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Mr Lees  
36 South Oswald Road  
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**Decision date: 20 December 2023**

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

Proposed rear extension, garage conversion, attic roof light and replacement of all window glass.

At 36 South Oswald Road Edinburgh EH9 2HG

**Application No:** 23/04356/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 12 September 2023, 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;

**Reason for Refusal:-**

1. The proposal would have an adverse impact on the character and appearance of the conservation area through the damaging impact on the mature trees on site and the inappropriate timber boundary marker. It is unacceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
2. The proposal would be contrary to NPF4 Policy 6 in that it would result in an adverse impact on the mature trees on site.

3. The proposal would be contrary to NPF4 Policy 7 in that it would have an adverse impact on the character and appearance of the conservation area due to the damaging impact on the mature trees on site.

4. The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as there would be a damaging impact on the mature trees on site.

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

Drawings 01-08, 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 acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, it is considered unacceptable with regard to section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 due to the damaging impact on the trees which contribute to the character of the conservation area. The proposal does not comply with NPF4 Policies 6 and 7 or LDP Policy Env 12 as the extension is located within the root protection area and could compromise of the mature trees on site. There are no material considerations which outweigh this conclusion.

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 Stephanie Fraser directly at [stephanie.fraser@edinburgh.gov.uk](mailto:stephanie.fraser@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  
36 South Oswald Road, Edinburgh, EH9 2HG**

**Proposal: Proposed rear extension, garage conversion, attic roof light and replacement of all window glass.**

**Item – Local Delegated Decision  
Application Number – 23/04356/FUL  
Ward – B15 - Southside/Newington**

## **Recommendation**

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

## **Summary**

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, it is considered unacceptable with regard to section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 due to the damaging impact on the trees which contribute to the character of the conservation area. The proposal does not comply with NPF4 Policies 6 and 7 or LDP Policy Env 12 as the extension is located within the root protection area and could compromise of the mature trees on site. There are no material considerations which outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site is a single storey and attic, near L-plan lodge designed by Robert Morham in 1885 as the gardeners lodge to Osqual House (demolished). The property has coursed cream sandstone walls with droved dressing and red sandstone banding. The overhanging eaves have decorative pierced timber bargeboards which are painted white. On the slate pitched roof there are decorative terracotta ridging and finials.

The property is surrounded by low level stone walls with modern fencing and hedging. On Oswald Road there is a section of higher stone wall with gates giving access to a flat roofed, stone garage.

Category B listed, listed 19 March 1993, LB ref. 30593.

## Description Of The Proposal

The application proposes a rear extension, garage conversion, attic roof light and replacement of all window glass.

## Supporting Information

- Tree Survey.

## Relevant Site History

23/00240/LBC

36 South Oswald Road

Edinburgh

EH9 2HG

Proposed single storey rear extension, alterations to existing garage, replacement of all glass to slimlite glazing and new attic roof light.

withdrawn

28 March 2023

23/00238/FUL

36 South Oswald Road

Edinburgh

EH9 2HG

Proposed single storey rear extension, alterations to existing garage, replacement of all window glass to slimlite glazing and new attic roof light.

withdrawn

28 March 2023

## Other Relevant Site History

No other relevant site planning history.

## Consultation Engagement

No consultations.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 29 September 2023

**Date of Advertisement:** 6 October 2023

**Date of Site Notice:** 6 October 2023

**Number of Contributors:** 2

## 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 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- 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 or its setting?**

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

- *Managing Change - Extensions*
- *Managing Change - Windows*
- *Managing Change - Boundaries*
- *Managing Change - Roofs*

The alterations to the interior have been assessed under the associated LBC application.

The single storey rear extension would be a subservient addition to the listed building and would have no adverse impact on its setting in terms of design. The walls of the extension are to be timber framed with timber cladding and the extension is to be flat roofed with a black roofing membrane with Velux roof lights. The windows and doors to the extension are to be black aluminium. The garage would be converted as part of the extension and the development of the space between the existing house and garage would not represent over-development of the site. Adequate garden ground space would be left over in the grounds of the listed building. The proposed conservation style roof light to the attic of the existing house is acceptable.

