

# Notice of meeting and agenda

## Planning Local Review Body (Panel 1)

**10.00 am Wednesday, 15th September, 2021**

Microsoft Teams

This is a public meeting and members of the public are welcome to watch the webcast live on the Council's website.

### Contacts

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## **1. Appointment of Convener**

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- 1.1 The Local Review Body is invited to appoint a Convener from its membership.

## **2. Order of Business**

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- 2.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

## **3. Declaration of Interests**

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- 3.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **4. Minutes**

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- 4.1 Minute of the Local Review Body (Panel 1) of 11 August 2021 – 7 - 24  
submitted for approval as a correct record.

## **5. Local Review Body - Procedure**

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- 5.1 Note of the outline procedure for consideration of all Requests for Review 25 - 28

## 6. Requests for Review

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- 6.1** 10 Belmont Drive, Edinburgh – New garage with office above to be erected in the grounds – application no 21/02367/FUL. 29 - 72  
Notice of Review and Supporting Documents  
Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.
- 6.2** 63 (2F1) Montgomery Street, Edinburgh - Replacement of existing single glazed sash and case windows by energy efficient uPVC sash and case windows replicating the design and appearance of the existing windows – application no. 21/02854/FUL. 73 - 88  
(a) Decision Notice and Report of Handling  
(b) Notice of Review and Supporting Documents  
Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.
- 6.3** 26 Netherby Road, Edinburgh - Replacement windows – application no. 21/02692/FUL 89 - 166  
(a) Decision Notice and Report of Handling  
(b) Notice of Review and Supporting Documents  
Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.

## 7. Extracts of Relevant Policies from the Edinburgh Local Development Plan

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- 7.1** Extracts of Relevant Policies from the Edinburgh Local Development Plan for the above review cases  
[Local Development Plan Online](#)  
Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)  
Edinburgh Local Development Plan Policy Env 6 (Conservation)

Areas - Development)

Edinburgh Local Development Plan Policy Env 12 (Trees)

## 8. Non-Statutory Guidance

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### 8.1 [Guidance for Householders](#)

#### [Listed Buildings and Conservations Areas](#)

**Note:** The above policy background papers are available to view on the Council's website [www.edinburgh.gov.uk](http://www.edinburgh.gov.uk) under Planning and Building Standards/local and strategic development plans/planning guidelines/conservation areas, or follow the links as above.

### Andrew Kerr

Chief Executive

## Membership Panel

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Councillor George Gordon, Councillor Max Mitchell, Councillor Joanna Mowat, Councillor Lezley Marion Cameron and Councillor Alex Staniforth

## Information about the Planning Local Review Body (Panel 1)

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The City of Edinburgh Planning Local Review Body (LRB) has been established by the Council in terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008. The LRB's remit is to determine any request for a review of a decision on a planning application submitted in terms of the Regulations.

The LRB comprises a panel of five Councillors drawn from the eleven members of the Planning Committee. The LRB usually meets every two weeks, with the members rotating in two panels of five Councillors.

This meeting of the LRB is being held virtually by Microsoft Teams.

## Further information

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Members of the LRB may appoint a substitute from the pool of trained members of the Planning Committee. No other member of the Council may substitute for a substantive member. Members appointing a substitute are asked to notify Committee Services (as detailed below) as soon as possible

If you have any questions about the agenda or meeting arrangements, please contact Blair Ritchie, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, Tel 0131 529 4085, email [blair.ritchie@edinburgh.gov.uk](mailto:blair.ritchie@edinburgh.gov.uk).

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to the Council's online [Committee Library](#).

Live and archived webcasts for this meeting and all main Council committees can be viewed online by going to the Council's [Webcast Portal](#).

Unless otherwise indicated on the agenda, no elected members of the Council, applicant, agent or other member of the public may address the meeting.

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# Minutes

## The City of Edinburgh Planning Local Review Body (Panel 1)

10.00am, Wednesday 11 August 2021

**Present:** Councillors Cameron, Gordon, Mitchell Rose and Staniforth.

### 1. Appointment of Convener

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Councillor Rose was appointed as Convener.

### 2. Minutes

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To approve the minute of the Local Review Body (LRB Panel 1) of 26 May 2021 as a correct record.

### 3. Planning Local Review Body Procedure

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#### Decision

To note the outline procedure for consideration of reviews.

(Reference – Local Review Body Procedure, submitted)

### 4. Request for Review – 4 (2F4) Coates Gardens, Edinburgh

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Details were submitted of a request for a review for refusal of planning permission for the change of use of 4 (2F4) Coates Gardens for hotel use in association with the use of the remaining parts of No. 2 / 8 Coates Gardens as a hotel. Application No. 21/00934/FUL.

#### Assessment

At the meeting on 11 August 2021, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with the Transport Consultation Response.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application being the drawings shown under the application reference number 21/00934/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan.  
Edinburgh Local Development Plan Policy Des 5 (Development Design - Amenity)  
Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)  
Edinburgh Local Development Plan Policy Del 1 (Developer Contributions and Infrastructure Delivery)  
Edinburgh Local Development Plan Policy Env 4 (Listed Buildings - Alterations and Extensions)  
Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)  
Edinburgh Local Development Plan Policy Emp 10 (Principle of the Change of Use Hotel developments within the Urban Area but outwith the City Centre)  
Edinburgh Local Development Plan Policy Hou 7 (Impact on Neighbourhood Amenity and Character)
- 2) Relevant Non-Statutory Guidelines.
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

## **Conclusion**

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- This was a straightforward application.
- In considering the request from Transport for the provision of 2 covered and secure cycle parking stands for the proposed additional rooms, it might be difficult to accommodate these given that there was no access to the rear of the hotel other than through the hotel itself.
- Was there scope for the basement to be used for the cycle racks and should this be a condition or an informative?
- There were a set of steps and a traditional Georgian basement light well to the terrace. There might be some scope for cycle storage, however, these were listed buildings and there might be a need for more information.
- There should be an informative included as a minimal requirement.



- It might be necessary to approve the application without the condition recommended by the transport division, because of the difficulty of installing the cycle racks through the back of the building.
- That the Panel was content that the proposal complied with LDP Policies Emp 10, as the principle of hotel use was acceptable and the site had good public transport access, that developer contributions did not apply as the proposed number of bedrooms was below the threshold in compliance with Del 1 and there was no negative impact on the listed building or on neighbourhood amenity in compliance with Env 4 & 6 and Hou 7.

Having taken all the above matters into consideration, the LRB decided to agree to the appeal against non-determination and to grant the application subject to an informative requesting that the applicant provide 2 cycle parking stands for the proposed additional rooms, in a secure and undercover location.

### **Decision**

To agree to the appeal against non-determination and to grant planning permission.

### **Informatives**

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of this consent.
- (b) No development should 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 constituted a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997.
- (c) 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.
- (d) The applicant to consider providing 2 cycle parking stands for the proposed additional rooms, in a secure and undercover location.

### **Reasons**

- a) The proposal complied with LDP policy Emp 10 - Principle of the Change of Use Hotel developments within the Urban Area but outwith the City Centre – as the additional hotel bedrooms were in a suitable location that benefits from good public transport access.
- b) The proposal complied with LDP policy Del 1 - Developer Contributions and Infrastructure Delivery - as the proposed number of bedrooms was below the contributions threshold.
- c) The proposals complied with LDP policies Env 4 & Env 6 - Impact on the Listed Building and Conservation Area – as the change of use would have no material impact on the character and appearance of the conservation area and the integrity of the listed building.

- d) The proposal complied with LDP policy Hou 7 - Impact on Neighbourhood Amenity and Character – as the character of Coates Gardens was mixed and hotels and guest houses sat alongside residential developments. The change of use was compatible with character of the street and it would not have an adverse effect on neighbourhood amenity given that the proposed additional rooms were contained within the envelope of the existing hotel.

(References – Decision Notice, Report of Handling, Notice of Review and Transport Consultation Response. submitted)

## 5. Request for Review – 4-8 Coates Garden, Edinburgh

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Details were submitted of a request for a review for proposed lower ground floor extension to hotel at No's 6 and 8, felling of trees and associated works including screening to services at 4 - 8 Coates Gardens, Edinburgh. Application No. 21/00935/FUL.

### Assessment

At the meeting on 11 August 2021, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with the Transport Consultation Response.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application being the drawings shown under the application reference number 21/00935/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan.
  - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
  - Edinburgh Local Development Plan Policy Des 4 (Development Design - Impact on Setting)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design - Amenity)
  - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
  - Edinburgh Local Development Plan Policy Del 1 (Developer Contributions and Infrastructure)
  - Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)

Edinburgh Local Development Plan Policy Env 4 (Listed Buildings - Alterations and Extensions)

Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)

Edinburgh Local Development Plan Policy Env 12 (Trees)

- 2) Relevant Non-Statutory Guidelines.  
Listed Buildings and Conservation Areas  
New Town Conservation Area Character Appraisal
- 3 Historic Environment Policy for Scotland  
Historic Environment Policy for Scotland Policies HEP1, HEP2 and HEP4.
- 4) The procedure used to determine the application.
- 5) The reasons for refusal and the arguments put forward in the request for a review.

## **Conclusion**

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- It was confirmed that none of the trees in the rear garden area were subject to Tree Preservation Orders, but as the trees were in a Conservation Area, they were afforded a degree of protection and any pruning or removal required to be notified to the council.
- The submitted tree survey report indicated that the trees were mainly self-seeded and not worthy of retention.
- There had been a number of applications for this property and there was some confusion as to why there was reference to a 2-storey extension.
- That the proposals were for a single storey extension, which was confirmed by the images displayed.
- Confirmation was sought regarding the percentage of the rear elevation that the extension would cover. It was advised that the extension would occupy a large extent of the rear gardens of no 6 and 8 Coates Gardens. However, as the planning unit now spanned 4 feus this may be considered acceptable.
- With regard to the size of the extension, the DPEA report suggested that it was a separate unit because it had glazed link. The extension would be connected to the existing hotel via a glazed link at an existing rear door of no 6 Coates Gardens. It was still possible to see the wall to indicate the position of the original feu line between the townhouses.

- Confirmation was sought regarding the retention of the original boundary walls between the feus. The drawings indicated that the boundary wall had been removed in some sections, partially retained in other sections, and retained in its entirety in other sections.
- That there was no access to the site from the rear of the building as the rear boundary wall was complete.
- The proposals were not acceptable as they damaged the setting of the listed building and the character of the conservation area and were in breach of LDP Policies Des 4 and Env 6.
- The proposals represented overdevelopment and, although they were not highly visible from outwith the site, they damaged the integrity of the conservation area.
- That the Listed Building Consent had been granted, additionally, the proposals would not be detrimental to the character of the conservation area. Although the proposal was large, it was not excessively so and the design had been well thought out.
- Whether to accept the additional condition from the Transport for the provision of 2 cycle spaces.
- That there should be an additional informative for the provision of 2 cycle spaces, rather than a condition.
- It was accepted that the proposals were not detrimental to the character and integrity of the listed building.

Having taken all the above matters into consideration, although two of the members were in disagreement, the LRB decided to agree to the appeal against non-determination and to grant the application subject to an informative requesting that the applicant provided 2 cycle parking stands for the proposed additional rooms, in a secure and undercover location.

### **Motion**

To uphold the decision by the Chief Planning Officer to refuse planning permission.

### **Reasons for Refusal:**

- 1) The proposals were not acceptable as they damaged the setting of the listed building and character of the conservation area and were in breach of des Edinburgh LDP Polices Des 4 and Env 6.
  - 2) The proposals represented overdevelopment and damaged the integrity of the conservation area.
- Moved by Councillor Staniforth, seconded by Councillor Gordon.

### **Amendment**

To agree to the appeal against non-determination and to grant planning permission.

- Moved by Councillor Mitchell, seconded by Councillor Cameron.

### **Voting**

For the motion - 2 votes

For the amendment - 3 votes

(For the motion: Councillors Gordon and Staniforth.)

(For the amendment: Councillors Cameron, Mitchell and Rose.)

### **Decision:**

To agree to the appeal against non-determination and to grant planning permission.

### **Informatives**

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of this consent.
- (b) No development should take place on the site until a 'Notice of Initiation of Development' had been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constituted a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997.
- (c) 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.
- (d) The applicant to consider providing 2 cycle parking stands for the proposed additional rooms, in a secure and undercover location.

### **Reasons**

- a) The proposal complied with LDP policy Del 1 - Developer Contributions and Infrastructure - as the proposed number of bedrooms is below the contributions threshold.
- b) The proposals complied with LDP policies Env 3, Env 4 & Env 6 - Impact on the Listed Building and Conservation Area – as the proposed extension was not highly visible and would have no material impact on the character and appearance of the conservation area or the setting of the listed building.
- c) The proposal complied with LDP policy Des 1, Des 4 and Des 5 – Development Design – as the proposal had been well designed to incorporate existing features and was not detrimental to the appearance of the area.
- d) The proposal complied with policy LDP policy Env 12 – trees – as the existing trees were not worthy of retention and their removal was considered acceptable.

(References – Decision Notice, Report of Handling, Notice of Review and Transport Consultation Response submitted).

## 6. Request for Review – 187 Dalkeith Road, Edinburgh

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Details were submitted of a request for a review to create an off-road parking space at 187 Dalkeith Road Edinburgh. The surface was and would be porous paving; no water would run off the property. This was dealt with by the Chief Planning Officer under delegated powers. Application No. 21/02339/FUL.

### Assessment

At the meeting on 11 August 2021, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice, the report of handling and a further letter of representation.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were numbered 1,2 Scheme 1, being the drawings shown under the application reference number 21/02339/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan.  
Edinburgh Local Development Plan Policy Tra 4 (Design of Off-Street Car and Cycle Parking)
- 2) Relevant Non-Statutory Guidelines.
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

### Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- This application seemed quite straightforward. There was some sympathy for applicant as the space was outside a clinic and was intended for occasional use only and mainly for people with mobility issues.
- The issue of road safety to pedestrians and other road users, which had been raised by the Roads Authority, was a major consideration.
- The grounds for refusal were solid.

- Precedence was not a material consideration in planning. Every application should be considered on its own merits.
- The officer's report should be upheld, on the basis of road safety.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, the LRB was of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

**Decision:**

To uphold the decision by the Chief Planning Officer to refuse planning permission.

**Reasons for Refusal:**

The proposal was contrary to the Local Development Plan Policy Tra 4 in respect of Design of Off-Street Car and Cycle Parking, as the proposed space raises issues of road safety to pedestrians and other road users.

(References – Decision Notice, Report of Handling and Notice of Review, submitted)

**7. Request for Review – 44 Kirkhill Drive, Edinburgh**

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Details were submitted of a request for a review of application for material variation to omit approved Juliet Balcony and introduce glazed balustrade roof terrace at 44 Kirkhill Drive, Edinburgh. This was dealt with by the Chief Planning Officer under delegated powers. Application No. 21/01629/FUL.

**Assessment**

At the meeting on 11 August 2021, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents and a site inspection. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were numbered 01-03, Scheme 1, being the drawings shown under the application reference number 21/01629/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan.  
Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
- 2) Relevant Non-Statutory Guidelines.  
Guidance for Householders
- 3) The procedure used to determine the application.

- 4) The reasons for refusal and the arguments put forward in the request for a review.

## **Conclusion**

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- The key issue was the distance of approximately 30 m from the proposed roof terrace and the nearest facing window on Priestfield Crescent. The proposals did not involve substantial change, the new roof terrace would not be any closer to the neighbouring windows than the approved scheme and the neighbours were supportive.
- There was a material difference between the proposed glazed balustrade roof terrace and a Juliet balcony. This would heighten the issue of privacy and would be contrary to LDP Policy Des 12.
- There was a significant privacy issue. A glazed balustrade roof terrace would encourage people to sit there and look out. Some objectors thought that they would not use their gardens for private gatherings if the proposals went ahead. Therefore, it would have a negative impact on neighbourhood amenity.
- The actual distances involved from the proposed terrace were 12.9 m to the rear boundary and 31.6 m to the windows in Priestfield Crescent, which represented substantial distances.
- The issue was finally balanced, but the panel should accept the appeal on the basis that it did not represent significant change, from what was previously approved. The principal concern was noise rather than the proposed balustrade roof terrace overlooking neighbouring properties.

Having taken all the above matters into consideration, although two of the members were in disagreement, the LRB determined that the material change was not significantly different from the previous application. Therefore, any potential overlooking of neighbouring properties would be of limited nature and was not therefore contrary to LDP Policy Des 12 in respect of Alterations and Extensions, as it would not have a detrimental impact on the character of the area or neighbouring amenity.

## **Motion**

To uphold the decision by the Chief Planning Officer and to refuse planning permission.

- Moved by Councillor Gordon, seconded by Councillor Staniforth.

## **Amendment**

To not uphold the decision by the Chief Planning Officer and to grant planning permission.

- Moved by Councillor Rose, seconded by Councillor Cameron.

## **Voting**



For the motion - 2 votes  
For the amendment - 3 votes

(For the motion: Councillors Gordon and Staniforth.)

(For the amendment: Councillors Cameron, Mitchell and Rose.)

**Decision:**

To not uphold the decision by the Chief Planning Officer and to grant planning permission.

**Informatives**

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of this consent.
- (b) No development should take place on the site until a 'Notice of Initiation of Development' had been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constituted a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997.
- (c) 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.

(References – Decision Notice, Report of Handling and Notice of Review, submitted)

## **8. Request for Review – 8 Northfield Farm Road, Edinburgh**

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Details were submitted of a request for a review of application, for the erection of garden hut and fencing and vehicle run-in, the work for which had been carried out at 8 Northfield Farm Road Edinburgh. The proposal to include the replacement of lounge window with French doors, which was dealt with by the Chief Planning Officer under delegated powers. Application No. 21/02255/FUL.

**Assessment**

At the meeting on 11 August 2021, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were numbered 01-04, Scheme 1, being the drawings shown under the application reference number 21/02255/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan.  
Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
- 2) Relevant Non-Statutory Guidelines.  
Guidance for Householders
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

## **Conclusion**

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- That the driveway exceeded the recommended access width of 3 metres and provided more than one car parking space. However, the applicant was suggesting that they could reduce the size of the parking area.
- Whether the applicant would reduce the car parking space and if it was possible to condition that undertaking.
- The aim of the review was to discuss the proposals which had been presented. If the panel were to apply a condition requiring removal of the parking space, this was significantly different to the originally refused application and should be considered through the submission of a new application.
- There should be support for refusing some aspects of the application, but it might be beneficial to have a mixed response. The report of handling stated that the shed in front garden was not a common feature in the area, but the photos indicated that there were other sheds in the area and this was therefore not detrimental to the character of the area. However, the driveway and fence were not acceptable and should be refused on the basis of LDP Policy Des 12.
- That overprovision of parking was the main issue.
- It would be possible to consider a mixed decision to grant the application for the shed and refuse the rest of the application.
- It was hoped to deal with the application at the present meeting, therefore, the panel should accept a compromise and reduce the parking area and the size of the fence.
- This application was retrospective and the panel would require surety of what would be done to reduce the parking area.
- The issue was the height of all the fencing on the south and east elevation, which was 1.8 m high and was therefore, unacceptable.

Having taken all the above matters into consideration, the LRB determined that the the hut was not contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it would not have an adverse impact on the character of the property and the area. However, the LRB did not determine that there was any reason not to refuse planning permission for the fencing and vehicle run-in.

It therefore overturned the decision of the Chief Planning Officer and granted a mixed decision.

**Decision:**

To not uphold the decision by the Chief Planning Officer and to issue a mixed decision.

- 1) To **grant** planning permission for the erection of the garden hut.

**Reason**

The hut was not contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it would not have an adverse impact on the character of the property and the surrounding area.

**Informatives**

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of this consent.
  - (b) No development should 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 constituted a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997.
  - (c) 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.
- 2) To **refuse** planning permission for the fencing and vehicle run-in.

**Reasons**

1. The proposals were contrary to development plan policy on extensions and alterations as interpreted using the non-statutory Guidance for Householders as it was not compatible with the existing dwelling house or the character of the surrounding area.
2. The proposal was contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it would have an adverse impact on the character of the property and surrounding area.

(References – Decision Notice, Report of Handling and Notice of Review, submitted)

## **9. Request for Review – 20 Regent Street, Edinburgh**

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Details were submitted of a request for a review of application, for the erection of dwelling house and replace existing access door to front at 20 Regent Street,

Edinburgh, which was dealt with by the Chief Planning Officer under delegated powers. Application No. 20/05719/FUL.

