

# Development Management Sub Committee

Wednesday 7 December 2016

**Application for Planning Permission 16/04449/FUL  
At 127 Trinity Road, Edinburgh, EH5 3LB  
Variation to permission ref: 15/01788/FUL. Modification to  
the design of five houses.**

<b>Item number</b>	4.8
<b>Report number</b>	
<b>Wards</b>	A04 - Forth

## Summary

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The proposal complies with the development plan. The proposal is acceptable in this location will enhance the character and appearance of the conservation area and will have no detrimental impact on the setting of listed buildings, residential amenity, and traffic and road safety.

## Links

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<a href="#"><u>Policies and guidance for this application</u></a>	NSG, NSLBCA, NSGD02, OTH, CRPTRI, LDPP, LDEL01, LDES01, LDES04, LDES05, LDES08, LEN03, LEN06, LEN12, LEN21, LEN22, LHOU01, LHOU03, LHOU04, LTRA02, LTRA04, LRS01,
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# Report

## **Application for Planning Permission 16/04449/FUL At 127 Trinity Road, Edinburgh, EH5 3LB Variation to permission ref: 15/01788/FUL. Modification to the design of five houses.**

### **Recommendations**

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1.1 It is recommended that this application be Granted subject to the details below.

### **Background**

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#### **2.1 Site description**

The application site is a backland site at the end of an unadopted lane accessed from Trinity Road. It is an area of land that lies to the west of Trinity Road, to the north of Primrose Bank Road and to the south of Lower Granton Road. There is a considerable height difference between Lower Granton Road and Primrose Bank Road and there is a high retaining wall to the north of the site at the boundary with the gardens of the tenements of Lower Granton Road. The site is currently occupied by a car repair garage which is housed in a large steel framed shed with fibre cement cladding and a pitched roof. The unadopted lane also serves two terraced houses that are located on the north side of the lane close to the entrance from Trinity Road. There are some trees on the site.

The application site, which includes the lane, is 1350 sqm in area, of which the garage currently occupies 475 sqm. The current building varies between 5.8 m and 8.3 m high.

The surrounding area is almost entirely residential with semi-detached and detached villas to the south, terraced villas on Trinity Road to the east and tenements stretching from the north corner of the lane around the corner onto Lower Granton Road.

This application site is located within the Trinity Conservation Area.

#### **2.2 Site History**

13 April 2015 - Application withdrawn for the demolition of existing garage building and the development of five new houses with associated retaining walls. (application reference: 14/05066/FUL).

06 August 2015 - Planning permission refused for the demolition of existing garage building and the development of five new houses with associated retaining walls (application reference: 15/01788/FUL). The application was refused by Development Management sub-Committee on the grounds of its impact on the character and appearance of the conservation area and the scale, massing, height and form of the proposed development.

04 July 2016 - Appeal allowed for the above planning application. Scottish Ministers concluded that the development would have a positive impact on the setting of the development site, that the scale, massing, form and height of the proposed development to be acceptable and that the proposed development would preserve and enhance the character and appearance of the Trinity Conservation Area. (appeal reference: PPA-230-2163).

27 October 2016 -Conservation Area Consent granted to demolish the existing building with exception of the south wall. (application reference: 14/05070/CON).

## **Main report**

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### **3.1 Description Of The Proposal**

This application follows the previous application (application reference: 15/01788/FUL) that was upheld when appealed and seeks to vary the permission to build five dwellings in the following ways:

- The roof parapet height of the dwellings will be raised by 0.46 m, going from a height of 27.97 m to 28.43 m. The applicant has stated that this is due to an error on the consented drawings which incorrectly noted the proposed height;
- The proposed internal layouts have changed, with houses 4 and 5 having the living spaces on the first & second floors, and the bedrooms on ground & lower ground floors. Minor rearrangements of windows and doors have been made to reflect these changes;
- On the north boundary of the site, it is proposed to build a gabion retaining wall (welded wire cages encasing selected stones) in lieu of the consented split face block. The gabion wall will be more porous than the block and can provide the mass required in a retaining wall without causing water to back up;
- On the south boundary of the site, it is proposed to delete some of the fencing placed on top of the retaining wall and instead to build up the wall in natural stone; and
- Air source heat pumps (ASHPs) are to be added in the private gardens to the south of dwellings 1, 2, and 3. For dwellings 4 and 5 ASHPs will be located at roof terrace level. Additional solar panels are located on the roofs of all the dwellings.

### **Supporting Documents**

As part of this application the following documents have been submitted which are available to view on Planning and Building Standard's Online Services:

- Supporting Statement;
- Drainage and Surface Water Management;
- Daylighting, Sunlight and Privacy Study;
- Lane Study; and
- Heat Pump Information.

### 3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of permission.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

### 3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) the principle of the development is acceptable in this location;
- b) the proposals will preserve or enhance the conservation area;
- c) the proposals will impact on the setting of listed buildings;
- d) the proposals are of an appropriate scale, form, and design;
- e) the proposals will result in an unreasonable level of neighbouring residential amenity;
- f) the proposals will result in an adequate level of amenity for the future occupiers of the development;
- g) the proposals will have any traffic or road safety issues;
- h) the proposals will have any other environmental impacts;
- i) any impacts of equalities and human rights have been addressed; and
- j) any comments raised have been addressed.

#### a) The Acceptability of the Principle of the Development in this Location

The principle of the development of five dwellings in this location has already been established by the successful appeal of the previous application (application reference: 15/01788/FUL). The current application to build the development 0.46m higher, with some other amendments is not sufficiently different for an alternative assessment of the acceptability of the principle of five dwellings on this site to be reached.

The existing garage use is one that has co-existed with the residential uses in this area for a number of years but is not one that can be considered compatible with the residential character of the area. Neighbours have commented that the garage use has raised problems with noise, car movements on the lane and road safety. A residential use on this site would be more compatible with the area.

Subject to complying with criteria assessed below, the principle of the proposed development in this location is acceptable.

#### b) The Impact on the Character and Appearance of the Conservation Area

The Trinity Conservation Area Character Appraisal notes the "predominance of residential use" in the area and the "variety of architectural styles that contribute to the overall character".

The existing garage is large, bulky and clad in fibre cement. It is not an attractive feature in a conservation area that is characterised by residential uses and stone built terraces and villas. The loss of the garage (already consented in application 14/05070/CON) will enhance the conservation area. The application site is not on a road and is only accessed up a short lane. The proposals will have no public presence and will not be readily viewed from any streets, although it will be able to be viewed from the rear of the Lower Granton Road tenements and the properties on the north side of Primrose Bank Road. As a backland development it does not fit within the prevailing urban grain. The fact that its form and materials are unlike the rest of the conservation area is not readily apparent from the street and does not adversely affect the character or appearance of the conservation area. The materials, an off-white brick and areas of timber, and the design, are not characteristic of the conservation area, however in this situation are part of a contemporary intervention that is appropriate in this concealed location.

The current application proposes a stone filled gabion wall instead of the approved split face block. The wire cages will be filled with natural stone which will be an appropriate material within the conservation area.

The character and appearance of the conservation area will be enhanced.

#### c) The Impact on the Setting of the Listed Buildings

The location of new development is such that it will not affect the setting of the listed buildings on Trinity Road which are on the east side of the street. There are no listed buildings in the vicinity to be impacted by the development.

#### d) Scale, Form and Design

The application is for five terraced houses at the end of this lane in place of the existing garage. The roof profile of the terrace is irregular along the length of the terrace varying between two and three storeys high, with an additional basement storey at garden level on the north. The current application would have the proposals rise up approximately 2.36 m above the height of the existing ridge of the garage as opposed to 1.9 m in the consented scheme, but will intermittently drop down at each individual house to be below the height of the existing building. The height of the other two, two storey houses in the lane are approximately the same height as the garage. The increased height of the proposed dwellings will not have a significant impact on their perceived mass.

In other respects, the design and form of the dwellings are unchanged from the consented scheme and represent an appropriate level of density for the height. Likewise, the principle of the design and materials of the scheme has been established.

The scale, form and design of the proposals are acceptable.

#### e) Neighbouring Amenity

There is a significant distance between the new dwellings and the existing tenements. There will be 23m between buildings to the north and the distance to the closest villa on Primrose Bank Road is 35m. This complies with non-statutory guidance on minimum privacy distances.

The agent has submitted a Daylighting, Sunlight and Privacy Study. The applicant has indicated that this is the same as that submitted in the previous application as the study used the correct heights whilst the drawings in the previous application incorrectly marked the proposed parapet height for the new development.

The study shows the change to the amount of daylight received to each window to the rear of the tenements is no greater than 20% and within acceptable parameters outlined in the Non-statutory Edinburgh Design Guidance.

The existing building on top of the steeply sloping site, already casts a significant shadow on the rear gardens of the tenement. The new build will have a slightly worsening effect although the gardens will still receive daylight to 50% of their area for more than 3 hours during the spring equinox and therefore the change is within acceptable limits.

It is proposed to introduce air source heat pumps (ASHPs). Three of these are to be in gardens and two at roof terrace level. The applicant has provided information that indicates that the ASHPs proposed would be classed as permitted development.

The arrangements for waste collection have not altered from the previous application. Rubbish is to be stored on site in individual wheelie bins. These are to be wheeled down to Trinity Road on pick up days. The presence of additional wheelie bins on Trinity Road should not impact on either car parking, as they will be on the pavement, or cause rubbish on the street, as they are relatively secure and unlikely to tip.

There will be no detrimental impact on residential amenity.

f) Amenity of Future Occupiers

The gardens of the proposed development are north facing and sloping and will not receive the level of sunlight that is desirable in new developments. In this matter, the proposals do not comply with guidance. It is understood that not all developments can have south facing exposure and the infringement of guidance in this instance is acceptable.

The level of amenity for future occupiers is acceptable.

g) Traffic or Road Safety Issues

The arrangements for access and parking have not altered from the previous application.

In terms of road safety, the works would require the approval of Road Construction Consent. An informative is added to ensure that the applicant is aware that Road Construction Consent will need to be applied for. Any planning permission would be subject to the conclusion of a suitable legal agreement to provide costs towards upgrading the road and to introduce loading and waiting restrictions.

The garages proposed are small and may not accommodate large cars. However it is possible to park on the lane to the front of the properties. The applicant has submitted a 'Lane Analysis' to indicate that this development will be similar to mews properties in their dimensions and that external parking can be accommodated. Parking for existing residents on Trinity Road cannot be safeguarded. Transport does not object on these grounds.

There will be no adverse impact on traffic and road safety.

h) Environmental Impacts

The applicant has submitted sufficient information to demonstrate that the proposals do not cause an additional flood risk.

The development necessitates the removal of some sycamores that do not contribute to character of the wider conservation area. Subject to attached conditions relating to landscaping, this aspect of the proposals is acceptable. The level of impact on trees is acceptable.

The nature of the existing steel framed structure clad in fibre cement is unlikely to attract bat roosts and no further investigation for bats was requested. No protected species are identified as being potentially threatened by this development however a condition is added to ensure that no vegetation is removed during the bird nesting season. The development presents opportunities for swift boxes and this is noted as an informative. There will be no adverse impact on wildlife and biodiversity.

Because of the previous use of the site as a garage, a condition is added to request an investigation as to whether the soil is contaminated and to suggest and carry out any remediation measures required.

## i) Equalities and Human Rights Issues

All properties must comply with Building Regulations in terms of providing for accessibility. However as the dwellings are spread over four levels they will not be fully accessible. An Equalities and Human Rights Assessment has been completed.

## j) Public Comments

### **Material representations - objections:**

- Overdevelopment - assessed in section 3.3.a). The principle of a development of five houses in this location has already been accepted by the appeal of the previous application.
- Impact on the conservation area - assessed in section 3.3.b). The gabion wall is filled with natural stone and is an acceptable material in this location.
- Design, scale and form - assessed in section 3.3.d). The increased height does not significantly change the design and scales of the proposals that have already been approved.
- Residential amenity - assessed in section 3.3.e). There is no change from the previous application.
- Traffic, road safety and parking - assessed in section 3.3.f). There is no change from the previous application.

### **Material representations - support:**

- The principle of the use - the existing garage use is not appropriate in a residential area.
- The existing garage creates issues of noise.
- The existing garage creates issues of road safety.

### **Community Council - objections:**

The Trinity Community Council objects to the proposals on the following material grounds:

- Overdevelopment - assessed in section 3.3.a). The principle of a development of five houses in this location has already been accepted by the appeal of the previous application.
- Visual impact of gabion wall - assessed in section 3.3.c).
- Height - assessed in section 3.3.d).
- Access lane not suitable - assessed in section 3.3.f).
- Refuse collection arrangements not adequate - assessed in section 3.3.e).
- Soil contamination - a condition is added to test for contamination and to do any remediation measures necessary.
- Loss of trees - assessed in section 3.3.h).

The Community Council had a non-material objection that related to ground stability. This is assessed during the process of applying for a building warrant.

## Conclusion

In conclusion, the proposal complies with the development plan. The proposal is acceptable in this location will enhance the character and appearance of the conservation area and will have no detrimental impact on the setting of listed buildings, residential amenity, traffic and road safety. There are no other considerations which outweigh this conclusion and approval is recommended.

The recommendation is subject to conditions on landscaping, materials, contaminated land and the conclusion of a legal agreement for a contribution towards road work.

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

### **3.4 Conditions/reasons/informatives**

#### **Conditions:-**

1. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.
2. Prior to the commencement of construction works on site:
  - (a) A site survey (including initial desk study as a minimum) must be carried out to establish to the satisfaction of the Head of Planning, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and
  - (b) Where necessary, a detailed schedule of any remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Head of Planning.

Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the satisfaction of the Head of Planning.

3. Before any works start on site, a scheme of landscaping indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted, and the extent and profile of any areas of level changes, shall be submitted for approval in writing by the Planning Authority. The scheme as approved shall be implemented within the first planting season following the date of this consent.
4. No tree works or scrub clearance shall occur on site from 1st March through to 31st August each year.

#### **Reasons:-**

1. In order to enable the planning authority to consider this/these matter/s in detail.

2. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.
3. In the interests of visual amenity and to ensure a satisfactory standard of local environmental quality.
4. In order to avoid disturbance during bird breeding seasons.

### **Informatives**

It should be noted that:

1. Consent shall not be issued until a suitable legal agreement, including those requiring a financial contribution payable to the City of Edinburgh Council has been concluded in relation to:
  - a. The sum of £2,000 to introduce suitable waiting and loading restrictions;
  - b. The sum of £2,000 to redetermine sections of footway as carriageway as necessary;

The legal agreement should be concluded within six months of the date of this notice. If not concluded within the six month period, a report will be put to committee with the likely recommendation that the application be refused.

2. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
3. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
4. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
5. All accesses must be open for use by the public in terms of the statutory definition of 'road' and require to be the subject of applications for road construction consent. Structural approval for the existing retaining wall will be required.
6. The applicant should be informed that prior to carrying out any works to the existing road, suitable consents must be applied for and secured.
7. The incorporation of swift nesting sites/swift bricks into the scheme is recommended. Further details on swift bricks can be found at [www.edinburgh.gov.uk/biodiversity](http://www.edinburgh.gov.uk/biodiversity).

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

The application is subject to a legal agreement for developer contributions.

## **Risk, Policy, compliance and governance impact**

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5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

## **Equalities impact**

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### **6.1 The equalities impact has been assessed as follows:**

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

## **Sustainability impact**

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### **7.1 The sustainability impact has been assessed as follows:**

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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### **8.1 Pre-Application Process**

Pre-application discussions took place on this application.

### **8.2 Publicity summary of representations and Community Council comments**

The application was advertised on 30 September 2016. In all there have been 28 letters of representation from neighbours and members of the public, and a letter each from the Trinity Community Council, and a local councillor.

There have been 23 letters of objection from neighbours and members of the public as well as the Trinity Community Council.

There have been three letters of support.

There has been one letter of comment from the local councillor and one letter of comment from a neighbour.

A full assessment of the representations can be found in the main report in the Assessment section.

## **Background reading/external references**

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- To view details of the application go to
- [Planning and Building Standards online services](#)

- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development  
Plan Provision**

The application site is within the Trinity Conservation Area and in the Urban Area of the Edinburgh City Local Plan.

**Date registered**

13 September 2016

**Drawing numbers/Scheme**

1-8,

Scheme 1

**John Bury**

Head of Planning & Transport  
PLACE  
City of Edinburgh Council

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**Links - Policies**

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**Relevant Policies:**

**Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

**Non-Statutory guidelines** Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings and landscape, in Edinburgh.

## **Other Relevant policy guidance**

The Trinity Conservation Area Character Appraisal emphasises the wealth of detached villas set in substantial plots with generous spacing to their neighbours, the high quality stone built architecture of restricted height, the predominant use of traditional building materials, and the predominance of residential use.

## **Relevant policies of the Local Development Plan.**

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) identifies the circumstances in which developer contributions will be required.

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

LDP Policy Des 8 (Public Realm and Landscape Design) sets criteria for assessing public realm and landscape design.

LDP Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Env 12 (Trees) sets out tree protection requirements for new development.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

LDP Policy Env 22 (Pollution and Air, Water and Soil Quality) sets criteria for assessing the impact of development on air, water and soil quality.

LDP Policy Hou 1 (Housing Development) sets criteria for assessing the principle of housing proposals.

LDP Policy Hou 3 (Private Green Space in Housing Development) sets out the requirements for the provision of private green space in housing development.

LDP Policy Hou 4 (Housing Density) sets out the factors to be taken into account in assessing density levels in new development.

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 4 (Design of Off-Street Car and Cycle Parking) sets criteria for assessing design of off-street car and cycle parking.

LDP Policy RS 1 (Sustainable Energy) sets criteria for assessing proposals for environmentally sustainable forms of energy systems.

# Appendix 1

## **Application for Planning Permission 16/04449/FUL At 127 Trinity Road, Edinburgh, EH5 3LB Variation to permission ref: 15/01788/FUL. Modification to the design of five houses.**

### **Consultations**

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#### **Transport**

*No objections to the application subject to the following being included as conditions or informatives as appropriate:*

- 1. All accesses must be open for use by the public in terms of the statutory definition of 'road' and require to be the subject of applications for road construction consent. Structural approval for the existing retaining wall will be required;*
- 2. Consent should not be issued until the applicant has entered into a suitable legal agreement to provide:
  - a. The sum of £2,000 to introduce suitable waiting and loading restrictions;*
  - b. The sum of £2,000 to redetermine sections of footway as carriageway as necessary;**
- 3. The applicant should be informed that prior to carrying out any works to the existing road, suitable consents must be applied for and secured.*

*Note:*

- o The applicant should be aware that the construction of the road is likely to impact on neighbouring property foundations.*
- o I note that the Scottish Fire Service has confirmed that they will be satisfied with the proposed road once the angle of the access has been satisfactorily altered to allow for fire appliances.*

#### **Environmental Assessment**

*The applicant proposes the demolition of an existing vehicle repair garage for replacement with residential dwellings, the design of which have been altered from the original application (15/01788/FUL). The site borders gardens of existing residential properties to all sides.*

*As this proposal will see the removal of a potentially noisy commercial use replaced with dwellings it can be viewed as a planning gain. However, due to the previous use of the site, a condition is recommended to ensure that potential contamination of the land is addressed.*

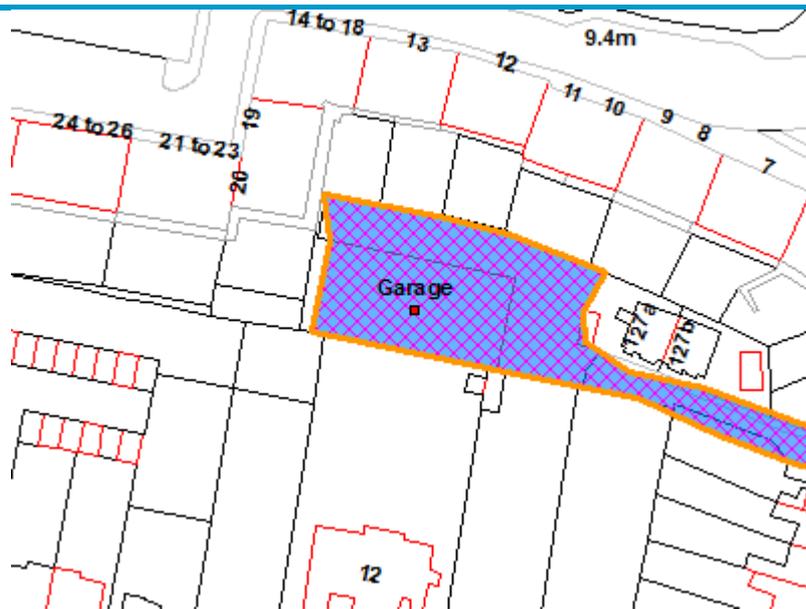
*Environmental Assessment has no objections to this development, subject to the following condition:*

Prior to the commencement of construction works on site:

- (a) A site survey (including initial desk study as a minimum) must be carried out to establish to the satisfaction of the Head of Planning, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and
- (b) Where necessary, a detailed schedule of any remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Head of Planning

Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the satisfaction of the Head of Planning.

## Location Plan



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**END**