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

The proposal will not impact on the special architectural or historic interest of the listed building and is acceptable with regards to 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?**

The Grange Conservation Area Character Appraisal emphasises the high quality stone built architecture of restricted height enclosed by stone boundary walls, the uniformity resulting from the use of local grey sandstone for buildings and boundary walls and Scots slate for roofs, the formal and picturesque detached and semi-detached dwellings of generous scale and fine proportions, the low density grain of the area, and the spacious and uncluttered streetscape. The buildings are complemented by the profusion of mature trees, spacious garden settings, stone boundary walls and green open spaces

The design of the proposed extension would not have a detrimental impact on the character or appearance of the conservation area. However, the location of the extension would have an unacceptable impact on the mature trees on site. The extension is located within the root protection area and directly adjacent to the trunk of the closest tree. The extension has the potential to compromise the trees which form part of the character and appearance of the conservation area and this is considered unacceptable. In addition, the proposed timber gates in the existing opening on Oswald Road would be an inappropriate boundary marker in the context of the existing stone walls which form part of the character of the conservation area.

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

The proposal fails to preserve the special character and appearance of the Conservation Area and is considered unacceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant HES guidance.

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

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are

superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF 4 Policy 1 Global Climate and Nature Crises
- NPF 4 Policy 6 Forestry, Woodland and Trees
- NPF 4 Policy 7 Historic Assets and Places
- NPF 4 Policy 14 Design, Quality and Place
- NPF 4 Policy 16 Quality Homes
- LDP Design Policies Des 1 and Des 12
- LDP Environment Policy Env 12

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF 4 Policy 7.

### Global Climate and Nature Crises

Policy 1 of the NPF4 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. The proposal would have a neutral impact in terms of NPF4 Policy 1.

### Listed Building

The impact on the listed building has been assessed above in a). It is concluded that the proposal will not adversely impact on the listed building or its setting.

The proposal complies with NPF4 Policy 7 in respect of its impact on the listed building.

### Conservation Area

The impact on the conservation area has been assessed above in b). It is concluded that the proposal would fail to preserve the special character and appearance of the Conservation Area.

The proposal does not comply with NPF4 Policy 7 in respect of its impact on the conservation area.

### Size, Form and Design

The proposed single storey rear extension would form a sympathetic and subservient addition to the property. The finish and materials are acceptable and the extension would form a modern addition to the existing property. The extension would develop the area between the existing house and the garage and adequate garden space would be left over.

The proposal complies with NPF4 Policy 14 and LDP Policies Des 1 and Des 12.

### Neighbouring Amenity

The proposal has been assessed against the requirements set out in the non-statutory Guidance for Householders to ensure there is no unreasonable loss to neighbouring amenity with respect to privacy, overshadowing, loss of daylight or sunlight. No impacts have been identified.



The proposal complies with LDP Policy Des 12 in respect of amenity.

### Trees

The proposed extension would have an unacceptable impact on the mature trees on site. The trees are significant and the extension is located within the root protection area and directly adjacent to the trunk of the closest tree. The extension could have a damaging impact on the trees which contribute to the character of the area.

The proposal does not comply with NPF4 Policy 6 or LDP Policy Env 12.

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

The proposal is contrary to NPF4 Policies 6 and 7 and LDP Policy Env 12.

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

The following material planning considerations have been identified:

#### Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations on the Proposed City Plan 2030 and its supporting documents. These documents have now been submitted for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to City Plan 2030 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

Two objections have been received.

A summary of the representations is provided below:

#### *material considerations*

- The works would ruin the planted area on Oswald Court; No works are proposed to this area outwith the site.
- The proposed extension covers virtually the whole length of the rear elevation and would result in over-development of the site; This has been addressed above in sections a) and c).

- Extension would result in a significant loss of green space; This has been addressed above in section c).
- Adverse impact on character and appearance of the conservation area; This has been addressed above in section b).
- The materials proposed are unsympathetic for the listed building and conservation area; This has been addressed above in sections a), b) and c).

#### *non-material considerations*

- The works would hinder access to adjacent residents' garages and carports because of construction traffic; This is not a material planning consideration.
- The alterations to the existing ground floor layout will result in a significant loss of the original floor plan and historic fabric; This would be addressed under the associated LBC application.
- The fireplace in the existing dining room is not shown on the plans; This would be assessed under the associated LBC application.

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

These have been addressed above.

#### **Overall conclusion**

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, it is considered unacceptable with regard to section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 due to the damaging impact on the trees which contribute to the character of the conservation area. The proposal does not comply with NPF4 Policies 6 and 7 or LDP Policy Env 12 as the extension is located within the root protection area and could compromise of the mature trees on site. There are no material considerations which outweigh this conclusion.