## **Assessment**

At the meeting on 11 August 2021, the LRB had been provided with copies of the notice of review, including a request that the review proceed based on an assessment of the review documents and a site inspection. The LRB had also been provided with copies of the decision notice, the report of handling and a further letter of representation.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were numbered 01-17, Scheme 1, being the drawings shown under the application reference number 20/05719/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan.
  - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
  - Edinburgh Local Development Plan Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features)
  - Edinburgh Local Development Plan Policy Des 4 (Development Design - Impact on Setting)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design - Amenity)
  - Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)
  - Edinburgh Local Development Plan Policy Env 4 (Listed Buildings – Alterations and Extensions)
  - Local Development Plan Policy Env 6 (Conservation Areas - Development)
  - Edinburgh Local Development Plan Policy Env 12 (Trees)
  - Edinburgh Local Development Plan Policy Env 21 (Flood Protection)
  - Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)
  - Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)
  - Edinburgh Local Development Plan Policy Tra 4 (Design of Off-Street Car and Cycle Parking)

- 2) Relevant Non-Statutory Guidelines  
Edinburgh Design Guidance.  
Listed Buildings and Conservation Areas  
The Portobello Conservation Area Character Appraisal
- 3) Relevant Government Guidance on Historic Environment.  
Managing Change in the Historic Environment: Setting  
Managing Change in the Historic Environment: Doorways:
- 4) The procedure used to determine the application.
- 5) The reasons for refusal and the arguments put forward in the request for a review.

### **Conclusion**

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- That it might have been necessary to have a site visit, but it was agreed that there was sufficient information to proceed.
- This was a complex application with several interesting aspects.
- There was inadequate provision of garden space, however, there was greenspace within 10 minutes from the site, as well as the site being in close proximity to the beach, as indicated by the photos provided.
- The officer had made the correct decision to refuse the application. There were numerous issues involved, including housing and environmental issues. Also, the application site was located within the Portobello Conservation Area and amenity was non-existent.
- One of the biggest issues was amenity for subsequent occupiers as the proposal would not result in a satisfactory living environment for them. The proposed development would make good use of the vacant plot and it was not the case that the neighbouring properties would be negatively affected or that the proposed dwelling house would not fit into the surrounding environment. This was an ingenious solution and it was beneficial to create a variety of housing throughout city.
- This application should be refused, with LDP Policy Env 6 being the most significant policy in this case, with the height, form and position of the building in relations to its surroundings being a consideration.
- This was a difficult issue. It was the case that there were a number of policies with which the proposals were non-compliant, but it was questionable if the officers had made the correct decisions. This was in fact a clever use of a backyard and did not have a detrimental impact on the area.

- Regarding the issue of density, Portobello was already a fairly densely populated area. The design might be slightly incongruous, but it was not particularly visible and this was a good use of land. If a subsequent user did not want to buy the house, then they would not. Additionally, regarding the inadequate provision of greenspace, not all potential residents would want to be responsible for a garden.
- That the Panel should only accept reason 5 as the reason for refusal, which was LDP Policy Des 5 (Development Design - Amenity) in relation to the provision of adequate levels of daylight and sunlight for future occupiers.
- Something could be built on this plot, but a different design was required.

Having taken all the above matters into consideration and although there was some sympathy for the proposals from two of the members, the LRB was of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

### **Motion**

To uphold the decision by the Chief Planning Officer and to refuse planning permission.

### **Reasons for Refusal:**

1. The proposal was contrary to LDP policy Hou 1 as it was not a suitable site in the urban area for a new house.
2. The proposal was contrary to Edinburgh Local Development Plan Policy Hou 3 as an inadequate provision of garden space would be provided for future occupiers of the application site.
3. The proposal was contrary to Edinburgh Local Development Plan Policy Hou 4 - Housing Density, as the scale, form and position of the building would have an unacceptable impact on the spatial character and density of the area.
4. The proposal was contrary to Edinburgh Local Development Plan Policy Des 4 - Development Design - Impact on Setting, as the height, form and position of the building is an incongruous addition in its surroundings that would have an unacceptable impact on the established character of the townscape.
5. The proposal was contrary to Edinburgh Local Development Plan Policy Des 5 - Amenity as an unacceptable level of outlook would be provided for future occupiers of the application site and insufficient information had been submitted to demonstrate adequate levels of daylight and sunlight would be achieved.
6. The proposal was contrary to Edinburgh Local Development Plan Policy Env 6 - Conservation Area - Development, as the height, form and position of the building would be an incongruous addition in its surroundings that would have a detrimental impact on the spatial character of the conservation area and the immediate garden settings. The proposal would therefore fail to preserve or enhance the character of the conservation area.

- Moved by Councillor Gordon, seconded by Councillor Staniforth.

### **Amendment**

To refuse planning permission only for the reason that the proposal was contrary to Edinburgh Local Development Plan Policy Des 5 - Amenity as an unacceptable level of outlook would be provided for future occupiers of the application site and insufficient information had been submitted to demonstrate adequate levels of daylight and sunlight would be achieved.

- Moved by Councillor Rose, seconded by Councillor Mitchell.

### **Voting**

For the motion - 3 votes  
For the amendment - 2 votes

(For the motion: Councillors Gordon, Cameron and Staniforth.)

(For the amendment: Councillors Mitchell and Rose.)

### **Decision:**

To uphold the decision by the Chief Planning Officer to refuse planning permission.

### **Reasons for Refusal:**

1. The proposal was contrary to LDP policy Hou 1 as it was not a suitable site in the urban area for a new house.
2. The proposal was contrary to Edinburgh Local Development Plan Policy Hou 3 as an inadequate provision of garden space would be provided for future occupiers of the application site.
3. The proposal was contrary to Edinburgh Local Development Plan Policy Hou 4 - Housing Density, as the scale, form and position of the building would have an unacceptable impact on the spatial character and density of the area.
4. The proposal was contrary to Edinburgh Local Development Plan Policy Des 4 - Development Design - Impact on Setting, as the height, form and position of the building is an incongruous addition in its surroundings that would have an unacceptable impact on the established character of the townscape.
5. The proposal was contrary to Edinburgh Local Development Plan Policy Des 5 - Amenity as an unacceptable level of outlook would be provided for future occupiers of the application site and insufficient information had been submitted to demonstrate adequate levels of daylight and sunlight would be achieved.
6. The proposal was contrary to Edinburgh Local Development Plan Policy Env 6 - Conservation Area - Development, as the height, form and position of the building would be an incongruous addition in its surroundings that would have a detrimental impact on the spatial character of the conservation area and the immediate garden settings. The proposal would therefore fail to preserve or enhance the character of the conservation area.

(References – Decision Notice, Report of Handling and Notice of Review, submitted).





## City of Edinburgh Planning Local Review Body (the LRB)

### General

1. Each meeting of the LRB shall appoint a Convener. A quorum of a meeting of the LRB will be three members.
2. The Clerk will introduce and deal with statutory items (Order of Business and Declarations of Interest) and will introduce each request for review.
3. The LRB will normally invite the planning adviser to highlight the issues raised in the review.
4. The LRB will only accept new information where there are exceptional circumstances as to why it was not available at the time of the planning application. The LRB will formally decide whether this new information should be taken into account in the review.

The LRB may at any time ask questions of the planning adviser, the Clerk, or the legal adviser, if present.

5. Having considered the applicant's preference for the procedure to be used, and other information before it, the LRB shall decide how to proceed with the review.
6. If the LRB decides that it has sufficient information before it, it may proceed to consider the review using only the information circulated to it. The LRB may decide it has insufficient information at any stage prior to the formal decision being taken.
7. If the LRB decides that it does not have sufficient information before it, it will decide which one of, or combination of, the following procedures will be used:
  - further written submissions;
  - the holding of one or more hearing sessions; and/or
  - an accompanied or unaccompanied inspection of the land to which the review relates.
8. Whichever option the LRB selects, it shall comply with legislation set out in the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (the Regulations).

The LRB may hold a pre-examination meeting to decide upon the manner in which the review, or any part of it, is to be conducted.

If the LRB decides to seek further information, it will specify what further information is required in a written notice to be issued to the applicant, Chief Planning Officer and any interested parties. The content of any further submissions must be restricted to the matters specified in the written notice.

In determining the outcome of the review, the LRB will have regard to the requirements of paragraphs 11 and 12 below.

9. The LRB may adjourn any meeting to such time and date as it may then or later decide.

### **Considering the Request for Review**

10. Unless material considerations indicate otherwise, the LRB's determination must be made in accordance with the development plan that is legally in force. Any un-adopted development plan does not have the same weight but will be a material consideration. The LRB is making a new decision on the application and must take the 'de novo' approach.
11. The LRB will:
  - Identify the relevant policies of the Development Plan and interpret any provisions relating to the proposal, for and against, and decide whether the proposal accords with the Development Plan;
  - identify all other material planning considerations relevant to the proposal and assess the weight to be given to these, for and against, and whether there are considerations of such weight as to indicate that the Development Plan should not be given priority;
  - take into account only those issues which are relevant planning considerations;
  - ensure that the relevant provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 are assessed when the review relates to a listed building and/or conservation area; and
  - in coming to a determination, only review the information presented in the Notice of Review or that from further procedure.
12. The LRB will then determine the review. It may:
  - uphold the officer's determination;
  - uphold the officer's determination subject to amendments or additions to the reasons for refusal;
  - grant planning permission, in full or in part;
  - impose conditions, or vary conditions imposed in the original determination;
  - determine the review in cases of non-determination.

### **Procedure after determination**

13. The Clerk will record the LRB's decision.
14. In every case, the LRB must give notice of the decision ("a decision notice") to the applicant. Every person who has made, and has not withdrawn, representations in respect of the review, will be notified of the location where a copy of the decision notice is available for inspection. Depending on the decision, the planning adviser may provide assistance with the framing of conditions of consent or with amended reasons for refusal.
15. The Decision Notice will comply with the requirements of regulation 22.
16. The decision of the LRB is final, subject to the right of the applicant to question the validity of the decision by making an application to the Court of Session. Such application must be made within 6 weeks of the date of the decision. The applicant will be advised of these and other rights by means of a Notice as specified in Schedule 2 to the regulations.

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Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto:planning.support@edinburgh.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100400943-003

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	McLaren, Murdoch & Hamilton		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Ross	Building Name:	
Last Name: *	Aitken	Building Number:	229
Telephone Number: *	01315395000	Address 1 (Street): *	Balgreen Road
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH11 2RZ
Email Address: *	ross.aitken@mm-h.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="Mr &amp; Mrs"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Colin"/>	Building Number:	<input type="text" value="10"/>
Last Name: *	<input type="text" value="Robertson"/>	Address 1 (Street): *	<input type="text" value="Belmont Drive"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="Eh12 6JN"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="10 BELMONT DRIVE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH12 6JN"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="673295"/>	Easting	<input type="text" value="321604"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

New garage with office above to be erected in the grounds of 10 Belmont Drive

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please refer to the Statement of Appeal submitted with this application.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

2401C\_PA\_01 Statement of Appeal, 2401C\_PA\_02 Email Correspondence, 21\_02367\_FUL Householder\_Application, 2401C\_PL\_01 Location Plan, 2401C\_PL\_02 Existing Site Plan, 2401C\_PL\_03 Proposed Site Plan, 2401C\_PL\_04 Proposed Garage, 2401C\_PL\_05 Context Elevations, 10 Belmont Drive Edinburgh - tree report, 07-11-04\_01 Topographical Survey Showing Existing Trees

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

21/02367/FUL

What date was the application submitted to the planning authority? \*

29/04/2021

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Ross Aitken

Declaration Date: 25/08/2021





Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto:planning.support@edinburgh.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100400943-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Description of Proposal

Please describe accurately the work proposed: \* (Max 500 characters)

New garage with office above to be erected in the grounds of 10 Belmont Drive

Has the work already been started and/ or completed? \*

No  Yes - Started  Yes – Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	McLaren, Murdoch & Hamilton		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Ross	Building Name:	
Last Name: *	Aitken	Building Number:	229
Telephone Number: *	01315395000	Address 1 (Street): *	Balgreen Road
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH11 2RZ
Email Address: *	ross.aitken@mm-h.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Other	You must enter a Building Name or Number, or both: *	
Other Title:	Mr & Mrs	Building Name:	
First Name: *	Colin	Building Number:	10
Last Name: *	Robertson	Address 1 (Street): *	Belmont Drive
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Edinburgh
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	EH12 6JN
Fax Number:			
Email Address: *	[REDACTED]		

## Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

10 BELMONT DRIVE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH12 6JN

Please identify/describe the location of the site or sites

Northing

673295

Easting

321604

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Trees

Are there any trees on or adjacent to the application site? \*

Yes  No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? \*

Yes  No

If yes, please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you proposed to make. You should also show existing footpaths and note if there will be any impact on these.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

Yes  No

Is any of the land part of an agricultural holding? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Ross Aitken

On behalf of: Mr & Mrs Colin Robertson

Date: 23/04/2021

Please tick here to certify this Certificate. \*

## Checklist – Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- a) Have you provided a written description of the development to which it relates? \*  Yes  No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? \*  Yes  No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? \*  Yes  No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? \*. This should have a north point and be drawn to an identified scale.  Yes  No
- e) Have you provided a certificate of ownership? \*  Yes  No
- f) Have you provided the fee payable under the Fees Regulations? \*  Yes  No
- g) Have you provided any other plans as necessary? \*  Yes  No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). \*

You can attach these electronic documents later in the process.

- Existing and Proposed elevations.
- Existing and proposed floor plans.
- Cross sections.
- Site layout plan/Block plans (including access).
- Roof plan.
- Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding.  Yes  No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. \*  Yes  No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

## Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Mr Ross Aitken

Declaration Date: 29/04/2021

## Payment Details



Created: 29/04/2021 14:13

## Damian Smith

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**Subject:** RE: 21/02367/FUL 10 Belmont Drive

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**From:** Nicola Orr <[Nicola.Orr@edinburgh.gov.uk](mailto:Nicola.Orr@edinburgh.gov.uk)>

**Sent:** 29 July 2021 15:48

**To:** Mike Towers [REDACTED]

**Subject:** RE: 21/02367/FUL 10 Belmont Drive

Mike,

Response below in green – we are unable to support the removal of this tree. I can either proceed to refusal or you may wish to withdraw?

1. *Tree assessments are a matter of professional opinion, and subject to a certain degree of subjectivity. The key criteria are tree quality and life expectancy, where a 'B' category tree is defined in BS 5837:2012 as "...of moderate quality and with a life expectancy of at least 20 years." Mr Rodger is content with the categories he had assigned to all three trees.*

The BS Categorises trees in accordance with one or more of 3 criteria –

- Mainly Arboricultural qualities,
- Mainly Landscape qualities and
- Mainly cultural values including conservation

The applicant's report assesses the trees using the first category but this the trees do not really impact on the landscape as individuals of Arboricultural value or interest. They primarily function as a component of a belt of trees of considerable landscape impact and importance. Using the 'Mainly Landscape qualities' criteria, 'Trees, groups or woodlands of particular visual importance' are Category A.

2. *The Category C tree should be taken down as a matter of good practice. Mr Rodger and Mr Milne agree it is in poor condition and it should be removed before it comes down possibly causing damage.*

The purpose of BS5837 as stated in the BS is to give 'recommendations and guidance on the relationship between trees and design, demolition and construction processes. It is not intended or appropriate to use as a tree survey methodology for tree and woodland management. Notwithstanding this, it is normal for trees to have to be pruned or felled at some point. There is nothing to say that should it be good Arboricultural management to fell a tree that the space can be used for development. If arboricultural management is required there

3. *The two remaining trees category B should be seen in the wider context of a significant tree belt up the west boundary of the property and further mature woodland immediately to the west on Corstorphine Hill. The immediate environs are heavily wooded and the removal of the trees will have minimal impact in the context of the wider landscape.*

The trees and belts of trees are an essential part of the character of the hill and conservation area. We either protect them or we don't. we cannot allow a proportion of trees in each property to be removed as the cumulative

4. *The arboricultural report submitted with the application concludes that the removal of these three trees 'will not be noticeable in the wider landscape and replacement planting would not be necessary or appropriate'. There is little room elsewhere on the site for replacement planting.*

As above, the LPA is not just concerned with this one site, the LDP policy objective for the whole city and can only be met by consistently applying them.

5. *Mr Milne's photo included in his email is misleading as the removal of the three limes will have minimal effect on the tree canopy line because they conceal the tree canopy beyond continuing up Corstorphine Hill.*

The principle that trees can be removed so long as there are trees behind is not sustainable. The phot shows the prominence of the trees which will be lost.

6. We attach an extended site plan confirming the number and density of trees – some 21 trees in total -up the west boundary of the property. Woodland on Corstorphine hill adjoins to the west

This is correct but it shown the infrastructure of trees and woodland that have been retained and protected from development. A considerable number of trees have been removed to permit development. The infrastructure that remains needs to be protected to prevent erosion of tree cover beyond what was originally considered acceptable.

Regards  
Nicola

---

**From:** Mike Towers [REDACTED]  
**Sent:** 29 July 2021 15:40  
**To:** Nicola Orr <[Nicola.Orr@edinburgh.gov.uk](mailto:Nicola.Orr@edinburgh.gov.uk)>  
**Cc:** [REDACTED]  
**Subject:** FW: 21/02367/FUL 10 Belmont Drive

Nicola,

Have you had any response from Steven Milne? The extended target date was yesterday.

Let us know please. Thanks

Mike

Michael J Towers - MA(Hons) DipArch RIBA FRIAS  
Consultant

For and on behalf of  
**McLaren Murdoch & Hamilton** Chartered Architects  
*Please note our new address*  
229 Balgreen Road Edinburgh EH11 2RZ  
[REDACTED]  
Offices in Edinburgh and Perth ([www.mm-h.co.uk](http://www.mm-h.co.uk))

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**From:** Mike Towers  
**Sent:** 21 July 2021 13:03  
**To:** Nicola Orr <[Nicola.Orr@edinburgh.gov.uk](mailto:Nicola.Orr@edinburgh.gov.uk)>  
**Cc:** [REDACTED]  
**Subject:** FW: 21/02367/FUL 10 Belmont Drive

Nicola,

Thank you for forwarding the comments below from Mr Steven Milne, Tree Officer. We have discussed this with our arboriculturist, Mr Donald Rodger, and our response is set out below:

1. Tree assessments are a matter of professional opinion, and subject to a certain degree of subjectivity. The key criteria are tree quality and life expectancy, where a 'B' category tree is defined in BS 5837:2012 as "...of moderate quality and with a life expectancy of at least 20 years." Mr Rodger is content with the categories he had assigned to all three trees.



2. The Category C tree should be taken down as a matter of good practice. Mr Rodger and Mr Milne agree it is in poor condition and it should be removed before it comes down possibly causing damage.
3. The two remaining trees category B should be seen in the wider context of a significant tree belt up the west boundary of the property and further mature woodland immediately to the west on Corstorphine Hill. The immediate environs are heavily wooded and the removal of the trees will have minimal impact in the context of the wider landscape.
4. The arboricultural report submitted with the application concludes that the removal of these three trees 'will not be noticeable in the wider landscape and replacement planting would not be necessary or appropriate'. There is little room elsewhere on the site for replacement planting.
5. Mr Milne's photo included in his email is misleading as the removal of the three limes will have minimal effect on the tree canopy line because they conceal the tree canopy beyond continuing up Corstorphine Hill.
6. We attach an extended site plan confirming the number and density of trees – some 21 trees in total -up the west boundary of the property. Woodland on Corstorphine hill adjoins to the west.

Regards

Mike

Michael J Towers - MA(Hons) DipArch RIBA FRIAS  
Consultant

For and on behalf of  
**McLaren Murdoch & Hamilton** Chartered Architects  
*Please note our new address*  
229 Balgreen Road Edinburgh EH11 2RZ  
[REDACTED]  
Offices in Edinburgh and Perth ([www.mm-h.co.uk](http://www.mm-h.co.uk))

---

**From:** Nicola Orr <[Nicola.Orr@edinburgh.gov.uk](mailto:Nicola.Orr@edinburgh.gov.uk)>  
**Sent:** 12 July 2021 10:41  
**To:** Mike Towers <[mike.towers@mm-h.co.uk](mailto:mike.towers@mm-h.co.uk)>  
[REDACTED]

Good Morning Mike

Please see correspondence from our Tree Officer below, who will not accept the proposed removal of the trees. Please advise how you wish to proceed.

