

SHS Burridge Architects.
FAO: Andrew Burridge
33 Ashley Terrace
Edinburgh
EH11 1RE

Ms Mammolino
145 Dalkeith Road
Edinburgh
EH16 5HQ

Decision date: 22 March 2024

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

Form new driveway.
At 145 Dalkeith Road Edinburgh EH16 5HQ

Application No: 24/00043/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 5 January 2024, 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 does not comply with NPF4 Policy 16g as it has a detrimental effect on the character of the home and surrounding area; and is not acceptable in terms of design as it would form a significant road safety risk.
2. The proposal does not comply with LDP policy Des 12 as it is not be in keeping with the existing building or character of the wider area; and is not acceptable in terms of design as it would form a significant road safety risk.

3. The proposal does not comply with LDP policy Des 1 as it is an inappropriate design and position and would form a significant road safety risk.
4. The proposal does not comply with the Guidance for Householders as the distance from the junction is unacceptable and would form a significant road safety risk.

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

Drawings 01, 02, 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 are not in accordance with the Development Plan. The proposal has due regard to the global climate and nature crisis and will not result in an unreasonable loss of neighbouring amenity. However, the proposal is an inappropriate design which poses a significant road safety risk; is not compatible with the existing building and neighbourhood character; and is contrary to the Development Plan and the Council's Non-Statutory Guidance for Householders. There are no material considerations which indicate that the proposal should be granted and 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 Blair Burnett directly at blair.burnett@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 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.

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
145 Dalkeith Road, Edinburgh, EH16 5HQ

Proposal: Form new driveway.

Item – Local Delegated Decision
Application Number – 24/00043/FUL
Ward – B15 - Southside/Newington

Recommendation

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

Summary

The proposed works are not in accordance with the Development Plan. The proposal has due regard to the global climate and nature crisis and will not result in an unreasonable loss of neighbouring amenity. However, the proposal is an inappropriate design which poses a significant road safety risk; is not compatible with the existing building and neighbourhood character; and is contrary to the Development Plan and the Council's Non-Statutory Guidance for Householders. There are no material considerations which indicate that the proposal should be granted and the proposal is not acceptable.

SECTION A – Application Background

Site Description

The application refers to a ground floor flatted property located within a four storey tenement block. The site is on a corner between Priestfield Road and Dalkeith Road.

Description Of The Proposal

The application refers to the creation of a driveway with a vehicle access leading onto Priestfield Road.

Supporting Information

- Site visit photos

Relevant Site History

92/01190/FUL
145 Dalkeith Road
Edinburgh
EH16 5HQ
Change of use from dwelling house to doctors surgery
Granted

22 July 1992

23/02302/FUL
Dalkeith Road Medical Practice
145 Dalkeith Road
Edinburgh
EH16 5HQ
Change of use to dwellinghouse.
Granted

8 August 2023

Other Relevant Site History

None

Consultation Engagement

Transport Planning

Publicity and Public Engagement

Date of Neighbour Notification: 22 March 2024

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 1

Section B - Assessment

Determining Issues

This report will 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 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 NPF4 and LDP policies to be considered are:

- NPF4 Policy 1.
- NPF4 Policy 16g.
- LDP Design policy Des 1.
- LDP Design policy Des 12.

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

Global climate and nature crisis

Policy 1 of NPF4 prioritises the climate and nature crisis in all decisions. It has been applied together with other policies in NPF4 and the overall intended outcome of NPF4. The proposal will have a neutral impact on sustainability and the environment. On balance, the proposed development does not conflict with the intended outcomes of NPF4 and thus, complies with NPF4 Policy 1.

Scale, Form, Design, and Neighbourhood Character

Policy 16g) i) of National Planning Framework 4 states development will be supported where there is no detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design, and materials. Policy Des 12a) and c) of the Edinburgh Local Development Plan states that planning permission will be granted for alterations and extensions to existing buildings which in their design and form, choice of materials and positioning are compatible with the character of the existing building; and will not be detrimental to neighbourhood character. Policy Des 1 of the Edinburgh Local Development Plan states that planning permission will not be granted for inappropriate design.

The non-statutory Guidance for Householders sets out design requirements for driveways, namely that these should be at least 6 metres deep; the access should not be wider than 3 metres; and access should not be formed within 15 meters of a junction. These requirements seek to protect the integrity of street boundaries and consider road safety within the design.

The driveway as proposed is 5.8 meters deep and the access is 3.2 meters wide. Transport Planning have noted the depth and width of the driveway as a reason for refusal. However, the proposed depth and width of the driveway represent a negligible infringement on the non-statutory Guidance for Householders. These minor infractions in respect of the depth and width of the driveway would be acceptable in this instance.

Notwithstanding the above, the driveway itself would form a road safety hazard due to its proximity to the Priestfield Road/Dalkeith Road junction. In their second formal consultation response provided on March 12th 2024, Transport Planning have defined the start position of the junction as the first white line ahead of the advanced stop line on Priestfield Road, further stating that the proposal would be a road safety hazard because the driveway would be within 15 meters of the junction, contrary to the Guidance for Householders. There would be no justification for an infringement to the guidance where there is a significant road safety hazard and the principle of creating a driveway would be wholly unacceptable due to significant road safety implications. By virtue of its location, the proposed driveway would create a road safety hazard and would be of an inappropriate design that is not compatible with the existing dwelling and the surrounding area, contrary to NPF4 Policy 16g)i) and LDP Policies Des 1 and Des 12a) and c).

