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EH15 1PD

**Decision date: 13 May 2024**

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

Demolish existing conservatory and construction new flat roof extension to rear connecting with existing outshoot extension. New attic conversion with roof light balcony to rear and new front elevation roof lights.  
At 28 Durham Road Edinburgh EH15 1PD

**Application No: 24/00709/FUL**

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 14 February 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 the proposed roof terrace would have a detrimental effect on the character of the home and surrounding area; would not be acceptable in terms of size and design; and would have a detrimental effect on neighbouring properties.

2. The proposal does not comply with LDP policy Des 12 as the proposed roof terrace would not be acceptable in terms of scale, form, design; and would have an unacceptable impact on neighbouring amenity.

3. The proposal does not comply with the Guidance for Householders as the height and positioning of the roof terrace would introduce significant overlooking to neighbouring gardens and would therefore have an adverse impact on the privacy of the neighbouring properties.

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

Drawings 01 - 10, 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 are not in accordance with the Development Plan. The works to create a roof terrace are not compatible with the existing dwelling and surrounding neighbourhood character, and will result in an unreasonable loss of neighbouring amenity. The works are considered to provide due regard to global climate and nature crisis, but there are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is unacceptable and it is recommended the proposal should be refused.

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](mailto: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](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  
28 Durham Road, Edinburgh, EH15 1PD**

**Proposal: Demolish existing conservatory and construction new flat roof extension to rear connecting with existing outshoot extension. New attic conversion with roof light balcony to rear and new front elevation roof lights.**

**Item – Local Delegated Decision  
Application Number – 24/00709/FUL  
Ward – B17 - Portobello/Craigmillar**

## **Recommendation**

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

## **Summary**

The proposed works to the dwelling are not in accordance with the Development Plan. The works to create a roof terrace are not compatible with the existing dwelling and surrounding neighbourhood character, and will result in an unreasonable loss of neighbouring amenity. The works are considered to provide due regard to global climate and nature crisis, but there are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is unacceptable and it is recommended the proposal should be refused.

## **SECTION A – Application Background**

### **Site Description**

The application refers to a semi-detached bungalow with a single storey rear extension.

### **Description Of The Proposal**

It is proposed for the addition of a new rear extension, a rear first floor roof terrace; rooflights, small rear decking, and internal alterations.

### **Permitted Development & Not Development**

Consideration as part of the assessment of the application is limited to the rear extension and first floor roof terrace given that the other works are either not development or are permitted development. This means they could be carried out without the need for an application for planning permission.

### **Supporting Information**

- Site and outlook images

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

Neighbouring property with roof terrace:

07/04678/FUL

Attic conversion to form two bedrooms with en-suite, with velux windows to roof.

4 Durham Square

Edinburgh

EH15 1PS

Granted

14 Dec 2007

### **Consultation Engagement**

No consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 13 May 2024

**Date of Advertisement:** Not Applicable

**Date of Site Notice:** Not Applicable

**Number of Contributors:** 2

## **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 NPF4 policies 1 and 16g, and LDP policies Des 1 and Des 12.

### 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.

The proposed rear extension is not of a scale which would overwhelm the original dwellinghouse. The extension is a suitable scale, form and design which is compatible with the existing dwelling and the surrounding area.

In considering the roof terrace, the Guidance for Householders notes that permission will not be granted for roof terraces where there is significant overlooking due to positioning and height. In this instance, the roof terrace positioning and height will introduce an unacceptable level of overlooking, and as such the scale, form and design is unsuitable within this context, as assessed below.

It is noted one property within the neighbourhood has been granted permission for a roof terrace in 2007. The Guidance for Householders notes that development granted permission in the past, but which does not comply with current guidelines, should not be taken as setting a form of precedent and should not be used as examples to follow.

The roof terrace represents an unacceptable scale, form and design which is not compatible with the host property or the character of the surrounding neighbourhood. A revised scheme which removed the roof terrace was discussed, but an acceptable amendment was never formally submitted.