Regards  
Nicola

---

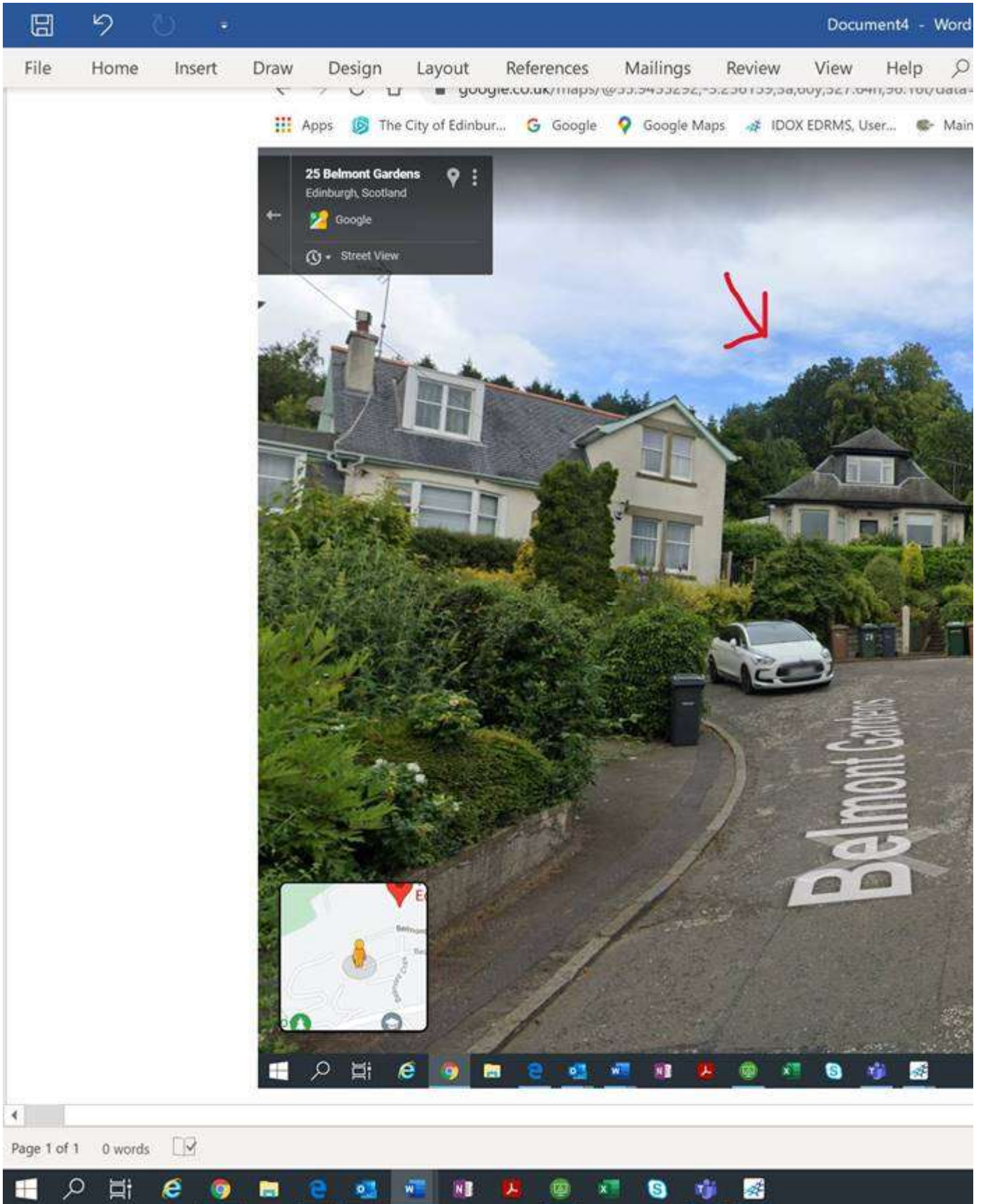
**From:** Steve Milne <[Steven.Milne@edinburgh.gov.uk](mailto:Steven.Milne@edinburgh.gov.uk)>  
**Sent:** 07 July 2021 11:19  
**To:** Nicola Orr <[Nicola.Orr@edinburgh.gov.uk](mailto:Nicola.Orr@edinburgh.gov.uk)>  
**Subject:** RE: 21/02367/FUL 10 Belmont Drive

Hi Nicola,

Really sorry for not getting back to you before this.

I have had a read of the tree report and had a look at the dev proposals.

The tree report identifies one of the 3 lime trees to be felled as being in poor condition and is given a C category. I would not disagree with this too much except to say that it is not in untypical condition and form for being part of a single group of trees where individual form is not such an issue. But there is no suggestion the tree needs to be removed for tree management reasons. Trees remaining surveyed trees are given retention category B but this does not appear to follow the BS assessment criteria "Trees, groups or woodlands of particular visual importance as Arboricultural and/or landscape features." This would assign the remaining trees category A as can be seen from streetview below. These are the sort of trees, around property boundaries which give Corstorphine hill its character and as such the removal of such trees should not be acceptable and is contrary to ENV6 and ENV12



Happy to chat further.

Steve

*Steven Milne*

Arboricultural Officer

Householders & Trees | Place Directorate | The City of Edinburgh Council | Waverley Court, Level G:2, 4 East Market Street, Edinburgh, EH8 8BG | [steven.milne@edinburgh.gov.uk](mailto:steven.milne@edinburgh.gov.uk) | [www.edinburgh.gov.uk](http://www.edinburgh.gov.uk)

You can keep up to date by following us on Twitter [@planningedin](https://twitter.com/planningedin) or subscribing to the [Planning Blog](#)



We are adapting our service so that we can support communities and businesses across Edinburgh through this difficult time. Our aim is to boost online public input to planning processes so that we can make and issue decisions which will help with both a swift recovery and a positive future for the city. To do this we have introduced ways for people to stay informed and comment on planning proposals despite the coronavirus lockdown.

Our office is still closed and we are working from our homes where possible. Thank you for your support and understanding during this time. You can access our services online at [www.edinburgh.gov.uk/planning-building](http://www.edinburgh.gov.uk/planning-building). Please follow the [Planning Edinburgh](#) blog to keep up to date with changes to our service and how we are planning for the future Edinburgh through City Plan 2030 and the City Mobility Plan.



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**From:** Nicola Orr <[Nicola.Orr@edinburgh.gov.uk](mailto:Nicola.Orr@edinburgh.gov.uk)>  
**Sent:** 28 June 2021 12:57  
**To:** Steve Milne <[Steven.Milne@edinburgh.gov.uk](mailto:Steven.Milne@edinburgh.gov.uk)>  
**Subject:** RE: 21/02367/FUL 10 Belmont Drive

Hi Steve

Have you had a chance to look at this one yet? Determination date is tomorrow.

Thanks

Nicola

---

**From:** Nicola Orr  
**Sent:** 14 June 2021 14:16  
**To:** Steve Milne <[Steven.Milne@edinburgh.gov.uk](mailto:Steven.Milne@edinburgh.gov.uk)>  
**Subject:** RE: 21/02367/FUL 10 Belmont Drive

Sorry to bother you on this Steve, but yes, still waiting on a reply please,

Thanks

Nicola

---

**From:** Steve Milne <[Steven.Milne@edinburgh.gov.uk](mailto:Steven.Milne@edinburgh.gov.uk)>  
**Sent:** 14 June 2021 13:50  
**To:** Nicola Orr <[Nicola.Orr@edinburgh.gov.uk](mailto:Nicola.Orr@edinburgh.gov.uk)>  
**Subject:** RE: 21/02367/FUL 10 Belmont Drive

Hi Nicola,

Sorry for delay getting back to you. Are you still waiting for a reply on this one?

S

*Steven Milne*  
*Arboricultural Officer*

Householders & Trees | Place Directorate | The City of Edinburgh Council | Waverley Court, Level G:2, 4 East Market Street, Edinburgh, EH8 8BG | [steven.milne@edinburgh.gov.uk](mailto:steven.milne@edinburgh.gov.uk) | [www.edinburgh.gov.uk](http://www.edinburgh.gov.uk)

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**From:** Nicola Orr <[Nicola.Orr@edinburgh.gov.uk](mailto:Nicola.Orr@edinburgh.gov.uk)>

**Sent:** 09 June 2021 16:24

**To:** Steve Milne <[Steven.Milne@edinburgh.gov.uk](mailto:Steven.Milne@edinburgh.gov.uk)>; Ellen McCalman <[Ellen.McCalman@edinburgh.gov.uk](mailto:Ellen.McCalman@edinburgh.gov.uk)>

**Subject:** 21/02367/FUL 10 Belmont Drive

Afternoon All 😊

Have either of you managed to have a look at the Tree Report submitted with this application? I am hoping I carried out the consultation correctly...continuous teething problems with householder applications!

Let me know

Thanks  
Nicola

Nicola Orr | Planning Officer Majors West | Planning and Transport | Place | The City of Edinburgh Council | Waverley Court, Level G2, 4 East Market Street, Edinburgh, EH8 8BG | Tel 0131 529 4859 | [nicola.orr@edinburgh.gov.uk](mailto:nicola.orr@edinburgh.gov.uk) | [www.edinburgh.gov.uk](http://www.edinburgh.gov.uk)

Have you signed up to the [Planning Blog](#)? We will be using the Planning Blog to communicate and consult on important changes and improvements to the Planning service in 2021. Please sign up to the [Planning Blog](#) to make sure you are up-to-date.

Our office is still closed and we are working from our homes using email and other online communications.



\*\*\*\*\*

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**2401C (PA) 01**

**Planning Ref: 21/02367/FUL**

**New Garage with office above to be erected in the grounds of**

**10 Belmont Drive, Edinburgh, EH12 6JN**

## **STATEMENT OF APPEAL**

The planning application was submitted on 29<sup>th</sup> April 2021, registered on 30<sup>th</sup> April 2021 with a target date for determination of 29<sup>th</sup> June 2021. The application included a comprehensive Tree Survey and Report prepared by Donald Rodger, BSc(hons)For, DMS, FICFor, MRSB, CBiol, CEnv, FArborA. He is a Chartered Forester, a Chartered Biologist, and a Fellow of the Arboricultural Association.

We heard or received nothing from planning until we received an email from the planning officer, Nicola Orr, with an Extension of Time request on 28<sup>th</sup> June 2021. We queried why this extension was required as per the attached email and she advised in an email of 30<sup>th</sup> June 2021 that there had been no neighbour representations, and the only consultation outstanding was from the Tree Officer, who had not found time to look at the application, and was on holiday until 5<sup>th</sup> July. She hoped to come back to us shortly after he returned. We accepted the proposed extended date for determination of 28<sup>th</sup> July 2021.

Steven Milne the Council Tree Officer eventually responded to the planning officer on 7<sup>th</sup> July which she forwarded to us on 12<sup>th</sup> July advising that the Tree Officer would not support the application. We consulted Donald Rodger and responded on 21<sup>st</sup> July. We followed this up with a reminder on 29<sup>th</sup> July noting that the extended date for determination was 28<sup>th</sup> July.

The Planning Officer responded on the same day with Steven Milne's comments noting that he maintained his view that he would not support the application.

The emails form part of our appeal and detail the difference of views on the application between the applicant's arboriculturist and the council Tree Officer.

We contend that the Tree Officer has not formed a balanced view of the merits of the application, his assessment of the relevant Tree Categories is incorrect, and his assessment of the landscape setting based on one view from some distance is misleading.

There are no other issues raised by the planning officer that would prevent the grant of consent.



DONALD RODGER  
ASSOCIATES LTD

**Tree Survey, Arboricultural Constraints  
and Implication Assessment**

*for*

**Proposed Garage and Home Office  
10 Belmont Drive  
Edinburgh**

*for and on behalf of*

**Mr and Mrs Robertson**

**February 2021**

**ARBORICULTURAL CONSULTANTS**

Donald Rodger Associates Ltd, 39a Main Street, Gullane, East Lothian, EH31 2AP  
T. 01620 842656 M. 07710 781888 info@donaldrodger.co.uk www.donaldrodger.co.uk  
Director: Donald Rodger BSc(Hons)For, DMS, FICFor, FArborA, CBiol, MRSB, CEnv, RCArborA  
Registered in Scotland no. 499258 VAT reg no. 790 0818 24



## **1 INTRODUCTION**

This survey and report relates to trees growing within the vicinity of a proposed double garage with home office over at 10 Belmont Drive, Edinburgh. It was commissioned by the owners, Mr and Mrs Robertson, and has been prepared in support of the planning application. The area of survey is illustrated on the accompanying tree survey plan.

The **Tree Survey** records in detail the nature, extent and condition of the existing established tree cover within 12m of the proposed footprint of the new building, and provides interpretation and analysis on the findings. It provides a comprehensive and detailed pre-development inventory carried out in line with **British Standard 5837:2012** '*Trees in Relation to Design, Demolition and Construction - Recommendations*'.

**Arboricultural Constraints** are identified in terms of tree retention category and root protection area, consistent with the recommendations contained within BS 5837:2012. The **Implication Assessment** addresses the potential impact of the proposals on the tree cover and sets out recommendations regarding tree removal and retention, all consistent with the recommendations contained within BS 5837:2012.

The survey is based on a comprehensive visual inspection carried out from the ground by Donald Rodger on 15 February 2021. The weather conditions at the time were calm, overcast and dry.

**Author's qualifications:** Donald Rodger holds an Honours Degree in Forestry. He is a Chartered Forester, a Chartered Biologist, a Chartered Environmentalist and a Fellow and Registered Consultant of the Arboricultural Association. He has thirty years experience of arboriculture and amenity tree management at a professional level.

***Limitations:***

- The findings and recommendations contained within this report are valid for a period of twelve months from the date of survey (i.e. until 15 February 2022). Trees are living organisms subject to change – it is strongly recommended that they are inspected on an annual basis for reasons of safety.
- The recommendations relate to the site as it exists at present, and to the current level and pattern of usage it currently enjoys. The degree of risk and hazard may alter if the site is developed or significantly changed, and as such will require regular re-inspection and re-appraisal.
- The report relates only to those trees growing within the area of survey as shown on the accompanying plan. Trees outwith the survey area were not inspected.
- Whilst every effort has been made to detect defects within the trees inspected, no guarantee can be given as to the absolute safety or otherwise of any individual tree. Extreme climatic conditions can cause damage to even apparently healthy trees.
- Access was not available to trees within neighbouring gardens. These were surveyed remotely from the subject site and as such the findings are therefore limited.
- This report has been prepared for the sole use of Mr and Mrs Robertson and their appointed agents. Any third party referring to this report or relying on the information contained herein does so entirely at their own risk.

## **2 TREE SURVEY METHODOLOGY**

All individual and free-standing trees within 12m of the footprint of the proposed new build with a trunk diameter greater than 75mm when measured at 1.5m are included in the survey. These are accurately plotted on the enclosed **Tree Survey Plan** and recorded in detail in the **Tree Survey Schedule** (Section 6).

The trees have been tagged with a uniquely numbered aluminium identity disc approximately 2m from ground level. A total of **5 individual trees** were surveyed, with tag numbers running sequentially from **0295 to 0299** (only the last three digits are used in this report).

The tree locations were plotted as part of a detailed topographical survey, carried out by others. These were checked on site and adopted for the purposes of this report. The actual measured canopy spread of each individual tree is indicated on the Tree Survey Plan. This provides an accurate representation of the extent and configuration of the canopy cover as it affects the site.

Information on each numbered tree is provided in the Tree Survey Schedule (Section 6). Consistent with the approach recommended in **British Standard 5837:2012**, this records pertinent details, including:

- Tree number;
- Tree species;
- Trunk diameter;
- Tree height;
- Crown spread;
- Height in metres of crown clearance above adjacent ground level;
- Age;
- Condition category, Good, Fair, Poor or Dead as per BS 5837;

- Comments and observations on the overall form, health and condition of the tree, highlighting any problems or defects;
- Life expectancy;
- Retention category, A, B, C and U, as per BS 5837;
- Recommended arboricultural works;
- Priority for action.

All trees within the survey have been ascribed a **Retention Category**. In line with the recommendations contained within BS 5837:2012, this takes account of the health, condition and future life expectancy of the tree, as well as its amenity and landscape value and suitability for retention within any proposed development. The retention category for each tree is shown in the Tree Survey Schedule and the central discs colour coded on the plan accordingly.

**A** – High category: trees whose retention is most desirable (green on plan).

**B** – Moderate category; trees where retention is desirable (blue on plan).

**C** – Low category; trees which could be retained (grey on plan).

**U** – Unsuitable for retention; trees which should be removed (red on plan).

### **3 SURVEY RESULTS**

#### **3.1 General Site Description**

10 Belmont Drive is a large, detached villa of modern construction set within the grounds of Belmont House, in the Murrayfield area of Edinburgh. It is accessed by a private drive from the east. It enjoys an elevated position with a southerly aspect and has been constructed over several levels into the hillside. A large area of mixed woodland adjoins to the west. The property falls within the West Murrayfield Conservation Area.

A total of five individual trees were recorded which stand within 12m of the footprint of the proposed garage. Trees 295 to 298 form a close group to the west of the parking area, with tree 299 standing to the north. An area of dense laurel and holly growth and a narrow band of young trees occupies the south west corner of the garden. This is indicated on the tree survey plan. The trees in turn form the eastern edge of a large area of woodland which occupies the lower slopes of Corstorphine Hill.

The area of survey, site features and spatial distribution of the tree over is graphically illustrated on the accompanying Tree Survey Plan.

#### **3.2 Tree Description and Assessment**

The tree cover comprises four lime (*Tilia x europaea*) and a single sycamore (*Acer pseudoplatanus*), species which are common to the area. They are all of similar age and in full maturity for their species (see photos 1 to 3). The lime trees display tall trunks with suppressed crowns. There is evidence that soil levels have been raised around the base of trees 295 to 297. Tree 298, the sycamore, is heavily engulfed in ivy and this prevented full and proper inspection. Tree 295 is

in poor overall condition and has a spindly trunk and very small live crown with dieback at the tip. The remaining trees appear to be in satisfactory condition overall, although they display signs of low vigour and vitality.



**Photo 1.**



**Photo 2.**



**Photo 3.**

## **4 ARBORICULTURAL CONSTRAINTS**

### **4.1 Tree Retention Category**

A retention category (A, B, C or U), based on the grading system as set out within British Standard 5837:2012, has been ascribed to each tree. This is explained at the tree survey schedule. Categorisation is carried out without reference to any proposed development or site alterations, and is based solely on tree health, condition, safe life expectancy and amenity value.

The trees 296 to 299 have been ascribed a B (medium) retention category. They are in satisfactory health and condition, have a reasonable future life expectancy and possess landscape and amenity value. Tree 295 is in poor and declining condition and has a relatively limited life expectancy. This tree has been ascribed a C (low) retention value.

### **4.2 Root Protection Area**

Definition of the root protection area (**RPA**) for trees is provided within British Standard 5837:2012. This is a minimum **area** which should be left undisturbed around each tree and is calculated as an area equivalent to a circle with a radius of 12 times the stem diameter. The RPA may change its shape depending on local site and tree factors, as assessed by an arboriculturalist. The RPA of the individually surveyed trees has been graphically plotted as a **grey circle** on the Tree Survey Plan.

The root protection area is strongly influenced by local site conditions and previous site history. The presence of roadways, walls and hard surfacing can restrict root development in certain directions. The root protection area, as



conventionally defined by a circle centred on the trunk, must therefore be interpreted with caution and in the light of local site features.

## **5 ARBORICULTURAL IMPACT ASSESSMENT**

### **5.1 Development Proposal**

It is proposed to construct a new double garage with home office over adjacent to the existing drive at the south west of the main house. Detailed proposals have been prepared by McLaren, Murdoch and Hamilton Architects and these are referred to here. The proposed footprint of the garage in relation to the tree cover is illustrated on the appended tree proposals plan which accompanies this section.

### **5.2 Tree Removal and Retention**

It is proposed to remove trees 295 to 297 to facilitate the development. Tree 295 stands within the footprint of the garage and trees 296 and 297 are located so close that their safe retention would not be feasible. Excavations necessary to tie-in with the level of the existing driveway and for the construction of foundations would encroach close (less than 2m) to trees 296 and 297 and result in root damage and disturbance. It is pertinent to note that one of the trees (295) is in poor and declining condition and of low retention value. Trees proposed for removal are outlined in red on the tree proposals plan.

It would be feasible to retain trees 298 and 299. These are sufficiently distant from the new garage as to be unaffected. Trees proposed for retention are outlined in green on the tree proposals plan.

### **5.3 Tree Planting**

The site is already heavily treed and supports a number of large, mature specimens which have been supplemented by significant new planting in recent years. The

property already enjoys a wooded setting, with as large block of woodland on adjoining land to the west. The removal of the three trees as proposed will not be noticeable in the wider landscape and replacement planting would not be necessary or appropriate in this case.

## **6 TREE SURVEY SCHEDULE**

### **Explanation of Terms**

<b>Tag no.</b>	- Identification number of tree as shown on plan.
<b>Species</b>	- Common name of species.
<b>Dia</b>	- Trunk diameter in cm measured at 1.5m. <b>MS</b> = multi-stemmed.
<b>Hgt</b>	- Height of tree in metres.
<b>Crown spread</b>	- Radial crown spread in metres measured to the four cardinal compass points N, E, S and W.
<b>Crown height</b>	- Height in m of crown clearance above ground.
<b>Age Class</b>	- Age class category. <b>Young</b> <b>Semi-Mature</b> <b>Early Mature</b> <b>Mature</b>
<b>Cond Cat</b>	- Condition category ( <b>Good, Fair, Poor, or Dead</b> ).
<b>Notes</b>	- General comments on tree health, condition and form, highlighting any defects or areas of concern.
<b>Life Expect</b>	- Life expectancy, estimated in years.
<b>BS 5837 Cat</b>	- BS 5837:2012 Retention category ( <b>A, B, C or U</b> - see explanation overleaf).
<b>Rec Management</b>	- Recommended remedial action/arboricultural work.
<b>Priority</b>	- Priority for action.

## BS 5837:2012 Category Grading

Categories for tree quality assessment, based on guidance given in British Standard BS 5837: 2012 'Trees in Relation to Design, Demolition and Construction – Recommendations'.

### Trees unsuitable for retention

Category and definition	Criteria – Subcategories
<p><b>Category U</b></p> <p>Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years</p>	<p>Trees that have a serious, irremediable, structural defect, such that their early loss is expected due to collapse, including those that will become unviable after removal of other category U trees (e.g. where, for whatever reason, the loss of companion shelter cannot be mitigated by pruning).</p> <p>Trees that are dead or are showing signs of significant, immediate, and irreversible overall decline. Trees infected with pathogens of significance to the health and/or safety of other trees nearby, or very low quality trees suppressing adjacent trees of better quality</p> <p><i>NOTE Category U trees can have existing or potential conservation value which it might be desirable to preserve.</i></p>

### Trees to be considered for retention

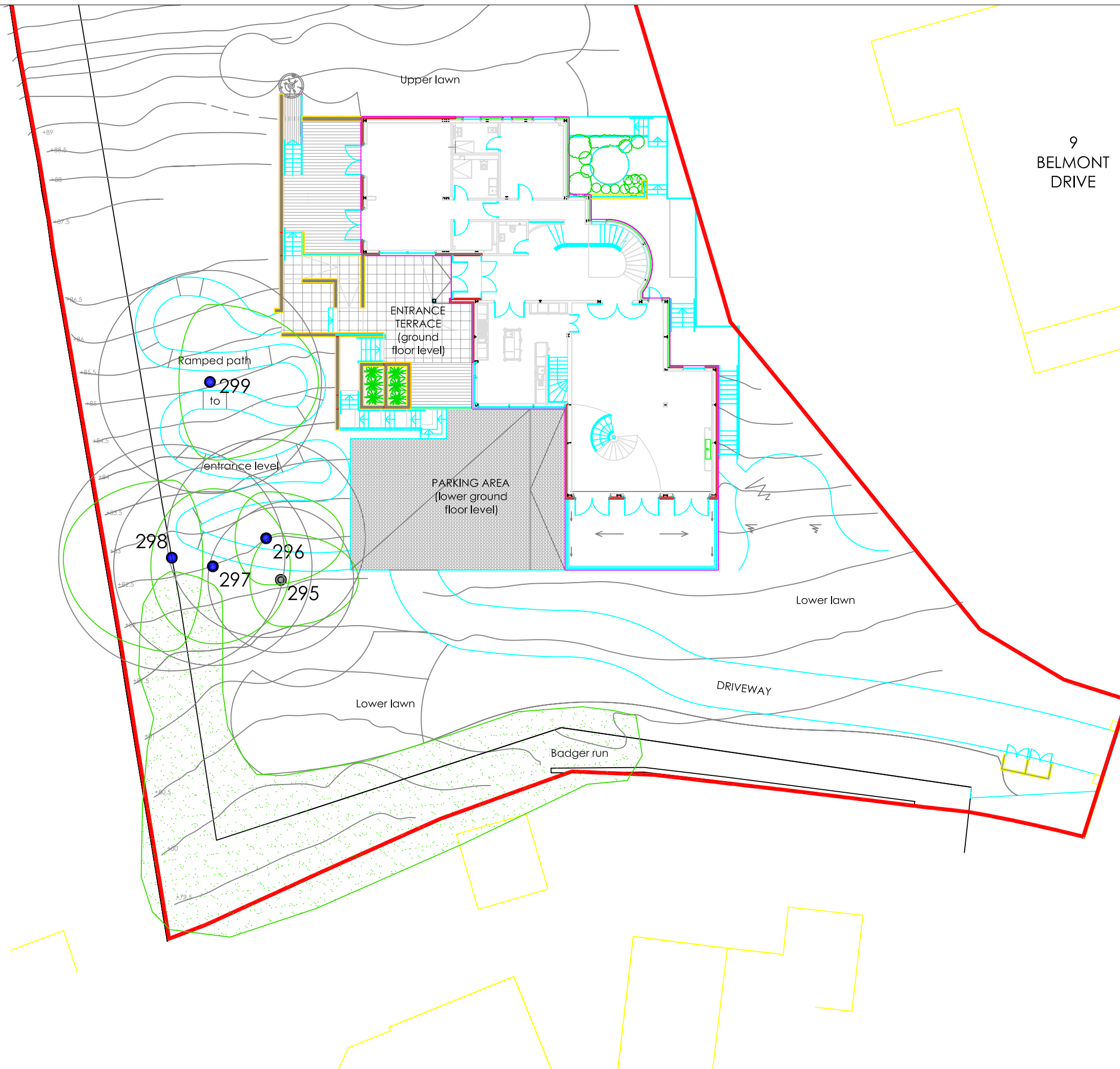
Category and definition	Criteria – Subcategories		
<p><b>Category A</b></p> <p>High quality and value with an estimated life expectancy of at least 40 years.</p>	<p>Particularly good example of their species, especially if rare or unusual; or those that are essential components of formal or semi-formal arboricultural feature.</p>	<p>Trees, groups or woodlands of particular visual importance as arboricultural and/or landscape features.</p>	<p>Trees, groups or woodlands of significant conservation, historical, commemorative or other value.</p>
<p><b>Category B</b></p> <p>Moderate quality and value with an estimated life expectancy of at least 20 years.</p>	<p>Trees that might be in category A, but are downgraded because of impaired condition (e.g. presence of significant though remediable defects, including unsympathetic past management or storm damage), such that they are unlikely to be suitable for retention for beyond 40 years; or trees lacking the special quality necessary to merit the category A designation.</p>	<p>Trees present in numbers, usually growing as groups or woodlands, such that they attract a higher collective rating than they might as individuals; or trees occurring as collectives but situated so as to make little visual contribution to the wider locality.</p>	<p>Trees with material conservation or other cultural value.</p>
<p><b>Category C</b></p> <p>Low quality and value with an estimated life expectancy of at least 10 years, or young trees with a diameter &lt;150mm.</p>	<p>Unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories.</p>	<p>Trees present in groups or woodlands, but without this conferring on them significantly greater landscape value, and/or trees offering low landscape benefit.</p>	<p>Trees with no material conservation or other cultural value.</p>

Tag no	Species	Dia	Hgt	N	E	S	W	Cr Cl	Age	Cond Cat	Notes	Life expect	BS 5837 Cat	Rec action	Priority
295	Lime	39	21	3	5	3	2	3	Mature	Poor	Soil levels raised around base of trunk. Tall, spindly trunk with small live crown. Suppressed on west face with pronounced bias to east. Upper crown exhibiting symptoms of stress and early decline. Top dead. Poor specimen with limited future potential.	10-20	C		
296	Lime	53	25	3	5	3	2	3	Mature	Fair	Soil levels raised around base of trunk. Tall, single trunk. Suppressed on west face with pronounced bias to east. Crown exhibiting symptoms of low vigour and vitality. Minor deadwood in crown. Old wound on trunk at 1m almost occluded.	20-40	B		
297 Page 62	Lime	53	24	5	5	5	4	4	Mature	Fair	Soil levels raised around base of trunk. Suppressed crown development. Large limb arises at 3m and extends to north. Crown exhibiting symptoms of low vigour and vitality. Minor deadwood.	20-40	B		
	Sycamore	61	24	5	2	6	7	5	Mature	Fair	Trunk heavily engulfed in ivy. This prevents full and proper inspection. Forks into two codominant stems at 5m. Suppressed on east face. Crown exhibiting symptoms of low vigour and vitality.	20-40	B		
299	Lime	60	25	5	7	5	2	6	Mature	Fair	Slight lean and bias to east. Forks into two codominant stems at 7m - union appears structurally sound.	20-40	B		

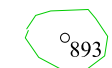
## **PLANS**

Tree Survey and Proposals

9  
BELMONT  
DRIVE



**Tree Protection**

 INDIVIDUAL TREE, SHOWING TAG NUMBER, TRUNK DIAMETER AND CANOPY SPREAD DRAWN TO SCALE

-  TREES BS 5837 CATEGORY A
-  TREES BS 5837 CATEGORY B
-  TREES BS 5837 CATEGORY C
-  TREES BS 5837 CATEGORY U

 ROOT PROTECTION AREA (12X TRUNK DIAMETER)

Tree survey details recorded in accordance with BS5837:2012. Numbers refer to tree tags. Refer to accompanying report and schedule for tree details.  
Do not scale from drawing.



**TITLE: Tree Survey**  
**10 Belmont Drive, Edinburgh**

**Client: Mr and Mrs Robertson**

**Scale: 1:250 @ A3**

**Drwg no. : 17476**

**Drawn by : DR**

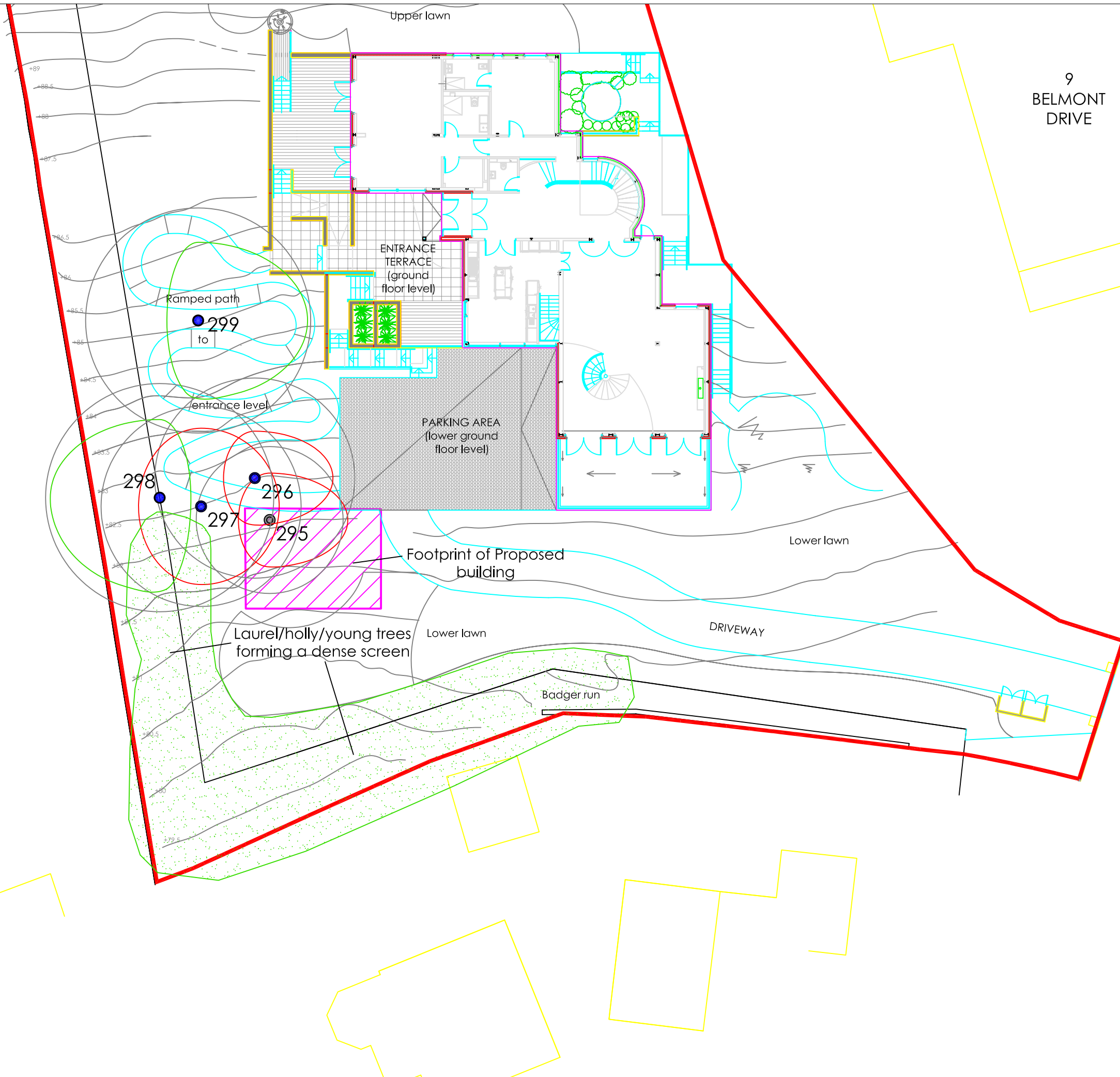
**Date : February 2021**



**Donald Rodger Associates**  
**Arboricultural Consultants**  
**39A Main Street, Gullane**  
**East Lothian, EH31 2AP**  
**Tel. 01620 842656**  
**e mail info@donaldrdodger.co.uk**  
**www.donaldrdodger.co.uk**



9  
BELMONT  
DRIVE



### Tree Proposals



### Tree Survey

○ 893 INDIVIDUAL TREE, SHOWING TAG NUMBER, TRUNK DIAMETER AND CANOPY SPREAD DRAWN TO SCALE

- TREES BS 5837 CATEGORY A
- TREES BS 5837 CATEGORY B
- TREES BS 5837 CATEGORY C
- TREES BS 5837 CATEGORY U



Tree survey details recorded in accordance with BS5837:2012. Numbers refer to tree tags. Refer to accompanying report and schedule for tree details.  
Do not scale from drawing.



### TITLE: Tree Survey

10 Belmont Drive, Edinburgh

Client: Mr and Mrs Robertson

Scale: 1:250 @ A3

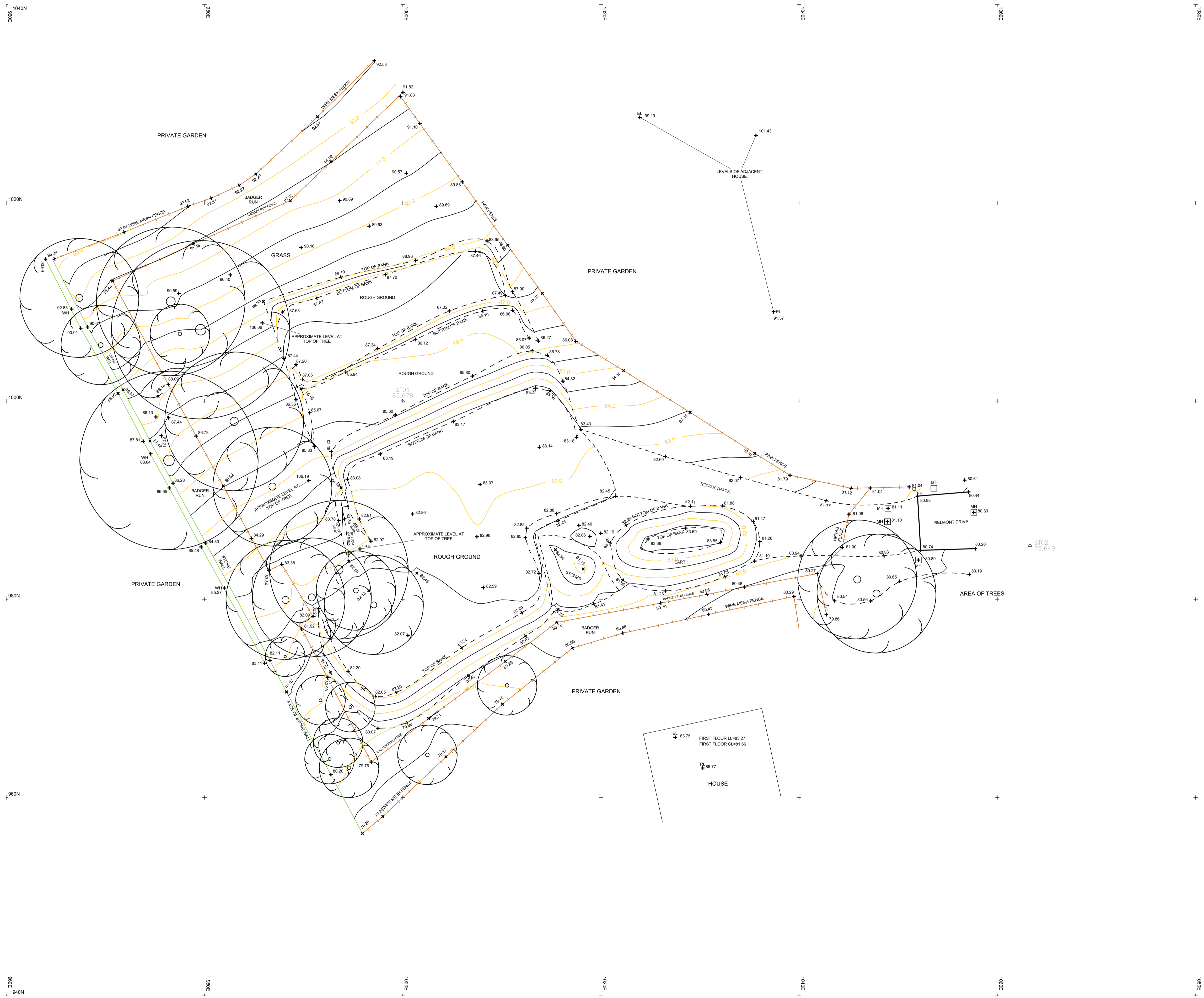
Drwg no. : 17476

Drawn by : DR

Date : February 2021



Donald Rodger Associates  
Arboricultural Consultants  
39A Main Street, Gullane  
East Lothian, EH31 2AP  
Tel. 01620 842656  
e mail info@donaldrödger.co.uk  
www.donaldrödger.co.uk



**NOTES**

i) All survey levels are related to the OSBM with a value of 45.38m located on south west facing wall at the junction of Corstorphine Road and Ellersley Road to the south east of site.

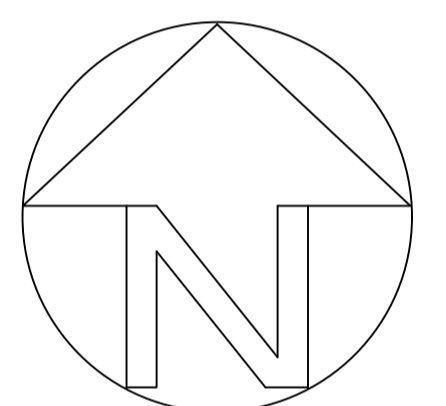
ii) Whilst G.L. Surveys has made every effort to locate all topographical and building features we cannot accept responsibility for any features which may be omitted if they are obscured from view for any reason or temporary reason at the time of the survey taking place.

