

Lothian Plans.  
FAO: Stephen Lothian  
18 Laidlaw Gardens  
Tranent  
EH33 2QH

Mrs Martis  
12 Lomond Road  
Edinburgh  
EH5 3JR

**Decision date: 9 November 2022**

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

Widening of drive and garden wall (as amended).  
At 12 Lomond Road Edinburgh EH5 3JR

**Application No:** 22/03144/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 30 June 2022, this has been decided by **Local Fast Track 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:-**

**Reason for Refusal:-**

1. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it fails to preserve or enhance the special character or appearance of the conservation area and fails to preserve the boundary wall which contributes positively to the character of the area.

2. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not an acceptable scale, form, or design; and is detrimental to the character of the neighbourhood.

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

Drawings 01, 02A, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

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

The proposed works to the dwelling fail to preserve or enhance the character or appearance of the conservation area and are not in accordance with the Development Plan. The works are not compatible with the existing dwelling or surrounding neighbourhood character. There are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is not acceptable.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Tom Hutchinson directly at [tom.hutchinson1@edinburgh.gov.uk](mailto:tom.hutchinson1@edinburgh.gov.uk).



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

## NOTES

1.If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://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](mailto: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**  
**12 Lomond Road, Edinburgh, EH5 3JR**

**Proposal: Widening of drive and garden wall (as amended).**

**Item – Local Fast Track Decision**  
**Application Number – 22/03144/FUL**  
**Ward – B04 - Forth**

## **Recommendation**

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

## **Summary**

The proposed works to the dwelling fail to preserve or enhance the character or appearance of the conservation area and are not in accordance with the Development Plan. The works are not compatible with the existing dwelling or surrounding neighbourhood character. There are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is not acceptable.

## **SECTION A – Application Background**

### **Site Description**

The application relates to a semi-detached property in a residential area and located in the Trinity Conservation Area.

### **Description Of The Proposal**

This application is for removal of part of the boundary wall, widening the driveway access and increasing the driveway size (as amended).

### **Amendments**

The proposal has been amended to reduce the width of the opening from 4.2m to 3.6m.

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

## Consultation Engagement

Transportation Planning

## Publicity and Public Engagement

**Date of Neighbour Notification:** 1 July 2022

**Date of Advertisement:** 8 July 2022

**Date of Site Notice:** 8 July 2022

**Number of Contributors:** 0

## Section B - Assessment

### Determining Issues

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

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

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

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

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

### Assessment

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

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

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

The proposals will result in harm to the character or appearance of the conservation area as the proposal will result in the loss of an unreasonable portion of the boundary wall which is a key characteristic of the conservation area. Whilst it is noted there are some examples of wider driveways in the area, the majority of the driveway openings are approximately 2.6m - 3m in width. It was considered that a slight increase to 3m would be acceptable however beyond that was considered to have an unreasonable impact on the character and appearance of the conservation area.

**Conclusion in relation to the conservation area**

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

The proposals are unacceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

**b) The proposals comply with the development plan?**

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

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

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

Scale, form, design and neighbourhood character

As detailed in Policy Env 6 of the Edinburgh Local Development plan, development within a conservation area or affecting its setting will be permitted which preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area.

As proposed, the application will remove approximately 1m of the boundary wall, removing a feature which currently contributes positively to the character of the area.

Additionally, the non-statutory Householder Guidance states that parking in front gardens will not normally be allowed in conservation areas or listed buildings, where loss of original walls or railings and the creation of a hard surface would have an adverse effect on the character and setting of the area. The guidance also notes that extensions or alterations in the surrounding area that were granted permission in the

past and which do not comply with these guidelines will not be taken as setting any form of precedent and should not be used as examples to follow.

Whilst it is noted that there are some examples of slightly larger driveway openings within the surrounding area, it should be noted that the neighbouring driveway, which has a 4.2m wide access (16 Lomond Road), does not have planning permission and has been in place for well over 4 years and appears to be an outlier within the area.

As such, it is considered that the proposed alterations would be out of character with the character and appearance of the existing property, conservation area and street, as such, the proposal is not an acceptable scale, form and design and is not compatible with the existing dwelling and surrounding area.

### Neighbouring Amenity

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

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

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

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

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

The following material planning considerations have been identified:

#### SPP - Sustainable development

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

It is considered that the proposal fails to comply with Paragraph 29 of SPP as the application does not comply with the guiding principles of supporting good design, as the proposed alteration is too wide and is not compatible with the existing property or surrounding area and fails to protect, enhance or promote access to cultural heritage, including the historic environment.

#### 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

No comments have been received.

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

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

### **Overall conclusion**

The proposed works to the dwelling fail to preserve or enhance the character or appearance of the conservation area and are not in accordance with the Development Plan. The works are not compatible with the existing dwelling or surrounding neighbourhood character. There are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is not acceptable.

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

The recommendation is subject to the following;

### **Reason for Refusal**

1. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it fails to preserve or enhance the special character or appearance of the conservation area and fails to preserve the boundary wall which contributes positively to the character of the area.
2. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not an acceptable scale, form, or design; and is detrimental to the character of the neighbourhood.

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

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

**Further Information - [Local Development Plan](#)**

**Date Registered: 30 June 2022**

**Drawing Numbers/Scheme**

01, 02A

Scheme 2

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

Contact: Tom Hutchinson, Planning Officer  
E-mail:tom.hutchinson1@edinburgh.gov.uk

## Appendix 1

### **Consultations**

NAME: Transportation Planning  
COMMENT: No comments received.  
DATE: 8 November 2022

The full consultation response can be viewed on the Planning & Building Standards Portal.