On balance, the proposal as a whole 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

Policy 16g)i) of National Planning Framework 4 states development will be supported where they do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking. Policy Des 12b) and c) of the Edinburgh Local Development Plan states that planning permission will be granted for alterations and extensions to existing buildings which will not result in an unreasonable loss of privacy or natural light to neighbouring properties; and will not be detrimental to neighbourhood 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 Guidance for Householders evaluates privacy as both the internal privacy of a property and external privacy of the garden ground. Internal privacy is assessed by window placement and quantifying the minimum distance required to a neighbouring window. External privacy is assessed by considering the opportunity to overlook into a neighbouring garden which may present a detrimental impact on their private garden amenity.

With respect to the rear extension, the windows and doors are at ground level and would be suitably screened by the boundary treatment. This will not introduce a new internal or external privacy impact to neighbouring properties.

In considering the roof terrace, this would exceed the 18 meter distance required between windows, however, the Guidance for Householders states that roof terraces which are close to boundaries and overlook neighbouring properties can be a major source of noise and privacy intrusion. It states that permission will not be granted for roof terraces where there is significant overlooking.

The height, orientation, and position of the roof terrace would allow for unrestricted overlooking to the neighbouring gardens to the north, west, and south resulting in a loss of privacy to neighbouring gardens.

Options to mitigate overlooking were considered. The addition of a privacy screen is plausible to the north and south but would be generally unachievable and impractical to the west due to the position and design of the roof terrace. Therefore, in considering the proposal as submitted, the roof terrace will introduce an unacceptable level of overlooking at the detriment of neighbouring amenity.

The proposals do not result in any physical impact, overshadowing, loss of daylight or sunlight. However, the roof terrace will result in significant overlooking which is an unreasonable loss to neighbouring amenity. The proposal as a whole does not comply with NPF 4 policy 16g)ii), LDP Policy Des 12b) and c), and the Non-Statutory Guidance for Householders.

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

The proposals have due regard to global climate and nature crisis. The proposed roof terrace is not an acceptable scale, form, and design and is not compatible with both the existing building and neighbourhood character. The proposed roof terrace will result in an unreasonable loss of neighbouring amenity. Therefore, the proposals 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 5 April 2024 the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the proposed modifications have been fully considered.

##### 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 support and one objection has been received, summarised as:



### *material considerations*

Concern for character of the dwellinghouse and surrounding area - Addressed in section a) above.

Concern for overdevelopment - Addressed in section a) above.

Impact on privacy and from overlooking - Addressed in section a) above.

### *non-material considerations*

Concern for the rooflights windows - This is a non-material planning consideration as these elements are permitted development.

Impact from residential noise - This is a non-material planning consideration as the planning authority cannot control the use of private residential space or prejudice an application based on potential use. Should a noise disturbance be reported then there are statutory provisions in order to mitigate these concerns under the Environmental Protection Act 1990.

Concern for permitted development criteria - This is a non-material planning consideration as the permitted development criteria is not a requirement for planning permission.

### **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 are not in accordance with the Development Plan. The works to create a roof terrace are not compatible with the existing dwelling and surrounding neighbourhood character, and will result in an unreasonable loss of neighbouring amenity. The works are considered to provide due regard to global climate and nature crisis, but there are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is unacceptable and it is recommended the proposal should be 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 the proposed roof terrace would have a detrimental effect on the character of the home and surrounding area; would not be acceptable in terms of size and design; and would have a detrimental effect on neighbouring properties.

2. The proposal does not comply with LDP policy Des 12 as the proposed roof terrace would not be acceptable in terms of scale, form, design; and would have an unacceptable impact on neighbouring amenity.

3. The proposal does not comply with the Guidance for Householders as the height and positioning of the roof terrace would introduce significant overlooking to neighbouring gardens and would therefore have an adverse impact on the privacy of the neighbouring properties.

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

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

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

**Date Registered: 14 February 2024**

### **Drawing Numbers/Scheme**

01 - 10

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](mailto:blair.burnett@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: Blair Burnett

Date: 9 May 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): Annmaree Marwick

Date: 12 May 2024