**LEGEND**

- |                             |                       |
|-----------------------------|-----------------------|
| AV - Air Valve              | MC - Mercury Cover    |
| BH - Borehole               | MM - Manhole          |
| B - Bollard                 | MOR - Manor           |
| BT - British Telecom Cover  | MP - Mooring Post     |
| C - Cover (Unknown service) | MR - Mooring Ring     |
| CL - Cell Level             | OSM - O.S. Benchmark  |
| COL - Column                | OHW - Overhead Wires  |
| CT - Cable Telecom Cover    | OTF - O.S. Trig Point |
| D - Drain                   | P - Post              |
| DK - Drop Kerb              | PM - Parking Meter    |
| EC - Electricity Cover      | PLYN - Elec. Pylon    |
| EL - Eaves Level            | RE - Roadside Eye     |
| EP - Electricity Pole       | RL - Ridge Level      |
| ER - Earth Rod              | RS - Road Sign        |
| FH - Fire Hydrant           | SP - Sign Post        |
| FL - Floor Level            | SV - Suction Valve    |
| G - Gully                   | T - Tolly             |
| GAS - Gas Cover             | TRT - Trial Pit       |
| GPO - Post Office Box       | TL - Traffic Lights   |
| GT - Gas Tolly              | TP - Telegraph Pole   |
| IC - Inspection Cover       | TV - Cable T.V. Cover |
| I - Invert Level            | VP - Vent Pipe        |
| KL - Keep Left Bollard      | WC - Water Cover      |
| LB - Lighting Bollard       | WH - Wall Head Level  |
| LL - Lintel Level           | WL - Water Level      |
| LP - Lamp Post              | WM - Water Meter      |
| LT - Lighting Tower         | WT - Water Tolly      |

**SURVEY STATIONS**

Station	Eastings	Northings	Level
ST01	1002.00	95.678	95.678
ST02	1003.208	95.425	79.649
ST03	1108.158	1018.846	71.553
ST04	1331.556	1017.168	96.802



Page 66

**G.L.SURVEYS**

16 RUSSELL ROAD  
EDINBURGH EH12 5NE

T 0131 337 9988  
F 0131 337 4499  
E edinburgh@glssurveys.com

19 STEWART STREET  
MILNGAVIE GLASGOW G62 6BW

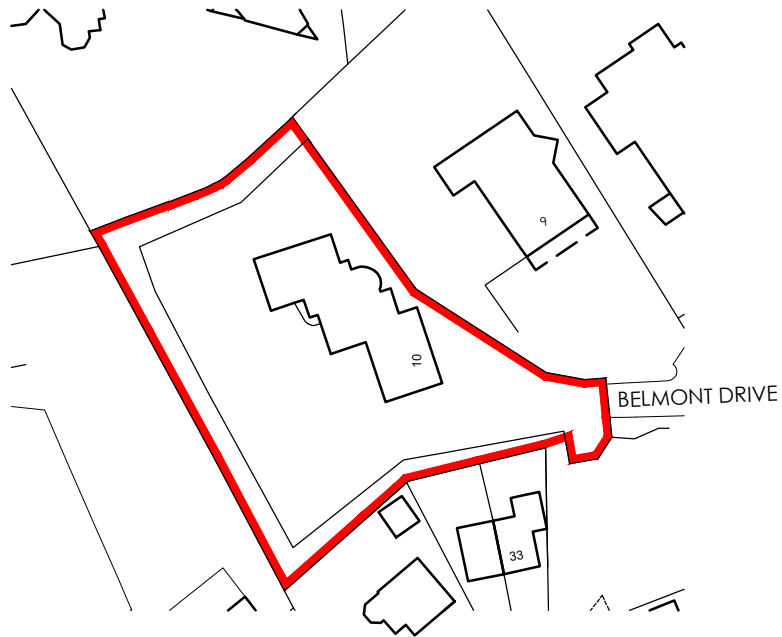
T 0141 955 0222  
F 0141 955 0233  
E glasgow@glssurveys.com

CLIENT: **MR STEVE JONES**

JOB TITLE: **WEST BELMONT EDINBURGH**

DRAWING TITLE: **SITE SURVEY**

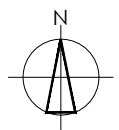
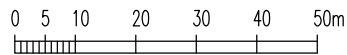
DATE	NOVEMBER 2007	SCALE	1:200
SURVEYED BY	BS	EDITED BY	BS
CHECKED BY			EL
JOB NUMBER:	<b>07-11-04</b>	DRAWING NUMBER:	<b>01</b>



**KEY**



Application site boundary



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McLAREN MURDOCH & HAMILTON  
 CHARTERED ARCHITECTS  
 2 DUNDEE ROAD  
 PERTH, PH2 7DW  
 TEL 01738 627061

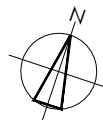
2 WEST COATES  
 EDINBURGH, EH12 5JQ  
 TEL 0131 539 5000

10 BELMONT DRIVE  
 GARAGE EXTENSION  
 EDINBURGH EH12 6JN  
 DEBBIE AND COLIN ROBERTSON

LOCATION PLAN  
 PLANNING APPLICATION

Page 67

SCALE 1:1250@A4	DIRECTOR MJT
DATE MAY 2019	DRAWN BY NL
DRAWING NO. 2401C(PL)01	



Co-ordinated project information

NOTES/REVISIONS

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10 BELMONT DRIVE  
EDINBURGH EH12 6JN  
DEBBIE & COLIN ROBERTSON

DRAWING TITLE

EXISTING SITE PLAN  
PLANNING APPLICATION

SCALE 1:250 @ A3

DIRECTOR MJT

DATE MAY 2019

DRAWN BY NL

McLAREN MURDOCH & HAMILTON  
CHARTERED ARCHITECTS

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2 WEST COATES EDINBURGH, EH12 5JQ TELEPHONE 0131 539 5000

DRAWING NO.

2401C(PL)02

Page 68





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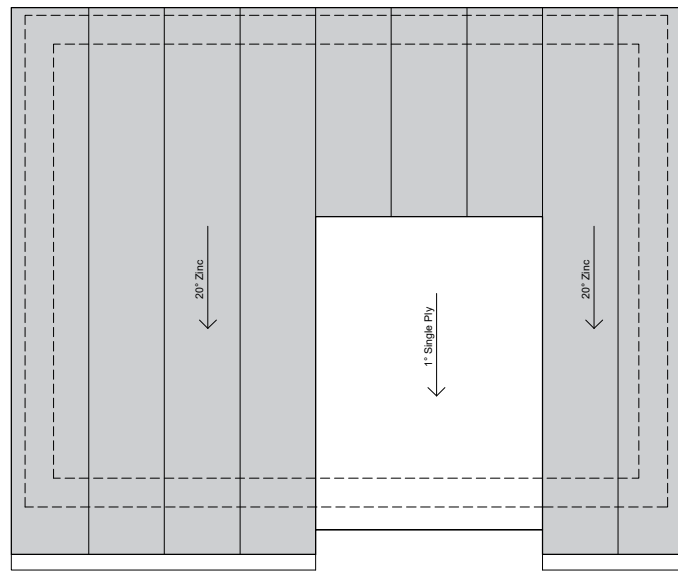
NOTES/REVISIONS

**McLAREN MURDOCH & HAMILTON**  
 CHARTERED ARCHITECTS  
 2 DUNDEE ROAD  
 PERTH, PH2 7DW  
 TELEPHONE 01738 627 061  
 229 BALGREEN ROAD  
 EDINBURGH, EH11 2RZ  
 TELEPHONE 0131 539 5000

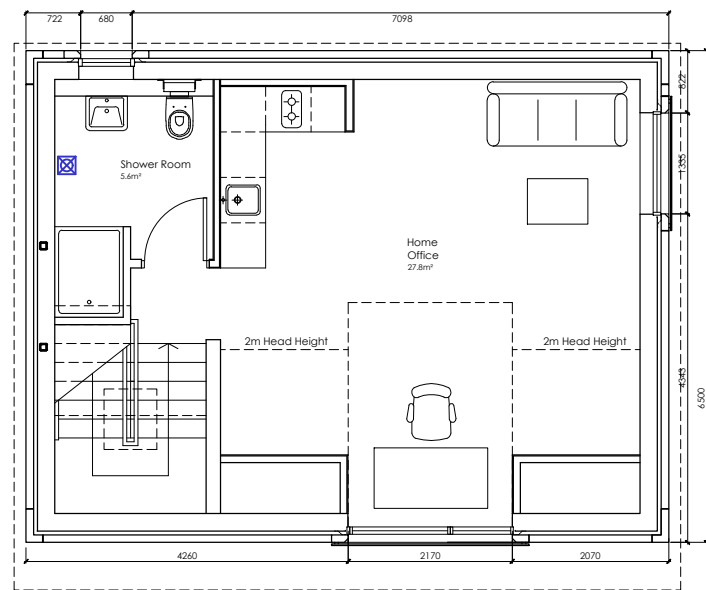
10 BELMONT DRIVE, EH12 6JN  
 GARAGE EXTENSION  
 COLIN & DEBBIE ROBERTSON

DRAWING TITLE  
 PROPOSED GARAGE & HOME OFFICE  
 PROPOSED SITE PLAN

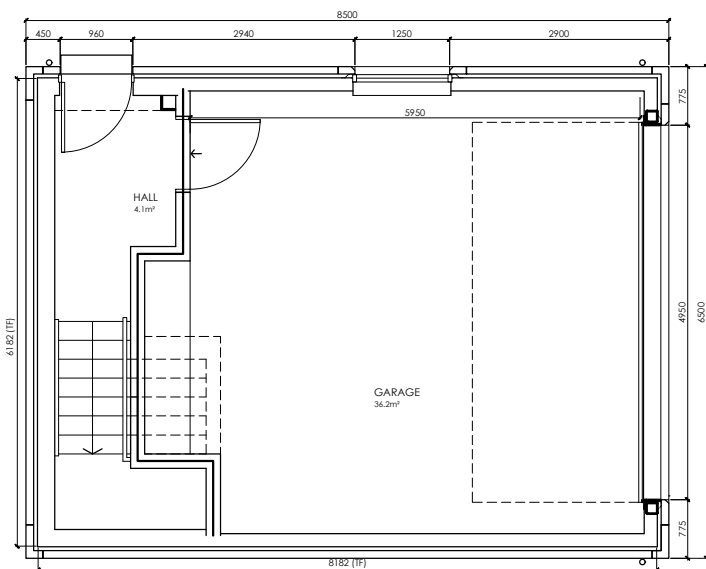
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DATE	APRIL 21	DRAWN BY	RA
DRAWING NO.	2401C(PL)03		



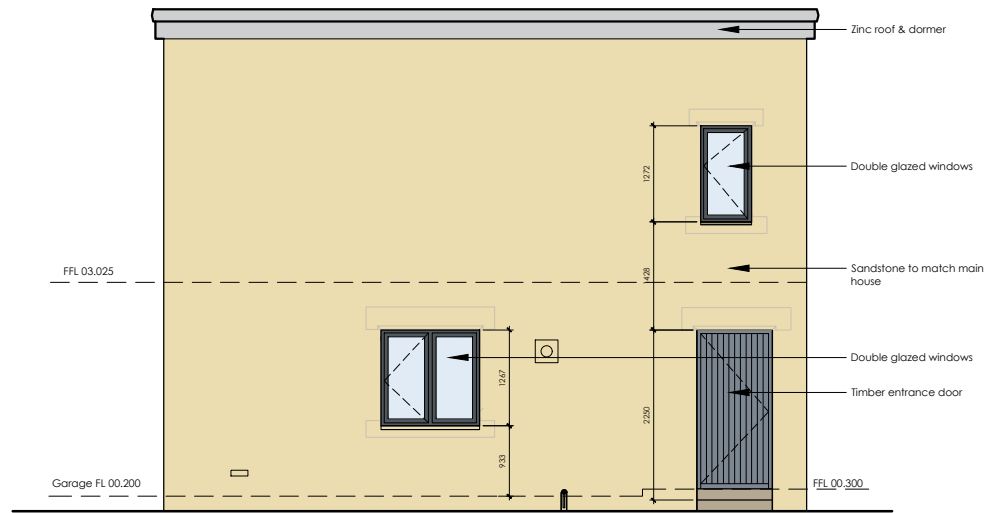
Roof Plan  
1:100



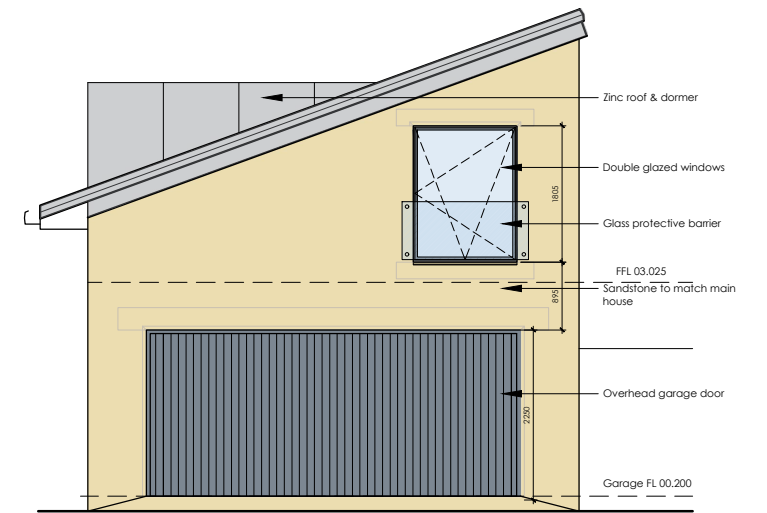
First Floor Plan  
1:100



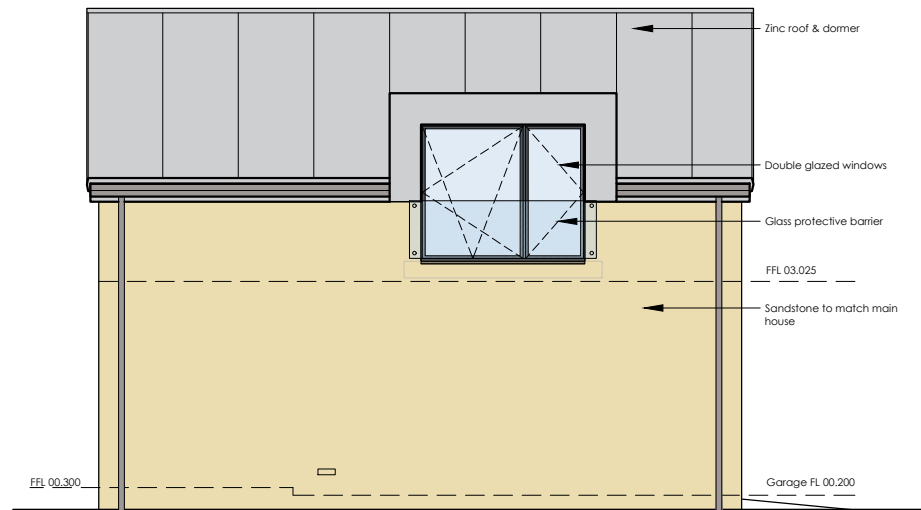
Ground Floor Plan  
1:100



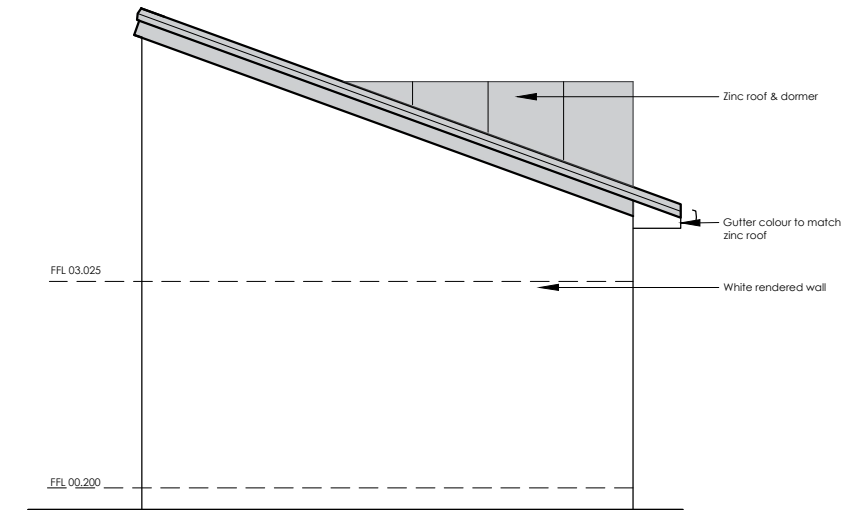
North Elevation  
1:100



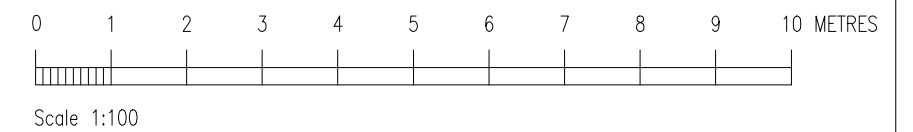
East Elevation  
1:100



South Elevation  
1:100



West Elevation  
1:100



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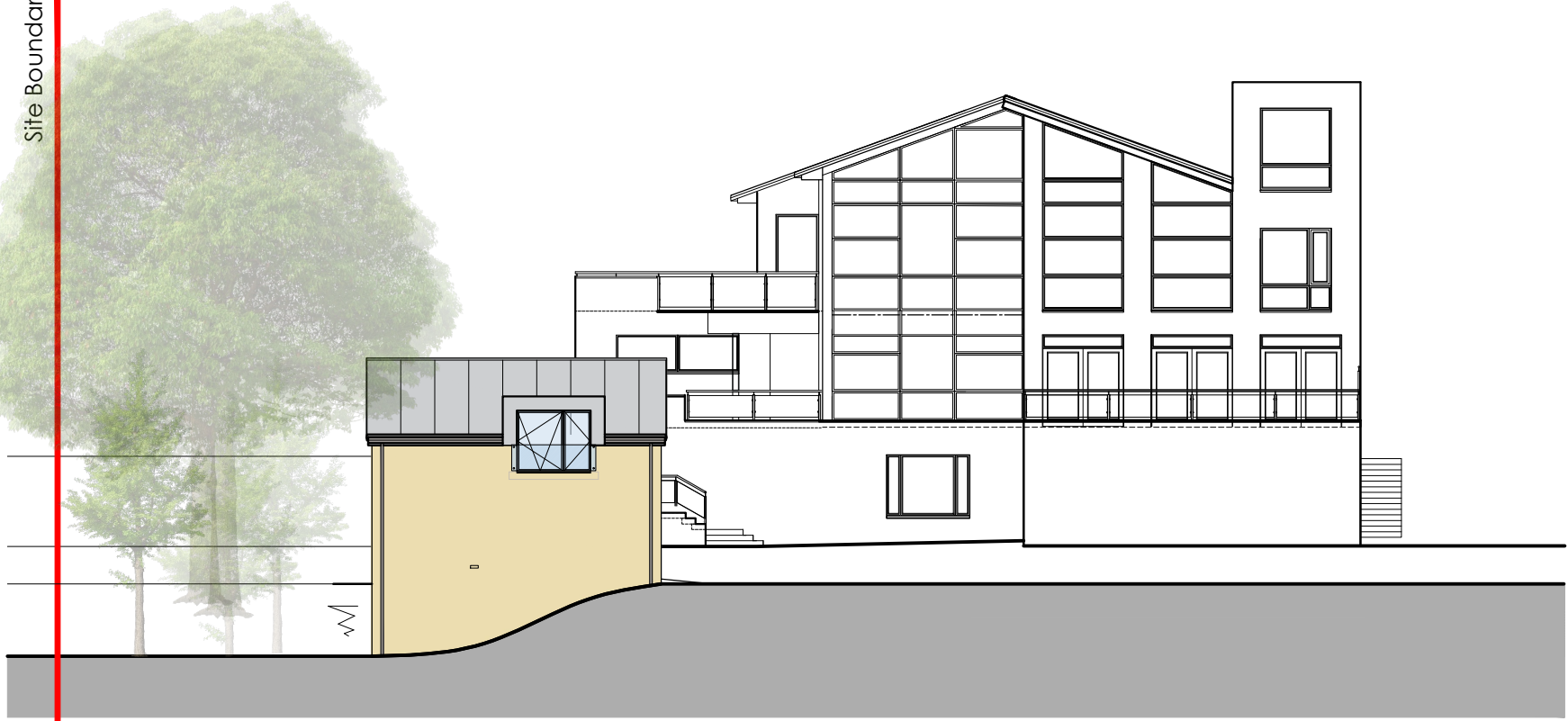
**McLAREN MURDOCH & HAMILTON**  
CHARTERED ARCHITECTS  
2 DUNDEE ROAD  
PERTH, PH2 7DW  
229 BALGREEN ROAD  
EDINBURGH, EH11 2RZ  
TELEPHONE 01738 627 061  
TELEPHONE 0131 539 5000

10 BELMONT DRIVE, EH12 6JN  
GARAGE EXTENSION  
COLIN & DEBBIE ROBERTSON

DRAWING TITLE  
PROPOSED GARAGE & HOME OFFICE  
PLANS & ELEVATIONS

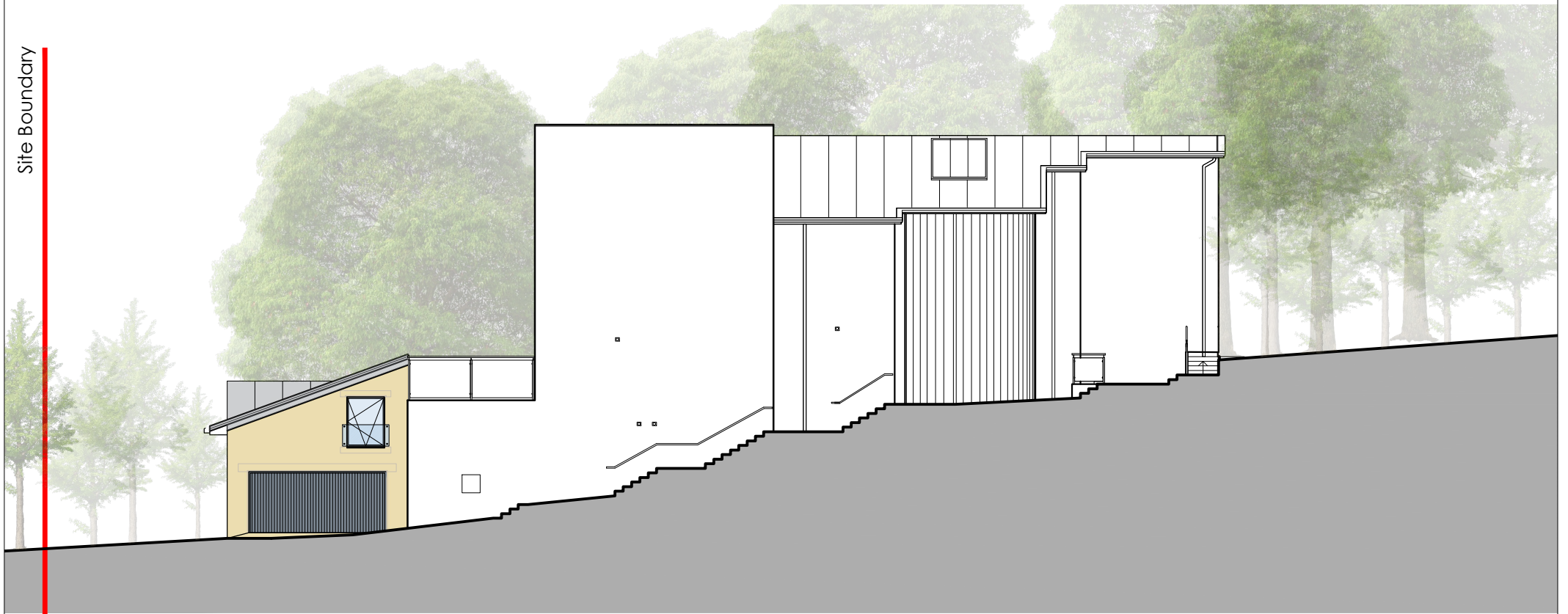
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DATE	APRIL 21	DRAWN BY	RA
DRAWING NO.	2401C(PL)04		

Site Boundary



North Elevation  
1:200

Site Boundary



East Elevation  
1:200

Site Boundary



West Elevation  
1:200

NOTES/REVISIONS

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229 BALGREEN ROAD  
EDINBURGH, EH11 2RZ

TELEPHONE 0131 539 5000

10 BELMONT DRIVE  
GARAGE EXTENSION  
COLIN & DEBBIE ROBERTSON

Page 71

DRAWING TITLE  
CONTEXT ELEVATIONS

SCALE 1:200 @ A3

DIRECTOR MJT

DATE APRIL 21

DRAWN BY RA

DRAWING NO. 2401C(PL)05

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Mr Ari Kiuru.  
96 Avalon Gardens  
Linlithgow  
EH49 7PL

**Decision date: 14 July 2021**

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

Replacement of existing single glazed sash and case windows by energy efficient uPVC sash and case windows replicating the design and appearance of the existing windows.

