



TABLED ITEM

ITEM No. 11

SCOTTISH EXECUTIVE

Development Department
Inquiry Reporters Unit

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Our ref: P/PPA/230/712

5 July 2005

Dear Sir

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4
PLANNING APPEAL BY MR A BARCLAY: PROPOSED ERECTION OF GARAGE AND STUDIO AT 42 STAPELEY AVENUE, EDINBURGH**

1. I refer to your client's appeal, which I have been appointed to determine, against the refusal of planning permission by City of Edinburgh Council for the erection of a garage with studio over at the above address. I have considered the written submissions and made an accompanied inspection of the appeal site and the surrounding area on 10 May 2005.
2. The appeal site is the garden of 42 Stapeley Avenue, which occupies a corner plot at the junction with Nantwich Drive. The plot is some 18m by 36m, with the house at the northern end fronting onto the avenue, but the plot length being along the drive. The house, originally a modest hipped roof bungalow, was being significantly extended, with roof accommodation lit by dormer and velux windows. At the south end of the plot foundations were being prepared for a double garage, about 1m lower than the house, facing an access onto the drive. A red brick wall 1.8m high had also been constructed along the drive boundary and an internal wall dividing the main garden from the garage was under construction. The general area is residential, with a variety of housing types.
3. The application for planning permission proposes the construction of a rendered double garage 7.42m by 6.43m with a small extension at the back, appearing to form storage, adding 1.415m to the depth. There would be twin up and over doors at the front. A steeply pitched, gabled, slated roof would have twin pitched dormers at the front and contain studio accommodation, accessed by a side door and internal stair. The overall height would be 5.7m. There would be parking space for two cars side by side in front of the garage, with access from Nantwich Drive.
4. Planning permission was refused because, in summary: the proposal is contrary to the local plan policy on the design of new development, being the size and form of a small dwelling house, and thus detrimental to the character of the area; and to the non-statutory guidelines on house extensions as it would reduce the open garden area to 6.3m, to the detriment of residential amenity.

Summary of cases

5. **In support of your client's appeal** you say that the general character of the area consists of one and one-and-a-half storey dwellings interspersed with a number of two story ones. A single garage formerly stood on the appeal site. A 2002 planning permission for the extension of the house included a double garage with the same footprint as that now proposed, and a height of 4.5m. The house is being extended under a different, 2003, permission that included a garage 7.4m by 5.4m. The first floor would be occupied by your client's wife as an '*artist's studio*' (your emphasis).

6. North-East Edinburgh Local Plan (adopted 1998) policy E25, the Design of New Development – General states that the council will promote high standards of design for all development and its careful integration with its surroundings regarding scale, form, siting, alignment and materials. Policy E26 Quality of New Development states, among other things, that it should make a positive contribution to the overall quality of the environment and street scene. You consider that the proposed design is in keeping with the character of other properties in the wider area and with the existing dwelling house, particularly the slated roof and dormers with rendered walls, and would therefore comply with both policies.

7. The council's non-statutory guidelines on Daylighting Privacy and Sunlight and House Extensions are relevant. The overall height would be some 2.5m lower than the house, and 2.0m lower than the adjacent house to the south at 3 Nantwich Drive. Permitted development rights would allow the erection of a garage with a similar footprint provided it is more than 5m from the house and less than 4m in height. There would be a gable to gable relationship to No. 3, and the distance to the house to the west means that there would not be any significant overshadowing. There would be no privacy issues.

8. The extension guidelines require the retention of a 9m garden to the rear of the house to retain a satisfactory level of private usable garden space, following a property enlargement. The 4.8m retained between the garage and the house, not the 6.3m stated by the council, would be less than this but counteracted by the corner location, leaving some 180m² of private garden ground. This would be more than ample for your client and potential future occupiers.

9. Your client does not accept that the policy contravenes policy E25 given the size of property that could be built using permitted development rights. The proposal is also for a studio, not a house, and there is no intention of changing the proposed use.

