

# Development Management Sub-Committee Report

**Wednesday 26 October 2022**

**Application for Planning Permission  
35 Kekewich Avenue, Edinburgh, EH7 6TY**

**Proposal: To erect new dwelling, adjust location of new house on plot. Additional various minor adjustments to internal floor plan, fenestration etc. previous approval 21/01287/FUL.**

**Item – Committee Decision  
Application Number – 22/03115/FUL  
Ward – B14 - Craigentenny/Duddingston**

## **Reasons for Referral to Committee**

This application has been referred to the Development Management Sub-Committee because 23 letters of objection have been received. The application is recommended for approval. 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 proposal complies with the policies contained in the Edinburgh Local Development Plan and associated supplementary guidance. The existing proposed scale, form and design of the scheme are acceptable in the context of the area. The proposal will provide adequate levels of amenity for future occupiers and will not materially harm the amenity of neighbouring residents.

There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site relates to 35 Kekewich Avenue, Edinburgh. It is a detached bungalow property with a large west facing garden. It lies on the corner of Vandeleur Place. There is currently a gated entrance leading off Vandeleur Place which provides access to the property's rear garden and detached garage. The garden grounds are currently screened along Vandeleur Place by a wall and high hedging.

It is noted that the property directly to the south of Vandeleur Place, 33 Kekewich Avenue, has a shorter rear garden than the application site and 8 Vandeleur Place opposite the application site.

The site does not lie within a defined conservation area and none of the trees that surround the site are protected.

### **Description of the Proposal**

The application is for planning permission for the erection of a one and a half storey, 110sqm, 4 bedroom, detached dwelling house in the rear garden of No. 35 Kekewich Avenue. The property will have a maximum ridge height of approximately 7.1 metres, eaves at 2.85 metres, a depth of roughly 10.5 metres and a width of approximately 8.66 metres. The total site area measures 274 sqm.

The proposal will replace an existing garage at this part of the existing garden grounds. The property will be accessed off Vandeleur Place and it will have one off streetcar parking space. The property will have approximately 164 sqm of green space. A new rendered wall with wrought iron gates and rails is proposed along the principal boundary of the dwelling.

Alterations to the existing boundary walls on the east, south and west elevations are permitted development under Class 3E of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended). No further assessment of these elements of the scheme is required.

### **Relevant Site History**

21/01287/FUL  
35 Kekewich Avenue  
Edinburgh  
EH7 6TY  
To erect new dwelling  
Granted  
22 June 2021

### **Other Relevant Site History**

No other relevant planning history.

## **Pre-Application process**

There is no pre-application process history.

## **Consultation Engagement**

No consultations undertaken.

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 28 June 2022

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

**Press Publication Date(s):** Not Applicable;

**Site Notices Date(s):** Not Applicable;

**Number of Contributors:** 23

## **Section B - Assessment**

### **Determining Issues**

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

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

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

## Assessment

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

### a) The proposals 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 Design Policies Des 1, Des 3, Des 4 and Des 5.
- LDP Housing Policies Hou 1, Hou 2, Hou 3 and Hou 4.
- LDP Transport Policies Tra 2 and Tra 3.
- LDP Environment Policies Env 12 and Env 21.

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering the above policies.

### Principle

Policy Hou 1 (Housing Development) of the adopted Edinburgh Local Development Plan (LDP) states that priority will be given to the delivery of the housing land supply and relevant infrastructure on suitable sites in the urban area, provided proposals are compatible with other policies in the plan.

Paragraph 221 of the LDP states that *Edinburgh needs more housing to provide homes for an increasing population and to support economic growth*. The policies objectives are to meet the requirement for additional housing in Edinburgh whilst protecting environmental quality in established housing areas.

The application site is defined as being part of the urban area in the adopted LDP. The principle of housing development at the site is therefore acceptable as long as the proposal is compatible with other policies in the plan.

LDP policy Hou 2 (Housing Mix) states that the Council will seek a mix of house types and sizes where practicable to meet a range of housing needs. The surrounding area consists largely of dwelling houses. The proposed dwelling would provide further accommodation within the area for families and complies with LDP policy Hou 2.

Subject to compliance with other policies of the LDP the principle of housing development is acceptable.

### Scale, Form and Design

LDP Policy Des 1 (Design Quality and Context) requires development proposals to create or contribute towards a sense of place. The design should be based on an overall design concept that draws upon the positive characteristics of the surrounding area. Permission will not be granted for proposals that are inappropriate in design or for proposals that would be damaging to the character or appearance of the area.