At 2F1 63 Montgomery Street Edinburgh EH7 5HZ

**Application No:** 21/02854/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 24 May 2021, 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;

**Conditions:-**

1. The proposals are contrary to non-statutory guidance on Listed Buildings and Conservation Areas as the proposed replacement windows do not preserve the special character and appearance of the conservation area.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the proposals do not preserve the character and appearance of the conservation area.

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

Drawings 01-04, 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 development is of an inappropriate material and would have an adverse impact on the character and appearance of the existing building and would fail to preserve or enhance the character and appearance of the conservation area. The proposal is therefore contrary to Edinburgh Local Development Plan Policy Env 6 and the non-statutory Guidance for Listed Buildings and Conservation Areas.

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 Weronika Myslowiecka directly at [weronika.myslowiecka@edinburgh.gov.uk](mailto:weronika.myslowiecka@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**  
**2F1 63 Montgomery Street, Edinburgh, EH7 5HZ**

**Proposal: Replacement of existing single glazed sash and case windows by energy efficient uPVC sash and case windows replicating the design and appearance of the existing windows.**

**Item – Local Delegated Decision**  
**Application Number – 21/02854/FUL**  
**Ward – B12 - Leith Walk**

## **Recommendation**

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

## **Summary**

The proposed development is of an inappropriate material and would have an adverse impact on the character and appearance of the existing building and would fail to preserve or enhance the character and appearance of the conservation area. The proposal is therefore contrary to Edinburgh Local Development Plan Policy Env 6 and the non-statutory Guidance for Listed Buildings and Conservation Areas.

## **SECTION A – Application Background**

### **Site Description**

The application site is a second floor flat within tenement building, located on Montgomery Street.

The application is located within New Town Conservation Area.

### **Description Of The Proposal**

The application proposes to replace timber sash and case windows for UPVC windows.

### **Relevant Site History**

No relevant site history.

## Consultation Engagement

No Consultations.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 1 June 2021

**Date of Advertisement:** 11 June 2021

**Date of Site Notice:** 8 June 2021

**Number of Contributors:** 0

## Section B - Assessment

### 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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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?

### Assessment

To address these determining issues, it needs to be considered whether:

- a) the proposed scale, form and design is acceptable and will not be detrimental to the conservation area;
- b) the proposal will cause an unreasonable loss to neighbouring amenity;
- c) any impacts on equalities or human rights are acceptable; and
- d) any comments raised have been addressed.

#### a) Scale, form, design and the conservation area

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

The Edinburgh Local Development Plan Policy Env 6 highlights the importance of preserving the character and appearance of the conservation area and the materials used are appropriate to the historic environment.

The proposed replacement of the existing timber framed sash and case windows with uPVC windows would not utilise materials appropriate to the historic environment. There are only few examples of properties on Montgomery Street with uPVC windows which do not have consent. The vast majority of neighbouring properties in the surrounding area retain timber framed windows and subsequently uPVC windows are not an established feature. The proposal, therefore, introduces a non-traditional and uncharacteristic material to the street and conservation area which, on the whole, is characterised by timber framed windows.

The applicant had referred to the recently approved application within conservation area. However, as the report of handling has explained the area has an established character of alterations to front and rear elevations and alterations to fenestration of which include UPVC framed windows.

The property is part of a Victorian terrace and the uniformity of detailing such as windows is particularly important in this context. The loss of timber windows would undermine the overall appearance of the street and would impact on the architectural detailing of the property and the wider terrace.

The proposal would also be contrary to the Council's non-statutory guidance for Listed Buildings and Conservation Areas, which states that replacement windows must match original proportions and materials. It emphasises that uPVC windows will not be acceptable in conservation areas. The proposed uPVC windows are not appropriate and will detract from the appearance of the building and would not preserve the special character and appearance of the conservation area.

The proposals does not comply with Local Development Plan Policy Env 6 and the non-statutory Guidance for Listed Buildings and Conservation Areas.

#### b) Neighbouring amenity

The proposals have been assessed against requirements set out in the non-statutory Guidance for Householders to ensure there is no unreasonable loss to neighbouring amenity with respect to privacy, overshadowing and loss of daylight or sunlight.

The proposals comply with Local Development Plan Policy Des 12 and the non-statutory Guidance for Householders.

#### c) Equalities and human rights

This application was assessed in terms of equalities and human rights. No impact was identified.

#### d) Public comments

The application has attracted one letter objecting the proposal.

Material consideration:

-UPVC windows are contrary to the Listed Buildings and Conservation Area Guidance. This has been assessed in section (a).

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

### **Reasons**

1. The proposals are contrary to non-statutory guidance on Listed Buildings and Conservation Areas as the proposed replacement windows do not preserve the special character and appearance of the conservation area.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the proposals do not preserve the character and appearance of the conservation area.

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

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

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

**Date Registered: 24 May 2021**

### **Drawing Numbers/Scheme**

01-04

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Weronika Myslowiecka, Planning Officer  
E-mail: [weronika.myslowiecka@edinburgh.gov.uk](mailto:weronika.myslowiecka@edinburgh.gov.uk)

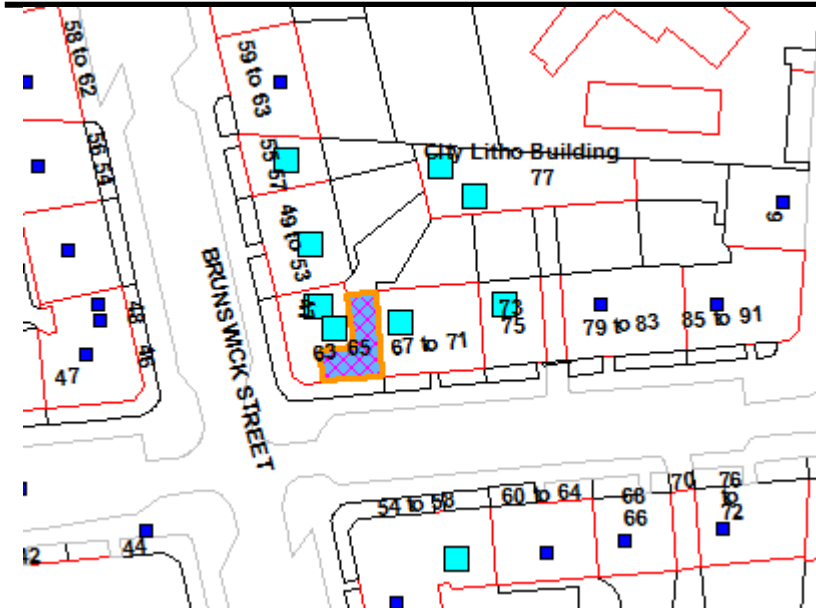
Appendix 1

**Consultations**

No consultations undertaken.



## Neighbours Notified for 21/02854/FUL Date 1 June 2021



### Location Plan

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77A Brunswick Street Edinburgh EH7 5HS

Suite 5 77 Montgomery Street Edinburgh EH7 5HZ

Suite 2 77 Montgomery Street Edinburgh EH7 5HZ

2F1 57 Brunswick Street Edinburgh EH7 5HT

3F1 57 Brunswick Street Edinburgh EH7 5HT

1F1 57 Brunswick Street Edinburgh EH7 5HT

55 Brunswick Street Edinburgh EH7 5HT

3F2 56 Montgomery Street Edinburgh EH7 5JA

3F1 56 Montgomery Street Edinburgh EH7 5JA

2F2 56 Montgomery Street Edinburgh EH7 5JA

2F1 56 Montgomery Street Edinburgh EH7 5JA

1F2 56 Montgomery Street Edinburgh EH7 5JA

1F1 56 Montgomery StreetEdinburghEH7 5JA  
81A Montgomery Street EdinburghEH7 5HZ  
3F2 75 Montgomery StreetEdinburghEH7 5HZ  
3F1 75 Montgomery StreetEdinburghEH7 5HZ  
2F2 75 Montgomery StreetEdinburghEH7 5HZ  
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73A Montgomery Street EdinburghEH7 5HZ  
73 Montgomery Street EdinburghEH7 5HZ  
58 Montgomery Street EdinburghEH7 5JA  
54 Montgomery Street EdinburghEH7 5JA  
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1F1 69 Montgomery StreetEdinburghEH7 5HZ  
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3F1 63 Montgomery StreetEdinburghEH7 5HZ  
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1F2 63 Montgomery StreetEdinburghEH7 5HZ  
1F1 63 Montgomery StreetEdinburghEH7 5HZ  
3F3 51 Brunswick StreetEdinburghEH7 5HT  
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65 Montgomery Street EdinburghEH7 5HZ  
63A Montgomery Street EdinburghEH7 5HZ  
49 Brunswick Street EdinburghEH7 5HT  
47A Brunswick Street EdinburghEH7 5HT  
47 Brunswick Street EdinburghEH7 5HT

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto:planning.support@edinburgh.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE      100417361-003

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant    Agent

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	96 Avalon Gardens
First Name: *	Ari	Building Number:	96
Last Name: *	Kiuru	Address 1 (Street): *	96 Avalon Gardens
Company/Organisation		Address 2:	
Telephone Number: *	[REDACTED]	Town/City: *	Linlithgow
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	EH49 7PL
Fax Number:			
Email Address: *	[REDACTED]		

## Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

2F1

Address 2:

63 MONTGOMERY STREET

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH7 5HZ

Please identify/describe the location of the site or sites

Northing

674688

Easting

326430

## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Application 21/02854/FUL, 2F1 63 Montgomery Street EH7 5HZ, Appeal on Local Delegated Decision to refuse replacement of windows dated 14th July 2021.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

The proposal does not alter the character or appearance of the building and would preserve the character and appearance of the conservation area. Vast environmental benefits by energy saving in fighting climate change. Each case can and must be decided on their own merits, i.e. there is no absolute ban on uPVC sash and case windows in the conservation areas as evidenced by e.g. 21/00197/FUL. The refusal to use modern materials is a "crime" against environment as main heat loss is via windows.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

As stated before

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

21/02854/FUL

What date was the application submitted to the planning authority? \*

01/06/2021

What date was the decision issued by the planning authority? \*

14/07/2021

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Ari Kiuru

Declaration Date: 14/08/2021

The proposed windows retain the the appearance, function, colour amd character of the existing windows (sash and case typy identical to the existing ones).

In order to detect the window frame material for the proposed windows, one should get about to touching distance, i.e. from the street level this would be practically impossible, as evidenced by the photograph below.





TmC Planning.  
FAO: Tommy Cochrane  
The Sutherland Suite, Cooper Business Park  
37 Dyfrig Street  
Shotts  
ML7 4DQ

Mr Cook  
26 Netherby Road  
Edinburgh  
EH5 3NA

**Decision date: 6 July 2021**

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

Replacement windows.  
At 26 Netherby Road Edinburgh EH5 3NA

**Application No:** 21/02692/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 14 May 2021, 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;

**Conditions:-**

**Reasons:-**

1. The proposals are contrary to non-statutory guidance on Listed Buildings and Conservation Areas as the proposed replacement windows do not preserve the special character and appearance of the conservation area.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the proposals do not preserve the character and appearance of the conservation area.

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

Drawings 01-07, 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:

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 Weronika Myslowiecka directly at [weronika.myslowiecka@edinburgh.gov.uk](mailto:weronika.myslowiecka@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**  
**26 Netherby Road, Edinburgh, EH5 3NA**

**Proposal: Replacement windows.**

**Item – Local Delegated Decision**  
**Application Number – 21/02692/FUL**  
**Ward – B04 - Forth**

## **Recommendation**

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

## **Summary**

The proposed development is of an inappropriate material and would have an adverse impact on the character and appearance of the existing building and would fail to preserve or enhance the character and appearance of the conservation area. The proposal is therefore contrary to Edinburgh Local Development Plan Policy Env 6 and the non-statutory Guidance for Listed Buildings and Conservation Areas

## **SECTION A – Application Background**

### **Site Description**

The application site is a two-storey mid-terrace sandstone Victorian Terrace house, located on 26 Netherby Road.

The application site is located within Trinity Conservation Area.

### **Description Of The Proposal**

The application proposes to replace the existing timber sash and case windows with sash and case uPVC windows.

The works relate to the ground floor bay window on the front elevation and the upper floor windows and one ground floor window on the rear elevation.

### **Relevant Site History**

No relevant site history.

### **Consultation Engagement**

No Consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 21 May 2021

**Date of Advertisement:** 28 May 2021

**Date of Site Notice:** 25 May 2021

**Number of Contributors:** 1

## **Section B - Assessment**

### **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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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?

### **Assessment**

To address these determining issues, it needs to be considered whether:

- a) the proposed scale, form and design is acceptable and will not be detrimental to the conservation area;
- b) the proposal will cause an unreasonable loss to neighbouring amenity;
- c) any impacts on equalities or human rights are acceptable; and
- d) any comments raised have been addressed.

#### a) Scale, form, design and the conservation area

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.

The Edinburgh Local Development Plan Policy Env 6 highlights the importance of preserving the character and appearance of the conservation area and the materials used are appropriate to the historic environment.

The proposed replacement of the existing timber framed sash and case windows with uPVC windows would not utilise materials appropriate to the historic environment. There are only few examples of properties on Netherby Road with uPVC windows. The majority of neighbouring properties in the surrounding area retain timber framed windows and subsequently uPVC windows are not an established feature. The proposal, therefore, introduces a non-traditional and uncharacteristic material to the street and conservation area which, on the whole, is characterised by timber framed windows.

The property is part of a Victorian terrace and the uniformity of detailing such as windows is particularly important in this context. The loss of timber windows would undermine the overall appearance of the street and would impact on the architectural detailing of the property and the wider terrace.

The proposal would also be contrary to the Council's non-statutory guidance for Listed Buildings and Conservation Areas, which states that replacement windows must match original proportions and materials. It emphasises that uPVC windows will not be acceptable in conservation areas. The proposed uPVC windows are not appropriate and will detract from the appearance of the building and would not preserve the special character and appearance of the conservation area.

The proposals does not comply with Local Development Plan Policy Env 6 and the non-statutory Guidance for Listed Buildings and Conservation Areas.

#### b) Neighbouring amenity

The proposals have been assessed against requirements set out in the non-statutory Guidance for Householders to ensure there is no unreasonable loss to neighbouring amenity with respect to privacy, overshadowing and loss of daylight or sunlight.

The proposals comply with Local Development Plan Policy Des 12 and the non-statutory Guidance for Householders.

#### c) Equalities and human rights

This application was assessed in terms of equalities and human rights. No impact was identified.

#### d) Public comments

The application has attracted one letter objecting the proposal.

Material consideration:

- UPVC windows would not enhance or preserve the appearance of conservation area. This has been assessed in section (a).

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

### Reasons

1. The proposals are contrary to non-statutory guidance on Listed Buildings and Conservation Areas as the proposed replacement windows do not preserve the special character and appearance of the conservation area.
2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the proposals do not preserve the character and appearance of the conservation area.

### Background Reading/External References

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

Further Information - [Local Development Plan](#)

**Date Registered: 14 May 2021**

### Drawing Numbers/Scheme

01-07

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Weronika Myslowiecka, Planning Officer  
E-mail: [veronika.myslowiecka@edinburgh.gov.uk](mailto:veronika.myslowiecka@edinburgh.gov.uk)

Appendix 1

## **Consultations**

No consultations undertaken.



## Neighbours Notified for 21/02692/FUL Date 21 May 2021

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### Location Plan

Reproduction from the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office  
© Crown Copyright.  
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence  
Number 100023420 The City of Edinburgh Council 2012.

13 Stirling Road EdinburghEH5 3HZ  
11 Stirling Road EdinburghEH5 3HZ  
11B Zetland Place EdinburghEH5 3LZ  
11A Zetland Place EdinburghEH5 3LZ  
11 Zetland Place EdinburghEH5 3LZ  
18 Netherby Road EdinburghEH5 3NA  
9 Netherby Road EdinburghEH5 3LW  
7 Netherby Road EdinburghEH5 3LW  
5 Netherby Road EdinburghEH5 3LW  
11 Netherby Road EdinburghEH5 3LW  
17 Zetland Place EdinburghEH5 3LZ  
15 Zetland Place EdinburghEH5 3LZ  
13 Zetland Place EdinburghEH5 3LZ  
30A Netherby Road EdinburghEH5 3NA  
30 Netherby Road EdinburghEH5 3NA  
28 Netherby Road EdinburghEH5 3NA  
24 Netherby Road EdinburghEH5 3NA  
22 Netherby Road EdinburghEH5 3NA  
20 Netherby Road EdinburghEH5 3NA



# Comments for Planning Application 21/02692/FUL

## Application Summary

Application Number: 21/02692/FUL

Address: 26 Netherby Road Edinburgh EH5 3NA

Proposal: Replacement windows.

Case Officer: Weronika Myslowiecka

## Customer Details

Name: Dr The Architectural Heritage Society of Scotland

Address: 15 Rutland Square, Edinburgh EH1 2BE

## Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The AHSS Forth & Borders Cases Panel has examined this application and object to the replacement of timber sash windows with uPVC.

The standard designs of uPVC windows cannot replicate the slim frames of wooden sashes, as is readily demonstrated by comparing the ground floor and first floor windows of this property, and therefore these proposals will neither preserve nor enhance the appearance of this property.

There is no condition report to inform on present condition, but either the existing windows could be repaired, draughtproofed, and double glazing retrofitted, or the cases refurbished and new wooden sashes fitted. If the existing windows are uPVC from the 1990s, they will be near or at the end of their design life, and are therefore a poor precedent.

