site. LDP policy Env21 is addressed.

### Access, Car and Cycle Parking

The site immediately attaches an adopted road (Jordan Lane) and has existing access rights. No further changes are required to the roadway.

LDP Policy Tra 2 (Private Parking) requires that developments make provision for car parking levels which comply with and do not exceed the parking levels set out in the accompanying non-statutory guidelines on parking.

The car parking arrangement is unaltered in comparison to the extant planning permission.

LDP Policy Tra 3 (Private Cycle Parking) requires that cycle parking and storage within the development comply with Council guidance.

As an enclosed and secure site, the proposal easily affords accommodation for cycles.

The proposal does not raise concerns in relation to LDP Policies Tra2 and Tra3.

### Open Space

LDP Policy Hou 3 (Private Green Space) sets out open space standards for new development.

The open space arrangement is unaltered in relation to the live planning permission, with lawn areas to both north and south-west. The open space would create an acceptable level of amenity and remain acceptable, compatible with the aims of LDP Policy Hou 3.

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

The proposal complies with all relevant policies within the LDP and with Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997.



**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

NPF 4 - 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

Twenty seven representations were received: twenty three in objection, two in support and two neutral comments.

A summary of the representations is provided below:

*material considerations*

- The proposal is not appropriate to the conservation area - addressed in section b)
- The proposal is not of sufficient design quality in terms of LDP policy Des 1 - addressed in section c)
- The proposal has an adverse impact on the setting of nearby listed buildings - addressed in section a)
- The proposal causes loss of privacy and daylight - addressed in section c)
- The proposal causes unacceptable tree loss - addressed in section c)

### *non-material considerations*

- The proposal will undermine the foundations of the tenement - structural issues are dealt within the building warrant process and are not a planning consideration

The two neutral comments considered the design an improvement upon the last planning permission. The two letters submitted in support did not clarify the reason for support.

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

The proposal does not give rise to any concerns that have been raised through representations.

### **Overall conclusion**

The proposed form and design are appropriate to the surrounding character and would not have a significant impact on the character and appearance of the conservation area. No significant loss of residential amenity arises.

The proposal complies with the Local Development Plan and with Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 and with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. No other considerations outweigh this conclusion.

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

The recommendation is subject to the following;

### **Conditions :-**

1. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.
2. Trees not agreed for removal are to be protected during construction works. Details to be provided for further approval prior to foundations of the building being laid.

### **Reasons: -**

1. In order to enable the Head of Planning to consider this/these matter/s in detail.
2. In order to adequately protect the remaining 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: 15 October 2021**

## **Drawing Numbers/Scheme**

1-3

Scheme 1

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

Contact: Stephen Dickson, Senior planning officer  
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## Appendix 1

### Summary of Consultation Responses

NAME: Roads Authority

COMMENT: Maximum one car parking space to be provided

DATE: 5 November 2021

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

### Location Plan



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