LDP Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) states that planning permission will be granted for development where it is demonstrated that existing characteristics and features worthy of retention on the site and in the surrounding area, have been identified, incorporated and enhanced through its design.

LDP Policy Des 4 (Development Design - Impact on Setting) also requires development proposals to have a positive impact on its surroundings, including the character of the wider townscape, having regard to its height and form; scale and proportions, including the spaces between the buildings, position of buildings and other features on the site; and the materials and detailing.

Paragraph 154 of the LDP states *"Where the built environment is of high quality and has a settled townscape character, new development proposals will be expected to have similar characteristics to the surrounding buildings and urban grain"*

LDP Policy Hou 4 (Housing Density) states that the density of a development on a site will be dependent on its characteristics and those of the surrounding area; the need to create an attractive residential environment within the development; the accessibility of the site to public transport; and the need to encourage and support the provision of local facilities necessary to high quality urban living. It goes on to explain that in established residential areas, proposals will not be permitted which would result in unacceptable damage to local character, environmental quality or residential amenity.

Chapter 1.5 of the Edinburgh Design Guidance states that *"The appropriateness of high-density housing to a particular site will depend on site context and on the way in which the development addresses the issues of open space (including impacts on landscape character and trees), unit mix, daylight, sunlight, privacy, outlook, house type, car parking requirements, waste management and the design and site layout of the development itself. Density should be a product of design, rather than a determinant of design"*.

The application site lies within an established residential neighbourhood where there is quite a varied pattern in terms of the size of house plots and layout of the detached dwellings. Whilst the majority of properties in the surrounding area have smaller gardens to the front and elongated gardens to the rear, many nearby garden grounds vary in depth and some corner or cul-de-sac plots (like that on Vandeleur Avenue) have relatively limited garden ground beyond the rear elevation of the dwelling house.

The existing housing within the application site has a long and wide rear garden. It is proposed that the existing rear detached garage be demolished, and a dwelling house be constructed in its place.

The design of buildings in the wider surrounding area is also varied with bungalows, many of which have been extended to a large degree, and one and half storey properties being prevalent. However, there are also some examples of two storey buildings nearby. The design of roof forms in the surrounding area also varies, with the bungalows largely having shallow roof pitches, whilst the one and half storey buildings have much steeper roof pitches with dormers. There are also examples of two storey buildings with flat roofs present on nearby Sydney Place.

The assessment of this element of the scheme remains broadly consistent with the assessment of the previous application. The proposed building will be one and half storey in height, with a pitched slate clad roof, rendered walls and a stone bay window to broadly match that of nearby properties. The building line of the principal and rear elevation of the development shall also closely match that of the directly neighbouring dwellings on Vandeleur Place.

The proposal will retain acceptable spaces between directly neighbouring properties and will not read as overdevelopment of the site. The width of the proposal is also largely comparable to that of nearby dwellings and while the building shall be taller than that of directly neighbouring dwellings it will not be to a significant degree.

It is acknowledged that the main physical difference between the proposal and the directly neighbouring properties is that it will have a flat principal elevation with the roof pitching to the sides and rear. Whilst this is not a design feature within this element of street, there is another building present nearby at 9 Kekewich Avenue which also has a similar principal elevation design. Overall, the design of the proposal is attractive and given the quite varied building designs and roof forms that already exist in the surrounding area it is acceptable. The increase in glazing on the principal elevation of the proposed dwelling will have a limited impact on the appearance of the building and given the varied nature of the street this is acceptable.

The existing property will retain a good-sized rear garden. Whilst the proposal shall not have much of a useable garden area directly to the rear of the building, it will have a generous side garden. It must be noted that there are also other examples nearby of corner plots and that of some cul-de-sac properties which also have garden layouts in which their rear garden grounds are quite limited, but they have sizeable garden grounds directly to the sides of the dwellings.

Even though the proposal will be constructed within approximately 1.1 metres of the mutual boundary to the rear and to the west, the proposal has been designed to angle away and minimise its physical presence. The proposal will also be screened to a degree by a hedge row along the mutual boundary to the north, tree planting and a boundary wall and timber screening to the west.

The footprint of the dwelling and the layout of the garden will not read as overdevelopment of the site and is relatively consistent with the established ratio of plots in this area.

The rear garden of the plot is currently screened from public views by a wall and tall hedging. It does not contribute to a sense of openness along the street whilst the rear garden grounds of the property are largely covered with grass only.