We note that while the terraces to the north and south retain the vast majority of their original timber sash windows, the terrace of six houses forming numbers 22-30A have mostly had their front sash windows replaced. However only number 30 has permission for front sash window replacements, gaining a Certificate of Lawfulness for wooden sash and case windows in 2017. The others either predate the inclusion of these houses in the conservation area, or have been altered without permission or under superseded guidance and planning frameworks.

We recommend the Historic Environment Scotland guide on Fabric Improvement for Energy Efficiency in Traditional Buildings (2013, freely downloadable), and note that uPVC windows' short life means they must be replaced long before they ever pay for themselves through heat savings (see Energy Saving Trust figures), in a repeating cycle of expense, damage to building fabric, and substantial negative environmental impact. We know that many building owners look at replacement windows believing them to be of positive environmental benefit. The opposite is true,

alongside their negative aesthetic impact upon the property and wider conservation area, and we therefore object to this proposal.

# Comments for Planning Application 21/02692/FUL

## Application Summary

Application Number: 21/02692/FUL

Address: 26 Netherby Road Edinburgh EH5 3NA

Proposal: Replacement windows.

Case Officer: Weronika Myslowiecka

## Customer Details

Name: Not Available

Address: Not Available

## Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The AHSS Forth & Borders Cases Panel has examined this application and object to the replacement of timber sash windows with uPVC.

The standard designs of uPVC windows cannot replicate the slim frames of wooden sashes, as is readily demonstrated by comparing the ground floor and first floor windows of this property, and therefore these proposals will neither preserve nor enhance the appearance of this property.

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alongside their negative aesthetic impact upon the property and wider conservation area, and we therefore object to this proposal.

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto:planning.support@edinburgh.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE      100453527-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	TmC Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Tommy	Building Name:	Unit 117
Last Name: *	Cochrane	Building Number:	
Telephone Number: *	0131 210 0400	Address 1 (Street): *	Eucal Business Centre
Extension Number:		Address 2:	Craigshill Road
Mobile Number:		Town/City: *	Livingston
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH54 5DT
Email Address: *	tommy@tmcpplanning.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Stan"/>	Building Number:	<input type="text" value="26"/>
Last Name: *	<input type="text" value="Cook"/>	Address 1 (Street): *	<input type="text" value="Netherby Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="██████████"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH5 3NA"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="██"/>		

## Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="26 NETHERBY ROAD"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH5 3NA"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="676486"/>	Easting	<input type="text" value="324512"/>
----------	-------------------------------------	---------	-------------------------------------



## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Replacement Windows

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

This is within the appeal document.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Appeal Document Planning statement Material considerations

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

21/00404/PPP

What date was the application submitted to the planning authority? \*

13/05/2021

What date was the decision issued by the planning authority? \*

06/07/2021

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

Some of the proposed changed windows are in the rear garden of the property, as this is a row of terraced houses getting access without going through the property may be difficult as our client is not in control of neighbouring gardens.

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Tommy Cochrane

Declaration Date: 08/08/2021

**Proposal Details**

Proposal Name	100453527
Proposal Description	Appeal to the LRB
Address	26 NETHERBY ROAD, EDINBURGH, EH5 3NA
Local Authority	City of Edinburgh Council
Application Online Reference	100453527-001

**Application Status**

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

**Attachment Details**

Notice of Review	System	A4
Appeal statement	Attached	A4
Material Considerations	Attached	A4
Original Planning Statement	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0

1 TmC Planning Ltd  
Unit 117  
2 Eucal Business Centre  
Craighill Road  
3 Livingston  
4 EH54 5DT

5 EDINBURGH LOCAL REVIEW BODY

7 Mr S. Cook  
8 26 Netherby Road  
9 Edinburgh  
10 EH5 3NA

11 Appellant

12 vs.

13 Edinburgh City Planning Authority  
14 Defendant

Case No.: 21/02692/FUL

15 Appeal against Committee Decision to Refuse Planning Permission

16 Dated this 27<sup>th</sup> day of July 2021

17   
18 

19 Thomas Cochrane BSc, (Hons), HND, CPC (Nat and  
20 Inter)

21  
22  
23  
24  
25  
26  
27  
28

1  
2 TmC Planning Ltd, on behalf of our client, hereby appeal against the decision of the Delegated  
3 Officer of Edinburgh City Council Local Authority on 06th July 2021 to refuse planning permission for the change  
4 of windows to uPVC at 26 Netherby Road, Edinburgh, EH5 3NA.

5 This appeal focuses on the precedent set by Edinburgh City Council Local Authority and that the  
6 planning authority acted in an unfair manner.

7 TmC Planning would like to point out to the councillors on the Local review body that previous  
8 decisions are a material consideration. This can be found in Spackman v Secretary of State for the Environment  
9 [1977] 1 All ER 257.

10 Furthermore, Authorities have to be seen to be acting consistently, so if they depart from previous  
11 decisions, they need to give planning reasons for doing so, as was found in North Wiltshire DC v Secretary of State  
12 for the Environment (1993) 65 P&CR137. This includes not just the land affected by the current application but also  
13 other sites within the same authority. There is a direct reference to this later in this document. The legal precedent is  
14 set out in the case of Fox Strategic Land &- Property Ltd v Secretary of State for Communities and Local  
15 Government ((2012) EWCA Civ (2013)1 P&CR 6.). The of the High Court quashed an inspector's decision on a  
16 planning appeal because of serious inconsistencies between that decision and another appeal on a different site in the  
17 same area. Although the inspector was entitled to reach a different conclusion, his handling of the appeal was flawed  
18 because he had neither considered the other application nor given reasons for reaching a different decision.

19 Moreover discretionary powers must also be exercised reasonably. In the special legal sense of  
20 Wednesbury reasonableness (Associated Provincial Picture Houses Ltd v Wednesday Corp (1948) K.B.223 ), the  
21 decision-maker must consider all material considerations and ignore irrelevant matters or ulterior motives.  
22 The supervisory jurisdiction allows the court to insist on standards of procedural fairness beyond what is expressly  
23 required by statute. Accordingly, judicial review on this ground was reached.

24  
25 Our reasons for appeal are set out above. However, as the Local Review Body is a quasi-legal  
26 committee, we would ask the councillors to relook at this application, considering the legal precedents set out above.

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TmC Planning Ltd was informed by the delegated officer, Weronika Myslowiecka, that the planning application 21/02692/FUL at 26 Netherby Road, Edinburgh, was recommended for refusal (See Appendix A).

The reasons for refusal by Edinburgh City Council Planning Authority.

- 1. The proposals are contrary to non-statutory guidance on Listed Buildings and Conservation Areas as the proposed replacement windows do not preserve the special character and appearance of the conservation area.
- 2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the proposals do not preserve the character and appearance of the conservation area

The reason why the Council made this decision is as follows:

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Refused Planning application 21/02692/FUL (Appendix B)

The proposal of our clients planning application is to replace three rear timber frame windows with slim profile uPVC on the building's front elevation ground floor. Retaining the sliding sash and case design with similar dimensions to the existing windows but replacing the existing timber windows with uPVC. Thus maintaining the character, design and profile of the windows.

The proposed three windows at the front will match the windows directly above on the first floor, where the timber sash and case design had previously been replaced with uPVC windows of similar design in the early 1990s (See images Appendix C). There has been no enforcement action raised by the Planning authority, even although this property is in a conservation area.

1 The proposed three windows at the rear will be replaced with a similar sliding sash and case uPVC design,  
2 excluding the vertical astragal currently on the existing timber frame windows. These windows include the two  
3 upper bedroom windows and the lower kitchen window hidden from view from the public road.

4  
5 Our client's proposal that was refused was as detailed in the Handling Report (Appendix B) and is extracted below,

6  
7 “The proposed replacement of the existing timber framed sash and case windows with uPVC windows  
8 would not utilise materials appropriate to the historic Environment. There are only few examples of properties on  
9 Netherby Road with uPVC windows. The majority of neighbouring properties in the surrounding area retain timber  
10 framed windows and subsequently uPVC windows are not an established feature. The proposal, therefore,  
11 introduces a non-traditional and uncharacteristic material to the street and conservation area which, on the whole, is  
12 characterised by timber framed windows.

13 The property is part of a Victorian terrace and the uniformity of detailing such as windows is particularly  
14 important in this context. The loss of timber windows would undermine the overall appearance of the street and  
15 would impact on the architectural detailing of the property and the wider terrace. The proposal would also be  
16 contrary to the Council's non-statutory guidance for Listed Buildings and Conservation Areas, which states that  
17 replacement windows must match original proportions and materials. It emphasises that uPVC windows will not be  
18 acceptable in conservation areas. The proposed uPVC windows are not appropriate and will detract from the  
19 appearance of the building and would not preserve the special character and appearance of the conservation area.”

20  
21 The planning authority has issued the following policies for a reason for refusal:  
22 “DES 6 in respect of Conservation areas.

23 LDP policy Env 6 (Conservation Areas - Development) states that development within a  
24 conservation area or affecting its setting will be permitted which a) preserves or  
25 enhances the special character or appearance of the conservation area and is  
26 consistent with the relevant conservation area character appraisal, b) preserves trees,  
27 hedges, boundary walls, railings, paving and other features which contribute positively



1 to the character of the area and c) demonstrates high standards of design and utilises  
2 materials appropriate to the historic Environment.”

3  
4 Non-statutory Guidance for Listed Buildings and Conservation Areas Edinburgh City Council  
5 (Updated February 2019)

6 Replacing Original Windows

7 “In the event that replacement windows can be justified, they should be designed to replicate the  
8 original details, including materials, design and opening method. Particular attention must be paid to the mouldings;  
9 standard modern sections are not acceptable for reinstatement work. uPVC will not be acceptable. Care should be  
10 taken the ensure that replacement windows are fitted in the same plane as the originals, are made of timber sections  
11 (the profile and dimensions of which match the originals) and have the meeting rails in the same position as the  
12 originals; this is especially important where the windows of only one property in a tenement or terrace block are  
13 being replaced.”

14  
15 We will look at these in detail. In addition, comments on other relevant planning applications within the  
16 authorities other conservation areas set precedence. These are highlighted in red below. This emphasises the  
17 inconsistencies of the planning authority applying consistent decisions areas throughout the cities conservation  
18 areas.

19  
20 TmC Planning Ltd answers response with the following.

21  
22 **Precedence**

23 Planning Application 20/01694/FUL (Appendix D) shows a consented application dated the 2nd  
24 July 2020 to replace seven timber sash and case style windows on the rear of the property at 24 Netherby Road,  
25 which adjoins 26 Netherby Road. This is described in the planning application as replacing with five sash and case  
26 style slim-framed white uPVC with sealed double-glazed units and two fixed pain windows with no astragals.

1                   Our client proposed a similar design, profile and material, including the white uPVC material to  
2 replace the timber windows. In contrast, the property adjoining was accepted with the same choice of uPVC  
3 material. The officers handling report for 20/01694/FUL is listed in Appendix D. We have outlined in red relevant  
4 points that would be considered relevant to 21/02692/FUL.

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8                   Planning Application 18/07085/FUL ( Appendix E ) shows a consented application dated the 10<sup>th</sup> October  
9 2018 for proposed alterations, garage and attic conversion with dormer windows to front and rear elevations of 23  
10 Netherby Road, situated 88 metres from 26 Netherby Road and within the conservation area.

11                   Part of the alterations included the change of window materials to uPVC, which is stated in the proposal drawings  
12 ( See Appendix E)  
13

14  
15                   Planning Application 19/01719/FUL( Appendix F) shows a consented application on the 7<sup>th</sup> June  
16 2019 for alterations to rear elevation fenestration, including the combination of 2no. Openings into 1no. Sliding  
17 doorset opening and replacement of 2no. Windows and 1no. Door to the annexe. This was granted for the property  
18 at 6 Netherby Road Edinburgh EH5 3NA within the Trinity Conservation area and 76 metres from our client's  
19 property.

20  
21                   The planning application consented to included the replacement of window frame with an  
22 aluminium window profile.

23  
24                   Planning Application 21/00197/FUL ( Appendix G) shows a consented application dated the 12<sup>th</sup> March  
25 2021 to replace wooden sash windows with uPVC windows at 3F2 45 Roseburn Terrace Edinburgh, EH12 5NQ.  
26 This property is within the Coltbridge and Wester Coates Conservation Area.  
27  
28

1 This planning applicant shows that Edinburgh City Council Planning Authority shows an  
2 inconsistent application of planning policy when determining planning applications. Please see the legal precedent  
3 set out but the case of Fox Strategic Land &- Property Ltd v Secretary of State for Communities and Local  
4 Government ((2012) EWCA Civ (2013)1 P&CR 6).

5  
6 Edinburgh City Council adopted the most current local development plan in November 2016, and the same  
7 policies apply to all planning applications above 20/01694/FUL, 18/07085/FUL, 19/01719/FUL, 21/00197/FUL  
8 and our clients refused application 21/02692/FUL.

9 Edinburgh City Council revised the most current non-statutory guidance in November 2016, and the same  
10 policies apply to all planning applications above 20/01694/FUL, 18/07085/FUL, 19/01719/FUL, 21/00197/FUL  
11 and our clients refused application 21/02692/FUL.

12  
13  
14 Conclusion

15 We have shown above that the planning authority has been unreasonable in refusing this  
16 application when other developments of similar proposals of replacing windows with uPVC have been approved in  
17 the immediate vicinity and within other conservation areas. As we have stated above, this is a material consideration  
18 that the delegated officer refused to consider despite TmC planning sending this information to the relevant officer  
19 and her senior.

20 We have also highlighted an inconsistent application of policy throughout conservation area within the city.  
21 Under the legislation, all conservation areas should be treated the same, and therefore there should be a consistent  
22 application of policy when planning applications are being assessed.

23 Mr Cook was informed by his neighbour at 24 Netherby Road that their application for UPVC windows  
24 was granted. In making his application, Mr Cook intends to use the same firm of window installers and practically  
25 the same windows. 24 And 26 Netherby Road are identical from the exterior, front and back. Practically, the same  
26 houses look onto both, again front and back. For the purposes of considering the windows, the interiors of both  
27 houses are the same. To award planning permission to 24, and not to 26 is perverse and amounts to  
28

1 maladministration. As such, that falls within the remit of the SPSO (albeit the decision itself does not). Mr Cook is  
2 saying that he will pursue that case with the SPSO if his application is refused without the Authority giving a  
3 rational reason as to why his application is being refused and that of 24 (and others) were accepted.

4 If the authority had acted consistently, the application would have been granted.

5 Therefore, we would ask the councillors of the Edinburgh Local Review Body to look at this  
6 application and to consider the legal and moral matters raised in this appeal

7  
8 Thomas Cochrane BSc. (Hons), HND, CPC (Nat and Inter.)

9 Planning consultant

10 TmC Planning Ltd

11 0131 210 0400

12 07450939889

13 [Tommy@tmcplaning.co.uk](mailto:Tommy@tmcplaning.co.uk)

14  
15 Appendix A

16  
17 "Dear Mr Cochrane,

18 I am currently assessing the above application. Just to let you know that replacement for upvc windows  
19 would not be acceptable and it is contrary to the guidance, as well as policy Env 6 from Local  
20 Development Plan. Therefore, the application would be recommended for refusal.

21 I understand that there are some individual examples of Upvc in the area. However, some of them do  
22 not have planning permission and any proposal from the past and which do not comply with the current  
23 guidelines will not be taken as setting any form of precedent, and should not be used as example to  
24 follow.

25 If you wish to amend drawings or withdrawn this application please do that by 21st June.

26 Regards,

27 Weronika"

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Appendix B

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## Report of Handling

Application for Planning Permission  
26 Netherby Road, Edinburgh, EH5 3NA

Proposal: Replacement windows.

Item – Local Delegated Decision  
Application Number – 21/02692/FUL  
Ward – B04 - Forth

### Recommendation

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

### Summary

The proposed development is of an inappropriate material and would have an adverse impact on the character and appearance of the existing building and would fail to preserve or enhance the character and appearance of the conservation area. The proposal is therefore contrary to Edinburgh Local Development Plan Policy Env 6 and the non-statutory Guidance for Listed Buildings and Conservation Areas

## SECTION A – Application Background

### Site Description

The application site is a two-storey mid-terrace sandstone Victorian Terrace house, located on 26 Netherby Road.

The application site is located within Trinity Conservation Area.

### Description Of The Proposal

The application proposes to replace the existing timber sash and case windows with sash and case uPVC windows.

The works relate to the ground floor bay window on the front elevation and the upper floor windows and one ground floor window on the rear elevation.

### Relevant Site History

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No relevant site history

**Consultation Engagement**  
No Consultations.

**Publicity and Public Engagement**

**Date of Neighbour Notification:** 21 May 2021  
**Date of Advertisement:** 28 May 2021  
**Date of Site Notice:** 25 May 2021  
**Number of Contributors:** 1

## Section B - Assessment

### 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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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?

### Assessment

To address these determining issues, it needs to be considered whether:

a) the proposed scale, form and design is acceptable and will not be detrimental to the conservation area;

b) the proposal will cause an unreasonable loss to neighbouring amenity;

c) any impacts on equalities or human rights are acceptable; and

d) any comments raised have been addressed.

#### a) Scale, form, design and the conservation area

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.

1  
2  
3 The Edinburgh Local Development Plan Policy Env 6 highlights the importance of preserving the character and appearance of the conservation area and the materials used are appropriate to the historic environment.

4 The proposed replacement of the existing timber framed sash and case windows with uPVC windows would not utilise materials appropriate to the historic environment.  
5 There are only few examples of properties on Netherby Road with uPVC windows. The majority of neighbouring properties in the surrounding area retain timber framed windows and subsequently uPVC windows are not an established feature. The  
6 proposal, therefore, introduces a non-traditional and uncharacteristic material to the street and conservation area which, on the whole, is characterised by timber framed  
7 windows.

8 The property is part of a Victorian terrace and the uniformity of detailing such as windows is particularly important in this context. The loss of timber windows would  
9 undermine the overall appearance of the street and would impact on the architectural detailing of the property and the wider terrace.

10 The proposal would also be contrary to the Council's non-statutory guidance for Listed Buildings and Conservation Areas, which states that replacement windows must match original proportions and materials. It emphasises that uPVC windows will not be  
11 acceptable in conservation areas. The proposed uPVC windows are not appropriate and will detract from the appearance of the building and would not preserve the special character and appearance of the conservation area.

12 The proposals does not comply with Local Development Plan Policy Env 6 and the non-statutory Guidance for Listed Buildings and Conservation Areas.

13 b) Neighbouring amenity

14 The proposals have been assessed against requirements set out in the non-statutory Guidance for Householders to ensure there is no unreasonable loss to neighbouring  
15 amenity with respect to privacy, overshadowing and loss of daylight or sunlight.

16 The proposals comply with Local Development Plan Policy Des 12 and the non-statutory Guidance for Householders.

17 c) Equalities and human rights

18 This application was assessed in terms of equalities and human rights. No impact was identified.

19 d) Public comments

20 The application has attracted one letter objecting the proposal.

21 Material consideration:

22 - UPVC windows would not enhance or preserve the appearance of conservation area. This has been assessed in section (a).



1  
2 **Section C - Conditions/Reasons/Informatives**

3 The recommendation is subject to the following;

4  
5 **Reasons**

6 1. The proposals are contrary to non-statutory guidance on Listed Buildings and Conservation Areas as the proposed replacement windows do not preserve the special character and appearance of the conservation area.

7 2. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the proposals do not preserve the character and appearance of the conservation area.

8  
9  
10 **Background Reading/External References**

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

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

13 **Date Registered: 14 May 2021**

14 **Drawing Numbers/Scheme**

15 01-07

16 Scheme 1

17 **David Givan**  
18 **Chief Planning Officer**  
19 **PLACE**  
20 **The City of Edinburgh Council**

21 Contact: Weronika Myslowiecka, Planning Officer  
22 E-mail: [weronika.myslowiecka@edinburgh.gov.uk](mailto:weronika.myslowiecka@edinburgh.gov.uk)

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Appendix C



Appendix D

## Report of Handling

**Application for Planning Permission 20/01694/FUL  
At 24 Netherby Road, Edinburgh, EH5 3NA  
Installation of 7x replacement windows to rear**

<b>Item</b>	Local Delegated Decision
<b>Application number</b>	20/01694/FUL
<b>Wards</b>	B04 - Forth

### Summary

The proposal is of an appropriate scale, form and design and will preserve the character and appearance of the conservation area. There are no amenity issues in terms of overlooking or privacy. The proposal complies with policies Des 12 and Env 6 and the minor infringement of the Listed Buildings and Conservation Areas non-statutory guideline is justified in this case.

### Links

[Policies and guidance for this application](#) LDPP, LDES12, LEN06, NSG, NSHOU, NSLBCA, OTH, CRPTRI.

## Report of handling

### Recommendations

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

### Background

#### 2.1 Site description

The application property is a two storey stone terraced dwellinghouse located on the east side of Netherby Road.