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

The recommendation is subject to the following;

#### **Reason for Refusal**

1. The proposal would have an adverse impact on the character and appearance of the conservation area through the damaging impact on the mature trees on site and the inappropriate timber boundary marker. It is unacceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
2. The proposal would be contrary to NPF4 Policy 6 in that it would result in an adverse impact on the mature trees on site.
3. The proposal would be contrary to NPF4 Policy 7 in that it would have an adverse impact on the character and appearance of the conservation area due to the damaging impact on the mature trees on site.

4. The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as there would be a damaging impact on the mature trees on site.

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

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

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

**Date Registered: 12 September 2023**

### **Drawing Numbers/Scheme**

01-08

Scheme 1

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

Contact: Stephanie Fraser, Planning Officer  
E-mail: [stephanie.fraser@edinburgh.gov.uk](mailto:stephanie.fraser@edinburgh.gov.uk)

Appendix 1

## **Consultations**

No consultations undertaken.

## Appendix 2

### **Application Certification Record**

#### **Case Officer**

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: Stephanie Fraser

Date: 19 December 2023

#### **Authorising Officer**

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Jennifer Zochowska

Date: 19 December 2023

# Comments for Planning Application 23/04356/FUL

## Application Summary

Application Number: 23/04356/FUL

Address: 36 South Oswald Road Edinburgh EH9 2HG

Proposal: Proposed rear extension, garage conversion, attic roof light and replacement of all window glass.

Case Officer: Stephanie Fraser

## Customer Details

Name: Mr Frith Hoehnke

Address: 1 Oswald Court, Grange, Edinburgh EH9 2HY

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Proposed extension of dwelling house on the boundary of existing housing development at Oswald Court.

The proposed development, i.e. to the existing garage, suggests work being carried out accessed from private grounds at Oswald Court; more so if piling or underpinning were to be carried out to the garage wall hard on the boundary to the Court (Ref: email from David O'Connor to Kyla Martin, dated 30.06.23). Such works would severely hinder access to adjacent residents' garages and carports because of construction traffic and ruin the planted area on the Court side of the boundary. A site visit is recommended.

If the proposed works can be carried out without construction traffic in the Court and without damage to the Court garden there will be no objection to the proposed development.

# Comments for Planning Application 23/04356/FUL

## Application Summary

Application Number: 23/04356/FUL

Address: 36 South Oswald Road Edinburgh EH9 2HG

Proposal: Proposed rear extension, garage conversion, attic roof light and replacement of all window glass.

Case Officer: Stephanie Fraser

## Customer Details

Name: Dr The Architectural Heritage Society of Scotland

Address: 15 Rutland Square, Edinburgh EH1 2BE

## Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: 36 South Oswald Road is B-listed and situated within the Grange Conservation Area. It was built as a gardener's cottage for the adjacent Oswald House (now demolished) - it retains much of its original form, internal layout and character, with many period features surviving. It is of high architectural interest. The panel objects to the proposed alterations to this property for a number of reasons:

The proposed extension covers virtually the whole length of the rear of the property. In accordance with council guidelines, extensions to listed buildings should not exceed 50% of the rear elevation length. The extension addition would cause the ground floor plan of the cottage to almost double in size. This would be deemed as massive overdevelopment within this property, with it taking away from the original I-plan form of the original cottage. This would take all attention away from the listed building onto the extension, something which is unacceptable within the conservation area, and take away from the streetscape.

The extension of this building would also lead to a significant loss of green space surrounding the property. This would cause a massive reduction of greenspace around the boundary of the property making it appear more cramped and the building more imposing. This would move attention more towards the extension causing it to lose character within the current green and leafy gardens of the surrounding properties within the conservation area.

The materials proposed for the extension are also unsympathetic and not appropriate for use in a conservation area or for an addition to a listed building. Within the property it would be expected that, traditional materials should be used, or ones that complement and seek to sustain or enhance the building's special architectural character.

The alterations to the existing ground floor layout will result in a significant loss of the original floor plan and historic fabric. The proposal to create a hallway through to the rear extension will result in a significant loss of internal and external walls and will erode the layout and form of the rooms to the rear of the property. The fireplace in the existing dining room is not shown on the proposed floor plans. While the surround may not be original, the fireplace itself is an important focal point of the room and should be retained.

We believe that the current proposed alterations represent overdevelopment of the property, they are unsympathetic and do not adequately sustain the building's special architectural interest. As such, they contradict Edinburgh Council guidance and conflict with the Local Development Plan policy ENV 2, ENV 4 & ENV 6. We therefore object to these proposals.