The proposal largely draws on the positive characteristics of the area and respects the development layout of the site and the established spaces between buildings.

There would be a need to remove permitted development rights for this development should it be granted. This is due to the proximity of the development to the neighbouring boundary and the range of permitted development rights available that could result in adverse harm to neighbouring amenity at a later date. A condition is recommended to secure this.

The proposal complies with policies Des 1, Des 3 and Des 4 of the adopted LDP and the Edinburgh Design Guidance.

### Amenity

LDP Policy Des 5 (Development Design - Amenity) states planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

LDP Policy Hou 3 (Private Green space in Housing Development) states planning permission will be granted for development which makes adequate provision for green space to meet the needs of future residents.

The proposal includes additional timber fencing to the east and west boundaries and existing planting on the north boundary will also provide privacy screening. Given the level of screening proposed and already in place, ground floor windows of the proposed dwelling will not overlook neighbouring properties. A proposed velux window on the west elevation serves a bathroom and raises no concern in relation to overlooking. On the north elevation a proposed velux window serves a landing space and again will not breach neighbouring privacy. Two velux windows serving a bedroom on the east elevation are over nine metres from the common boundary and comply with guidance. All velux windows proposed are set 1.65 metres from the finished floor level and given the angle of the roof will not afford direct views of any neighbouring property. The proposed dwelling will not breach neighbouring privacy.

The proposed development is set a sufficient distance from neighbouring boundaries to ensure it complies with the 45-degree daylighting criterion set out in Edinburgh Design Guidance. The proposed dwelling will not result in a loss of daylight to the windows of neighbouring properties. Given the height of the proposed dwelling and a distance of 1.1 metres from both the west and north boundaries, the proposed dwelling will not lead to any overshadowing neighbouring garden space.

The proposal complies with all guidance in relation to the protection of neighbouring privacy.

In terms of amenity for future occupiers, the internal floor area exceeds the minimum level recommended in Edinburgh Design Guidance.

The building will have large south facing windows as well as windows to the east and west. Adequate levels of sunlight/daylight should be received. All habitable rooms shall receive an adequate outlook and will have satisfactory privacy.

LDP Policy Hou 3 does not set a minimum garden size for new houses, though Edinburgh Design Guidance does recommend a depth of 9 metres or more. It is typically expected that private garden space is provided to the rear of the property. The proposal does not include extensive space to the rear of the property. However, sufficient garden ground is provided to the side of the proposed development.

Future occupiers will have a suitable level of amenity.

The proposal complies with LDP Policies Des 5 and Hou 3.

### Parking

LDP Policies Tra 2 (Private Car Parking) and Tra 3 (Private Cycle Parking) set out the requirement for private car and cycle parking. The Council's Parking Standards for developments are contained in the Edinburgh Design Guidance.

The proposal would accommodate one off-street car parking space and this complies with the Council's car parking standards.

The site is located near to local transport links and has easy access to nearby facilities.

The proposal includes a private garden space in which bikes could be securely stored.

The Roads Authority has raised no concern in relation to road safety.

The proposal complies with LDP policies Tra 2, and Tra 3.

### Flooding and Surface Water Management

LDP Policy Env 21 (Flood Protection) states that planning permission will not be granted for development that would increase flood risk or be at risk of flooding itself.

The site does not fall within an area which according to SEPA maps is at defined risk of river, coastal or surface water flooding. A Surface Water Management Plan (SWMP) was conditioned as part of application 21/01287/FUL. The provision of a soakaway to address surface water management has necessitated the relocation of the proposed dwelling. The agent acting on behalf of the applicant has advised that consent is required to determine the final location of the soakaway. Upon confirmation of this, a detailed SWMP will be provided for consideration by the Planning Authority.

Given the extant planning consent relating to this site which includes a condition requiring the provision of a SWMP, it is recommended the provision of a SWMP is also conditioned in this case, if the application is granted.

### Trees

LDP Policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order (TPO) or on any other tree or woodland worthy of retention unless necessary for good arboricultural reasons.

There are currently a number of trees which lie near to the boundary of the site and are within the neighbour's ownership. The applicant has confirmed that no trees will be harmed in the construction of the proposal and no pruning is anticipated. The trees near the site are not protected by a TPO and the site does not lie within a conservation area. It is acknowledged that any tree branches and roots which are present within the site can be removed at any time without the consent of the planning authority.

