Report of Handling - draft draft draft

Application for Planning Permission
Land 10 Metres East Of 45 Ashburnham Loan, South Queensferry, ,

Proposal: Change of use of open space land to private garden ground with the installation of a boundary fence.

Item – Local Delegated Decision
Application Number – 25/02345/FUL
Ward – B01 - Almond

Recommendation

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

Summary

The proposals fail to accord with the Development Plan and are unacceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposed works fail to preserve or enhance the character and appearance of the conservation area. There are no material considerations which indicate that the proposals should be granted.

SECTION A – Application Background

Site Description

The site currently comprises an area of open ground which runs between the rear garden boundary of an existing dwelling at 45 Ashburnham Loan and a public footpath footpath which runs between Station Road and the back braes footpaths.

The site lies in the Queensferry Conservation Area.

Description of the Proposals

The proposals are for a change of this open space to private garden ground associated with 45 Ashburnham Loan, and the erection of a new fence around the perimeter of the enlarged garden. The fence will be formed in timber and 1.8m high.

Relevant Site History

No relevant site history.

Other Relevant Site History

25/02803/FUL - Land 15 Metres West Of 24 Ashburnham Loan Change of use of open space to private garden ground and erection of an enclosing fence – pending consideration

25/01659/ADV - Proposed Advertising Hoarding 30 Metres South Of 1 Ashburnham Loan - Digital sign with two posts in ground. Refused

24/02283/TCO - 6 Ash trees with dieback, remove trees. 4 Cypress, reduce height of tall ones by 1-3m to match lower ones. Granted 13/06/2024

22/00358/FUL - The development of a Forth Bridge Walk Reception Hub building; new sections of bridge access system; new viewing platforms; alterations to Dalmeny Battery; demolition of 2 No. outbuildings; associated car parking; landscaping; servicing and alterations to existing vehicular and pedestrian accesses. Granted.

Pre-Application process

Consultation Engagement
No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 13 May 2025
Date of Advertisement: 23 May 2025
Date of Site Notice: 23 May 2025
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 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) & City Plan 2030 (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 character or appearance of the conservation area?

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

- Managing Change: Conservation Areas

The Queensferry Conservation Area Character Appraisal emphasises the importance of the medieval core, the settlement pattern of stone built houses with their lang riggs, and the strong Scots vernacular character of the architecture

The area of open space is currently visible, and accessible in part from an existing well used public footpath. The proposals would result in the enclosure of this area of open space with a new section of fence formed hard up against the existing footpath. This woods are mainly self seeded and natural planting, the erection of a boundary fence around a small section would affect the character of this route in the conservation area.

Conclusion in relation to the conservation area

The proposed works will fail to preserve or enhance the special character and appearance of the conservation area. The proposals are not acceptable 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 relevant development policies to be considered are:

- LDP Policies Env 1, Env 23, Env 33
- NPF 4 Policies 16

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration.

Principle

Although the site is part of a wider network of open space it is not formally designated as Open Space in the LDP. LDP policy Env 23 (Protection of Open Space) applies to all open spaces, designated or not, and lists five criteria which should be met before the loss of open space will be permitted. The proposals are not for a community purpose and there will not be any offset open space provided. However, it is acknowledged that the affected area of open space is relatively small in relation to the wider network.

The applicant has noted in their supporting statement that the works will assist in delineating boundaries when there is a change to the existing path layout adjoining the open space. Planning application 22/00358/FUL granted consent for various works to form a new hub at the railway bridge and included re-routing the existing footpath to reach the hub which would move it away from the existing route further east. However, although this application remains live, the works have not yet commenced. If the consent were to lapse, and the footpath remain in its existing position, the proposals would have an adverse impact on the existing woodland and scrub character of this section of the public path.

[redacted].

Design and Material

Although the use of a timber fence to delineate the enlarged ground is acceptable in terms of the principle of the design and material. For the reasons given above, the erection of a fence around this open space would have an adverse impact of the character of the public footpath. For this reason the proposals fail to comply with LDP policy Env 1 (Design, Quality and Context).

Neighbouring Amenity

With respect to privacy, overlooking, physical impact, overshadowing and loss of daylight or sunlight, the proposals will not result in any unreasonable loss to neighbouring amenity.

In this regard the proposals comply with NPF 4 Policy 16 (Quality Homes) and LDP Policy Env 33 (Amenity).

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

The following material planning considerations have been identified:

Equalities and human rights

Due regard has been given to section 149 of the Equality 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 representations submitted.

Overall conclusion

The proposals fail to accord with the Development Plan and are unacceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposed works fail to preserve or enhance the character and appearance of the conservation area. There are no material considerations which indicate that the proposals should be granted.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

Reasons

1. The proposals fail to have regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as they would not preserve or enhance the character and appearance of the conservation area.

2. The proposals fail to comply with LDP policy Env 23 (Protection of Open Space) as there would be an adverse impact on the character of the local environment.

3. The proposals fail to comply with LDP policy Des 1 (Design Quality and Context) as they do not draw upon positive characteristics of the surrounding area

Background Reading/External References

To view details of the application go to the Planning Portal

Further Information - Local Development Plan

Date Registered: 12 May 2025

Drawing Numbers/Scheme

01-03

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Rachel Webster, Planning Officer
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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: Rachel Webster

Date: 1 August 2025

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):

Date: