

Appeal Decision Notice

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Decision by Richard Dent, a reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-290-2017
- Site address: land adjacent to 3 Eskview Villas, Eskbank, Dalkeith EH22 3BN
- Appeal by Mr C & Dr L Beattie against the failure to give a decision by Midlothian Council
- Application for planning permission, reference 12/00340/DPP, dated 28 May 2012
- The development proposed: garage, workshop and studio
- Application drawings: 1205(PA)01 – Proposed garage and studio – plan, elevations, site location; 1205(PA)02 – Sections, elevations as proposed.
- Date of site visit by reporter: 7 November 2012

Date of appeal decision: 14 November 2012

Decision

I allow the appeal and grant planning permission subject to the six conditions listed at the end of the decision notice. Attention is drawn to the three advisory notes following the conditions.

Reasoning

1. The site lies within the Eskbank and Ironmills Conservation Area and therefore, taking account of the provisions of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, the determining issue in this appeal is whether or not the proposal preserves or enhances the character or appearance of the conservation area. The assessment of the proposal must have regard to the terms of the development plan.

2. This part of the conservation area has an essentially residential character with numerous traditional stone and slate buildings. There are other uses, including a children's nursery, which is a modern building to the immediate west of the appeal site, and a care home. Opposite the appeal site, Eskbank House, 14 Glenesk Crescent, is a visually dominant detached property with substantial stone walls to the street frontages. A further high brick wall bounds the south side of Glenesk Crescent, running north-east from the appeal site.

3. The appeal site is private open space and forms part of the setting of the adjacent children's nursery. There are hedges to the Eskview Villas and Glenesk Crescent frontages but the site generally is overgrown and appears to be unmanaged. In my opinion, the

appeal site does not contribute greatly to either the setting of the children's nursery or the conservation area in general.

4. I have noted the terms of the report submitted to the council's planning committee and believe the assessment of planning issues identifies the relevant matters to be considered. In particular, I agree that the simple contemporary design of the proposal is acceptable. The proposed boundary walls reflect the character created by the existing nearby walls without undue domination.

5. As I have indicated, I do not consider the loss of this area of open space would be harmful to the character or appearance of the conservation area. A tree would be lost but a replacement is proposed as part of the development.

6. There is no conflict with the relevant policies of the Midlothian Local Plan 2008 and, in turn, this points to the granting of planning permission.

7. Having reached this conclusion, it is necessary to determine whether any material considerations suggest that planning permission should not be granted despite the provisions of the development plan. Several representations were made, all objecting to the proposal. I have regarded these representations as material considerations.

8. I have noted those representations objecting to the effect of the proposal on the character and appearance of the conservation area. However, in view of my assessment of the impact, I do not share this opinion. In recognition of the conservation area status, the council has suggested a condition requiring the boundary wall to be constructed in stone to relate to the boundary walls at Eskbank House. I agree that this requirement is appropriate within the conservation area. I also note the concerns expressed about traffic impact and parking but do not believe the development would have a significant effect on traffic levels or parking provision in the vicinity. A condition has been suggested by the council requiring the boundary wall along Eskbank Crescent to be set back to improve visibility at the junction with Eskbank Villas. This is also a reasonable requirement.

9. I have taken account of the other matters raised but, overall, no material considerations lead me to conclude that planning permission should not be granted. On this basis, I allow the appeal subject to conditions which relate closely to those suggested by the council.

Richard Dent
Reporter

Conditions

1. The garage, workshop and studio hereby permitted shall be used solely for domestic purposes incidental to the use of Eskbank House, 14 Glenesk Crescent, the house to which it relates.

Reason: *for the avoidance of doubt as to the extent of this permission and to safeguard the residential amenity of nearby property.*

2. Prior to the commencement of development, the following details shall be submitted to and approved in writing by the planning authority:

- (a) revised plans showing the proposed southern boundary wall and access to the development set back 1.4 metres from the kerb line of Glenesk Crescent;
- (b) a tree survey showing the precise location of the mature sycamore tree beyond the western boundary of the site along with a method statement to demonstrate that construction at that part of the site will ensure the protection of the tree;
- (c) samples of all external materials to be used;
- (d) details of the colours of the window frames, doors and gates;
- (e) details of the fascias of the building; and
- (f) a scheme of landscaping, including the treatment of all hard surfaces (including that between the relocated boundary wall and Glenesk Crescent) and the position and species of all existing and proposed planting on the site.

Development shall thereafter be carried out in accordance with the details approved or such alternatives as may be agreed in writing by the planning authority.

Reason: *in order to ensure an adequate visibility splay is provided for traffic emerging from Eskview Villas, in the interests of road safety, (a); in order to protect the mature tree adjacent to the site, (b); and in order to ensure the development is in keeping with the character and appearance of the conservation area, (c)- (f).*

3. The boundary wall shall be constructed using natural stone to match the colour, texture and coursing of the stone of the boundary of Eskbank House, 14 Glenesk Crescent. The approved boundary wall shall be constructed prior to the approved building being brought into use.

Reason: *in order to ensure that the appearance of the boundary wall does not detract from the character and appearance of the conservation area and to ensure the completion of development in total.*

4. The scheme of landscaping approved in accordance with condition 2(f) shall be carried out and completed within six months of the date on which work on the development begins. Any trees or shrubs removed, dying, severely damaged or seriously diseased within five years of planting shall be replaced in the following planting season by trees or shrubs of a size and species similar to those originally required.

Reason: *to ensure the approved landscaping is undertaken and is successfully established.*

5. A minimum of the first two metres of the driveway at the vehicle access point on Glenesk Crescent shall be surfaced in non-loose material.

Reason *in the interest of public safety to prevent loose material being carried onto the public highway*

6. Prior to the driveway being brought into use, a dropped kerb footway crossing shall be constructed at the vehicle access point on Glenesk Crescent.

Reason: *in the interest of road safety and the free flow of traffic.*

Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)