The proposal does not comply with NPF4 policy 16g)i); LDP Policy Des 12a) and c); LDP Policy Des 1; and the non-statutory Guidance for Householders.

Neighbouring Amenity

With respect to privacy, overlooking, physical impact, 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. The proposal complies with NPF 4 policy 16g)ii) and LDP Policy Des 12b) and c).

Conclusion in relation to the Development Plan

The proposals have due regard to global climate and nature crisis and do not result in an unreasonable loss of neighbouring amenity. However, the proposals are an inappropriate design which poses a significant road safety risk. The proposals are not compatible with the existing building and neighbourhood character and do not comply with the overall objectives of the Development Plan.

b) 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

One objection, summarised as:

non-material considerations

Concerns for land ownership - Matters relating to any land ownership disputes are a civil legal matter between the relevant owners and cannot be considered under the remit of planning.

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 are not in accordance with the Development Plan. The proposal has due regard to the global climate and nature crisis and will not result in an unreasonable loss of neighbouring amenity. However, the proposal is an inappropriate design which poses a significant road safety risk; is not compatible with the existing building and neighbourhood character; and is contrary to the Development Plan and the Council's Non-Statutory Guidance for Householders. There are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is not acceptable, and it is recommended the application is refused.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal

1. The proposal does not comply with NPF4 Policy 16g as it has a detrimental effect on the character of the home and surrounding area; and is not acceptable in terms of design as it would form a significant road safety risk.
2. The proposal does not comply with LDP policy Des 12 as it is not be in keeping with the existing building or character of the wider area; and is not acceptable in terms of design as it would form a significant road safety risk.
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4. The proposal does not comply with the Guidance for Householders as the distance from the junction is unacceptable and would form a significant road safety risk.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 5 January 2024

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Blair Burnett, Assistant Planning Officer
E-mail: blair.burnett@edinburgh.gov.uk

Consultations

NAME: Transport Planning

COMMENT:

Response - 30th January 2024:

"The application should be refused.

Reasons:

The application is contrary to the requirements set out in the Council's Guidance for Householders dated 2021, specifically:

- 1) The proposed driveway is within 15 metres of the junction from Dalkeith Road in to Priestfield Road;*
- 2) The depth of the proposed driveway is less than 6 metres.*
- 3) The width of the driveway entrance is greater than 3 metres."*

Response - 12th March 2024:

"The application should be refused for the following reasons:

The application is contrary to the requirements set out in the Council's Guidance for Householders, dated 2021, which states that for road safety reasons an access must not be formed within 15 metres of a junction.

According to directions set out in paragraph 178 of the Highway Code (which is underpinned by the Road Traffic Act 1988, section 36 and the TSRGD, regs 10, 36(1) & 43(2)) the first white line ahead of the advanced stop line on Priestfield Road is considered to form part of the junction between Priestfield Road and Dalkeith Road. The Highway Code states:

Advanced stop lines. Some signal-controlled junctions have advanced stop lines to allow cycles to be positioned ahead of other traffic. Motorists, including motorcyclists, MUST at the first white line reached if the lights are amber or red and should avoid blocking the way or encroaching on the marked area at other times e.g. if the junction ahead is blocked.

The distance from the proposed driveway to the first white line of the junction is around 10 metres so the application should be refused due to the road safety concerns raised."

DATE: 12 March 2024

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

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: Blair Burnett

Date: 4 March 2024

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): James Allanson

Date: 22 March 2024

MEMORANDUM

To: Planning Officer
Blair Burnett

From: Transport
Greg McDougall

Our Ref: 24/00043/FUL

**24/00043/FUL
145 DALKEITH ROAD
EDINBURGH
EH16 5HQ**

TRANSPORT CONSULTATION RESPONSE

Summary Response

The application should be refused.

Full Response

The application should be refused.

Reasons:

The application is contrary to the requirements set out in the Council's Guidance for Householders dated 2021, specifically:

- 1) The proposed driveway is within 15 metres of the junction from Dalkeith Road in to Priestfield Road;
- 2) The depth of the proposed driveway is less than 6 metres.
- 3) The width of the driveway entrance is greater than 3 metres.

Greg McDougall

**TRANSPORT
Greg McDougall
Senior Transport Officer**

MEMORANDUM

To: Planning Officer
Blair Burnett

From: Transport
Greg McDougall

Our Ref: 24/00043/FUL

**24/00043/FUL
145 DALKEITH ROAD
EDINBURGH
EH16 5HQ**

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The distance from the proposed driveway to the first white line of the junction is around 10 metres so the application should be refused due to the road safety concerns raised..
Greg McDougall

TRANSPORT
Greg McDougall
Senior Transport Officer

Comments for Planning Application 24/00043/FUL

Application Summary

Application Number: 24/00043/FUL

Address: 145 Dalkeith Road Edinburgh EH16 5HQ

Proposal: Form new driveway.

Case Officer: Householder Team

Customer Details

Name: Mr Ian Anderson

Address: 147/3 Dalkeith Road Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This land does not belong exclusively to 145 Dalkeith Road, so while we do not object to the notion of it being developed or used in a different way, any such change would need to be agreed by all of the owners of these tenements. As this has not yet happened, I must object to the proposal.

According to Land Registry of Scotland Title Number MID129316, ownership of my flat, like that of all the flats in the tenement 145 to 149 (odd numbers) Dalkeith Road includes "a right in common with the other proprietors of said tenement to the solum on which the said tenement is erected, plot of ground in front, at north side, and at the back thereof." The map in the Land Register clearly includes the area relating to this planning application.