10. **The council** acknowledges that 4.8m is the correct distance between the house and the proposed garage, but otherwise rests on the committee report stamped 2 February 2005. It notes that the 2002 planning permission was not implemented because of the presence of a major sewer, necessitating modification of the plans. That permission allowed for a single storey double garage reduced in size from a proposed 7.7m width to 5.4m because of concerns about residential amenity and the impact on the character of the area.

11. The appeal proposal would compete in size with the adjacent No. 3. Although the floor level would be reduced the building would still have the size, form, and mass of a small dwelling house. This would be to the detriment of and alter the prevailing spatial character of this low-density residential area, and would not accord with the development plan. There would be no overshadowing or privacy issues.

12. **The occupiers** of two neighbouring properties objected on grounds relating to the scale and size of the development.

CONCLUSIONS

13. Section 25 of the Act requires the determination in this case to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. The only development plan provisions drawn to my attention are local plan policies E25 and E26. The council's non-statutory guidelines on house extensions and daylighting, privacy and sunlight are material considerations. I consider, based on my inspection of the appeal site and the written submissions, that the issues to be determined are whether the proposal is consistent with the relevant provisions of the development plan and, if not, whether an exception to these provisions is justified by other material considerations.

14. Local plan policy E25 is a general policy seeking high standards of design, and careful integration with surroundings. Taken in isolation the design of the proposed garage is perfectly satisfactory, taking a functional form and with traditional style dormers and good quality finishing materials. This comment does not, however, take into account the circumstances of the site location. The majority of the buildings in the area are understated bungalows, with relatively low pitched hipped roofs, of which relatively few have dormer extensions. Whilst this could no doubt change, the house on the appeal site has been substantially altered in its appearance, with a large rear extension, a further extension to the side, and three new dormers at ridge height level. This not only gives the building a very powerful presence on the site, it makes it much larger, and therefore potentially out of scale, with the surrounding properties.

15. Whilst this is mitigated to some extent by careful detailing, and the use of hipped roofs, the same cannot be said of the garage in relation to its site circumstances. The size of the extended house means that the area of remaining garden ground at the rear is restricted, and the garage as proposed would be a dominant visual presence on this, and thus out of keeping with the character of the area. The latter point is compounded by the use of gables rather than hips on the roof, which apart from being out of keeping with the immediately surrounding properties, also set it apart in giving it unnecessary bulk, which would not be satisfactorily disguised by the lowering of the ground level. It would therefore be contrary to policy E25 in terms of its scale and form.

16. These same arguments and reasoning apply in terms of policy E26, and mean that the proposal would not make a positive contribution to the environment and the street scene. Taking the two policies together, the proposal does not accord with the development plan.

17. Although non-statutory, the guidelines are a helpful statement of council policy on matters of detail and carry considerable weight. Your client has acknowledged the council's concerns about the lack of space between the house and the proposed garage. Although the site is a corner plot, and thus of considerable size, the result of the scale of the house and the nature of the extensions is that the garden is broken up into small areas, so that the amount of effective garden ground is relatively low compared with the size of the overall plot. I do not therefore consider that the proposal complies with either the word or the spirit of the guidelines.

18. There would be adequate distances to prevent overlooking or overshadowing, and I accept the council's views that these would not present any problems. You also referred to permitted development rights, but these would not permit the construction of the building proposed. Matters raised by other objectors have already been dealt with.

19. Taking the material considerations together, I find that they do not justify the granting of planning permission for a proposal that does not accord with the development plan.

20. I have taken account of all the other matters raised but find none that outweigh the considerations on which my decision is based. In exercise of the powers delegated to me I therefore dismiss your client's appeal and refuse to grant planning permission for the development proposed in the application to the City of Edinburgh Council dated 2 September 2004, council reference 04/03319/FUL, at the above address.

21. This decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997. On any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

22. A copy of this letter has been sent to City of Edinburgh Council and to those who made representations.

Yours faithfully

This is the version sent to parties on 5 July 2005.

Trevor A Croft
Reporter