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

The proposal complies with the policies contained in the Edinburgh Local Development Plan and associated supplementary guidance. The existing proposed scale, form and design of the scheme are acceptable in the context of the area. The proposal will provide adequate levels of amenity for future occupiers and will not materially harm the amenity of neighbouring residents.

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

The following material planning considerations have been identified:

#### Extant Permission

The principle of a one and a half storey dwelling in this location was established through application 21/01287/FUL. This permission remains live and development could be initiated. This is a strong material consideration in the determination of this application. The current proposal differs from application 21/01287/FUL in that it moves the location of the proposed dwelling three metres further west in order to allow the introduction of a soakaway for surface water management. The current proposal also includes one additional bedroom, changes in the internal layout of the dwelling from the previous scheme and amendments to the proposed fenestration. This includes additional windows on the north elevation and an additional window on the west elevation.

#### 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

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

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

## Equalities and human rights

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

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

## Public representations

A summary of the representations is provided below:

### *material considerations*

- Overlooking; this is addressed in section (a).
- Loss of sunlight/daylight; this is addressed in section (a).
- Impact on existing character; this is addressed in section (a).
- Impact on parking and road safety; this is addressed in section (a).

### *non-material considerations*

- Not in accordance with the title/feu disposition in terms of number of properties in garden ground, building in rear gardens, design, scale; this is a civil matter between interested parties.
- Noise and disturbance arising from the demolition and construction works; this does not preclude assessment of the proposal or prevent developments from happening.
- Precedent; every application is determined on its own individual merits.
- The site is not accessible for development traffic, it is too narrow; this is not a material planning consideration.
- Impact on property prices; this is not a material planning consideration.
- Dwelling to be used as bed sit with individual rooms let out; the proposal is for a four bed residential dwelling, not a bedsit.

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

There are no material planning considerations which outweigh the conclusion set out above.

## **Overall conclusion**

The proposal complies with the policies contained in the Edinburgh Local Development Plan and associated supplementary guidance. The existing proposed scale, form and design of the scheme are acceptable in the context of the area. The proposal will provide adequate levels of amenity for future occupiers and will not materially harm the amenity of neighbouring residents.

There are no material considerations that outweigh this conclusion.

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

### Conditions: -

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. A Surface Water Management Plan shall be submitted for the written approval of the Council as Planning Authority prior to any works commencing on site. This should be prepared in line with the self-certification scheme.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) order 1992 as amended (or any order amending, revoking or re-enacting that order), no extensions or external alterations to the new house as hereby permitted shall be constructed without the submission of a new planning application for the assessment of the Council as Planning Authority.

### Reasons:-

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In the interests of surface water management.
3. In the interests of neighbouring amenity.

### Informatives

It should be noted that:

1. 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.
2. 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: 27 June 2022**

**Drawing Numbers/Scheme**

01-04

Scheme 1

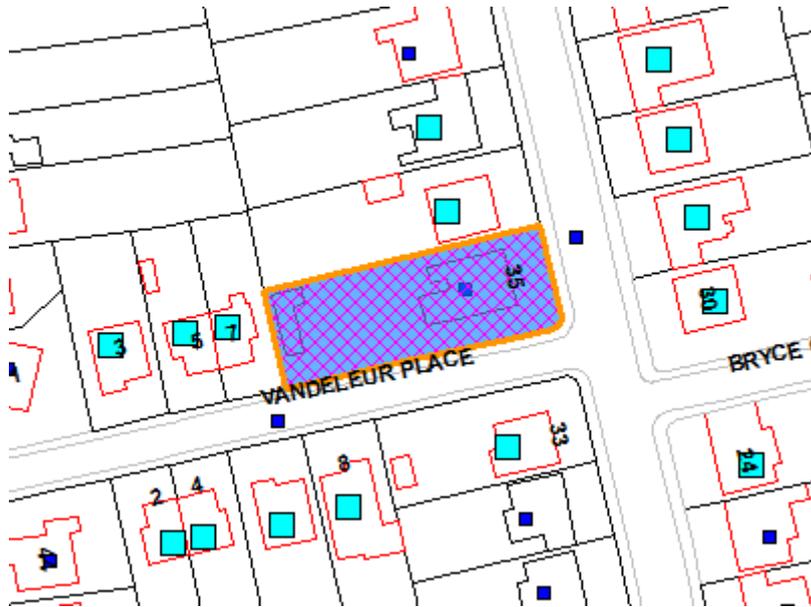
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## Summary of Consultation Responses

No consultations undertaken

### Location Plan



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