This application site is located within the Trinity Conservation Area.

#### 2.2 Site History

There is no relevant planning history for this site.

### Main report

#### 3.1 Description Of The Proposal

- Replacement windows

The proposal is for the replacement of seven timber sash and case style windows on the rear of the property with five sash and case style slim-framed white PVC with sealed double-glazed units and two fixed pain windows with no astragals.

#### 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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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?

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### 3.3 Assessment

To address these determining issues, it needs to be considered whether:

- a) The scale, form and design are acceptable;
- b) There is any impact on the character and appearance of the conservation area;
- c) There is any impact on the amenity of neighbouring properties;
- d) The public comments have been addressed.

#### a) Scale, form and design

LDP policy Des 12 (Alterations and Extensions) 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.

The proposed replacement windows will generally have the same design and opening method as the existing original windows. Two small windows will change slightly in design but this will not detract from the character of the building. The proposed windows will look similar to the existing windows and will respect the character and appearance of the building. They will not be an incongruous alteration. As they will be on the rear elevation, they will not have any effect on the streetscene.

The proposal is of an acceptable scale form and design and complies with Local Development Plan Policy Des 12 (Alterations and Extensions).

#### b) Conservation

LDP policy Env 6 (Conservation Areas - Development) states that development within a conservation area or affecting its setting will be permitted which a) preserves or enhances the special character or appearance of the conservation area, and is consistent with the relevant conservation area character appraisal, b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area and c) demonstrates high standards of design and utilises materials appropriate to the historic environment.

LDP policy Des 12 (Alterations and Extensions) states that planning permission will be granted for alterations and extensions to existing buildings which will not be detrimental to neighbourhood amenity and character.

*The Trinity Conservation Area Character Appraisal states that, the style and mix of Georgian and Victorian villas in Trinity is unique in Edinburgh and the area is overwhelmingly domestic in scale and suburban in nature. Despite the variety of architectural styles, a significant degree of unity of appearance is achieved by the restricted height and the predominant use of traditional building materials.*

The replacement windows will retain the style and opening method of the existing windows. The design proposed for the two small windows will not harm the character of the building nor conservation area.

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The proposed material, uPVC, is not generally acceptable in a conservation area. However, most of the properties in this part of Netherby Road, including the immediate neighbouring properties, have uPVC replacement windows and this material is now an established characteristic in this stone terrace. The proposed replacement windows will be on the rear elevation and will not be seen within the streetscene nor in public view within the conservation area. In these special circumstances, the proposal will not detract from the overall character of the building as a whole and will not have an adverse impact on the character and appearance of the conservation area.

A window survey is not normally required for applications for replacement windows in conservation areas, although if the building was listed a window survey would be requested.

The character and appearance of the conservation area will be preserved. The proposal complies with policy Env 6 and Des 12 and the minor infringement of the appropriate non-statutory guideline is justified in this instance.

**c) Amenity**

Policy Des 12 of the Edinburgh City Local Plan states that the amenity of occupiers or neighbours should not be harmed, by effects on privacy, daylight, sunlight or immediate outlook.

There are no overlooking or privacy issues.

The proposal will not have a detrimental impact on amenity and complies with Policy Des 12.

**d) Public Comments**

**Material**

- No window condition survey. Addressed in 3.3 c).
- Contrary to non-statutory guidance. Addressed in 3.3 c)

**Non Material**

- Eco-friendly - toxins from uPVC manufacturing process
- Longevity of material

**Support**

None.

**Conclusion**

In conclusion, the proposal is of an appropriate scale, form and design and will preserve the character and appearance of the conservation area. There are no amenity issues in terms of overlooking or privacy. The proposal complies with policies Des 12 and Env 6 and the minor infringement of the Listed Buildings and Conservation Areas non-statutory guideline is justified in this case.

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

**3.4 Conditions/reasons/informatives**

**Informatives**

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

2. 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.

3. 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.

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

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

**Equalities impact**

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**5.1 The equalities impact has been assessed as follows:**

The application has been assessed and has no impact in terms of equalities or human rights.

**Consultation and engagement**

---

**6.1 Pre-Application Process**

There is no pre-application process history.

**6.2 Publicity summary of representations and Community Council comments**

The application was advertised on 22 May 2020 and one public comment has been received from The Architectural Heritage Society of Scotland objecting to the proposal.

**Background reading / external references**

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



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<b>Statutory Development Plan Provision</b>	Local Development Plan - Conservation Area.
<b>Date registered</b>	6 May 2020
<b>Drawing numbers/Scheme</b>	01-03, Scheme 1

David R. Leslie  
Chief Planning Officer  
PLACE  
The City of Edinburgh Council  
  
Contact: Jackie McInnes, Planning officer  
E-mail:jackie.mcinnnes@edinburgh.gov.uk Tel:0131 469 3731

Links - Policies

**Relevant Policies:**

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

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

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

**Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** 'GUIDANCE FOR HOUSEHOLDERS' provides guidance for proposals to alter or extend houses or flats.

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

**Other Relevant policy guidance**

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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.

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# Appendix 1

## Consultations

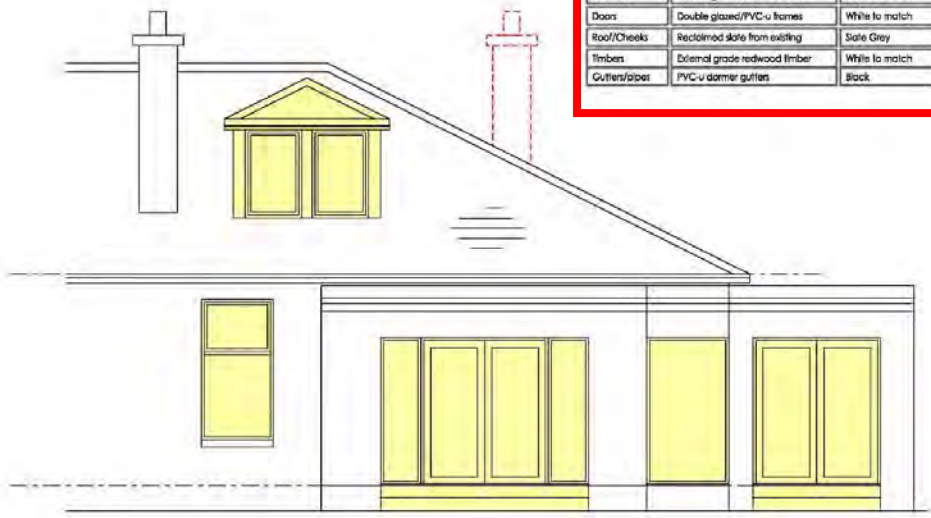
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No consultations undertaken.

END

Appendix E

Description	Material	Colour
Windows	Double glazed/PVC-u frames	White to match
Doors	Double glazed/PVC-u frames	White to match
Roof/Chimneys	Reclaimed slate from existing	Slate Gray
Timbers	External grade redwood timber	White to match
Gutters/Downpipes	PVC-u domed gutters	Black



Proposed Garden Elevation



Proposed Entrance Elevation



REV	DATE	DRAWN	DESCRIPTION
A	2008/18	MK	ALTERATIONS TO REFLECT CLIENT INSTRUCTIONS

CLIENT	Mairi & Andy Stevenson						
JOB	Proposed alterations and conversions, 23 Netherby Road, Trinity.						
DRAWING	Proposed Elevations						
Drawn	Checked	Approved	Date	Scale	Sheet No.	of	
			18/11/16	1:50	A3	1	of 1

**kingarchitects**

architecture alterations  
interior planning home improvement

75 Douglas Road  
Longridge  
East Lothian  
EH32 0J

t: 01727 899 466  
m: 07912 652 986  
e: mark@kingarchitects.co.uk  
www.kingarchitects.co.uk

Appendix F



**Dimensions Note:**  
 All sizes to be checked on site by main contractor prior to order.

**Drawing Key:**  
 [Grey box] Indicates existing solid walls.  
 [White box] Indicates existing stud walls.

**Line Type Key:**  
 [Dashed line] Cornice / downstand / ceiling profile.  
 [Dotted line] Steelwork.  
 [Blue dashed line] New / reinstated cornice.

**Drawing Notes:**

1. New utility furniture by others.
2. Fit replacement aluminium windowset.
3. Fit replacement glazed doorset.
4. New terrace flush with interior FFL.
5. New portion of R.W. & W.V.P.
6. Fit new sliding aluminium glazed doorset.
7. New kitchen furniture by others.
8. Fit new glazed fire doorset.
9. Form and fit out new WC.  
 Fit out new doorset.  
 Form new partitions to create niche for appliances.  
 New mezzanine level to create high level storage.
10. Fit new glazed double doorset.
11. New wall.  
 Opening to line through with adjacent new opening.  
 Alterations to form storage and desk space.
12. Fit replacement glazed fire door.
13. Form portion of new replicate cornice.
14. New boiler flue position.
15. New kitchen extract.
16. New WC extract.

**Notes:**

1. See notes on drawings for details of work to be carried out.

2. See notes on drawings for details of work to be carried out.

3. See notes on drawings for details of work to be carried out.

4. See notes on drawings for details of work to be carried out.

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16. See notes on drawings for details of work to be carried out.

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## Report of Handling

**Application for Planning Permission**  
3F2 45 Roseburn Terrace, Edinburgh, EH12 5NQ

**Proposal: Replacing wooden sash windows with uPVC sash windows.**

**Item – Local Delegated Decision**  
**Application Number – 21/00197/FUL**  
**Ward – B06 - Corstorphine/Murrayfield**

### **Recommendation**

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

### **Summary**

The application for development is in accordance with the Edinburgh Local Development Plan as it complies with policy Des 12 (Alterations and Extensions) and policy Env 6 (Conservation Areas - Development). It is compatible with the existing building, preserves the special character and appearance of the conservation area and has no adverse impact on neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The property is a third floor flat within a four storey traditional tenement development. Located within an established mixed use urban area, Roseburn Public Park lies to the south west of the property and Roseburn Street lies to the south east.

The property lies within the Coltbridge and Wester Coates Conservation Area.

### **Description Of The Proposal**

The application proposes the replacement of the windows to the front and rear elevations, with UPVC double glazed units.

### **Relevant Site History**

No relevant site history.

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**Consultation Engagement**  
No Consultations.

**Publicity and Public Engagement**

**Date of Neighbour Notification:** 22 January 2021  
**Date of Advertisement:** 29 January 2021  
**Date of Site Notice:** 26 January 2021  
**Number of Contributors:** 1

**Section B - Assessment**

**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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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?

**Assessment**

To address these determining issues, it needs to be considered whether:

- a) the proposed scale, form and design is acceptable and will not be detrimental to the conservation area;
- b) the proposal will cause an unreasonable loss to neighbouring amenity;
- c) any impacts on equalities or human rights are acceptable; and
- d) any comments raised have been addressed.

**a) Scale, form, design and the conservation area**

The Coltbridge and Wester Coates Conservation Area Character Appraisal emphasises low density form of the area and the predominance of detached and semi-detached villas complemented by the profusion of mature trees, extensive garden settings, and stone boundary walls.

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Roseburn Terrace forms a main arterial route into the city centre from the west. The streetscape can be characterised as a central urban area, lined with four storey, sandstone tenement properties with commercial uses to the ground floor and residential to the floors above. There is an established character of alterations to front and rear elevations and alterations to fenestration of which include UPVC framed windows.

The proposed replacement units provide double glazed units with white UPVC frames. The form and design of the proposed units provide a suitable two pane sash and case form which offer a sympathetic replacement to the form and design of the units as existing.

Concern raised for the proposed materials are noted. There is an established character for the use of UPVC within the neighbouring properties. Given the sympathetic form and design proposed and surrounding character of UPVC units, the use of UPVC is considered a minor infringement to the non-statutory Guidance for Listed Buildings and Conservation Areas. Therefore, the proposed use of UPVC units will not have a detrimental impact to the character or appearance of the conservation area.

The proposals are of an acceptable scale, form and design and are compatible with the existing dwelling and will preserve the character and appearance of the conservation area.

The proposals comply with Local Development Plan Policy Des 12, Env 6 and the non-statutory Guidance for Listed Buildings and Conservation Areas.

#### b) Neighbouring amenity

The proposals have been assessed against requirements set out in the non-statutory Guidance for Householders to ensure there is no unreasonable loss to neighbouring amenity with respect to privacy, overshadowing and loss of daylight or sunlight.

The proposals comply with Local Development Plan Policy Des 12 and the non-statutory Guidance for Householders.

#### c) Equalities and human rights

This application was assessed in terms of equalities and human rights. No impact was identified.

#### d) Public comments

One comment from an amenity body in objection to the proposal has been received.

Material considerations:

Concern for the impact to the character and appearance of the conservation area; this is addressed in section a);  
Concern for the materials proposed; this is addressed in section a).

### **Section C - Conditions/Reasons/Informatives**



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The recommendation is subject to the following:

**Informatives**

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. 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.
3. 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.

**Background Reading/External References**

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

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

**Date Registered: 15 January 2021**

**Drawing Numbers/Scheme**

01 - 07

Scheme 1

**David R. Leslie**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Luke Vogan, Planning Officer  
E-mail: [luke.vogan@edinburgh.gov.uk](mailto:luke.vogan@edinburgh.gov.uk)

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Appendix 1  
**Consultations**  
No consultations undertaken

Page 5 of 5

21/00157/FUL

30

# Planning Justification

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For the replacement of windows at 26 Netherby Road, Edinburgh.

JUNE 15

---

Thomas Cochrane BSc.( Hons), HND, CPC (Nat & Inter.)  
Planning Consultant

TOWN PLANNING CONSULTANTS

**TMC**  
PLANNING  
LIMITED  
0131 210 0400

---

# Executive summary

We were informed by the delegated officer, Weronika Myslowiecka, that the planning application 21/02692/FUL at 26 Netherby Road, Edinburgh, was to be recommended for refusal.

The email is listed below.

“Dear Mr Cochrane,

I am currently assessing the above application. Just to let you know that replacement for upvc windows would not be acceptable and it is contrary to the guidance, as well as policy Env 6 from Local Development Plan. Therefore, the application would be recommended for refusal.

I understand that there are some individual examples of Upvc in the area. However, some of them do not have planning permission and any proposal from the past and which do not comply with the current guidelines will not be taken as setting any form of precedent, and should not be used as example to follow.

If you wish to amend drawings or withdrawn this application please do that by the 21<sup>st</sup> of June.

Regards,

Weronika”

**This document will provide material evidence that should be taken as a material consideration for the approval of 21/02692/FUL**

The property at 26 Netherby Road had windows replaced in the 1990s. There has been no enforcement action raised by the Planning authority, even although this property is in a conservation area. See images below



Zooming in on the image, we can see that the windows are uPVC sash and case windows. See below. The windows have water drip holes for those who may not be familiar with the uPVC window profile. These are only found on Aluminium or uPVC windows.



## Precedent

Number 24 Netherby Road had windows installed recently. These were applied for under planning application 20/01694/FUL.

Edinburgh City Council adopted the most current local development plan in November 2016, the same policies apply to both 20/01694/FUL and 21/02692/FUL.

The officers handling report for 20/01694/FUL is listed below. We have outlined in red relevant points that would be considered relevant to 21/02692/FUL.

## Report of Handling

### Application for Planning Permission 20/01694/FUL At 24 Netherby Road, Edinburgh, EH5 3NA Installation of 7x replacement windows to rear

Item	Local Delegated Decision
Application number	20/01694/FUL
Wards	B04 - Forth

#### Summary

The proposal is of an appropriate scale, form and design and will preserve the character and appearance of the conservation area. There are no amenity issues in terms of overlooking or privacy. The proposal complies with policies Des 12 and Env 6 and the minor infringement of the Listed Buildings and Conservation Areas non-statutory guideline is justified in this case.

#### Links

<a href="#">Policies and guidance for this application</a>	LDPP, LDES12, LEN06, NSG, NSHOU, NSLBCA, OTH, CRPTRI,
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# Report of handling

## 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 property is a two storey stone terraced dwellinghouse located on the east side of Netherby Road.

This application site is located within the Trinity Conservation Area.

### 2.2 Site History

There is no relevant planning history for this site.

## Main report

---

### 3.1 Description Of The Proposal

- Replacement windows

The proposal is for the replacement of seven timber sash and case style windows on the rear of the property with five sash and case style slim-framed white PVC with sealed double-glazed units and two fixed pain windows with no astragals.

### 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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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, it needs to be considered whether:

- a) The scale, form and design are acceptable;
- b) There is any impact on the character and appearance of the conservation area;
- c) There is any impact on the amenity of neighbouring properties;
- d) The public comments have been addressed.

#### a) Scale, form and design

LDP policy Des 12 (Alterations and Extensions) 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.

The proposed replacement windows will generally have the same design and opening method as the existing original windows. Two small windows will change slightly in design but this will not detract from the character of the building. The proposed windows will look similar to the existing windows and will respect the character and appearance of the building. They will not be an incongruous alteration. As they will be on the rear elevation, they will not have any effect on the streetscene.

The proposal is of an acceptable scale form and design and complies with Local Development Plan Policy Des 12 (Alterations and Extensions).

#### b) Conservation

LDP policy Env 6 (Conservation Areas - Development) states that development within a conservation area or affecting its setting will be permitted which a) preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal, b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area and c) demonstrates high standards of design and utilises materials appropriate to the historic environment.

LDP policy Des 12 (Alterations and Extensions) states that planning permission will be granted for alterations and extensions to existing buildings which will not be detrimental to neighbourhood amenity and character.

*The Trinity Conservation Area Character Appraisal states that, the style and mix of Georgian and Victorian villas in Trinity is unique in Edinburgh and the area is overwhelmingly domestic in scale and suburban in nature. Despite the variety of architectural styles, a significant degree of unity of appearance is achieved by the restricted height and the predominant use of traditional building materials.*

The replacement windows will retain the style and opening method of the existing windows. The design proposed for the two small windows will not harm the character of the building nor conservation area.

The proposed material, uPVC, is not generally acceptable in a conservation areas. However, most of the properties in this part of Netherby Road, including the immediate neighbouring properties, have uPVC replacement windows and this material is now an established characteristic in this stone terrace. The proposed replacement windows will be on the rear elevation and will not be seen within the streetscene nor in public views within the conservation area. In these special circumstances, the proposal will not detract from the overall character of the building as a whole and will not have an adverse impact on the character and appearance of the conservation area.

A window survey is not normally required for applications for replacement windows in conservation areas, although if the building was listed a window survey would be requested.

The character and appearance of the conservation area will be preserved. The proposal complies with policy Env 6 and Des 12 and the minor infringement of the appropriate non statutory guideline is justified in this instance.

#### c) Amenity

Policy Des 12 of the Edinburgh City Local Plan states that the amenity of occupiers or neighbours should not be harmed, by effects on privacy, daylight, sunlight or immediate outlook.

There are no overlooking or privacy issues.

The proposal will not have a detrimental impact on amenity and complies with Policy Des 12.

#### d) Public Comments

##### **Material**

- No window condition survey. Addressed in 3.3 c).
- Contrary to non statutory guidance. Addressed in 3.3 c).

##### **Non Material**

- Eco-friendly - toxins from uPVC manufacturing process
- Longevity of material

##### **Support**

None.

##### **Conclusion**

In conclusion, the proposal is of an appropriate scale, form and design and will preserve the character and appearance of the conservation area. There are no amenity issues in terms of overlooking or privacy. The proposal complies with policies Des 12 and Env 6 and the minor infringement of the Listed Buildings and Conservation Areas non-statutory guideline is justified in this case.

---

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

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

#### **Informatives**

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. 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.
3. 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.

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

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

### **Equalities impact**

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

The application has been assessed and has no impact in terms of equalities or human rights.

### **Consultation and engagement**

---

#### **6.1 Pre-Application Process**

There is no pre-application process history.

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

The application was advertised on 22 May 2020 and one public comment has been received from The Architectural Heritage Society of Scotland objecting to the proposal.

### **Background reading / external references**

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

### Statutory Development

**Plan Provision** Local Development Plan - Conservation Area.

**Date registered** 6 May 2020

**Drawing numbers/Scheme** 01-03.,

Scheme 1

David R. Leslie  
Chief Planning Officer  
PLACE  
The City of Edinburgh Council

Contact: Jackie McInnes, Planning officer  
E-mail: jackie.mcinnes@edinburgh.gov.uk Tel: 0131 469 3731

### [Links - Policies](#)

#### **Relevant Policies:**

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

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

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

##### **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** 'GUIDANCE FOR HOUSEHOLDERS' provides guidance for proposals to alter or extend houses or flats.

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

##### **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.

# Appendix 1

## Consultations

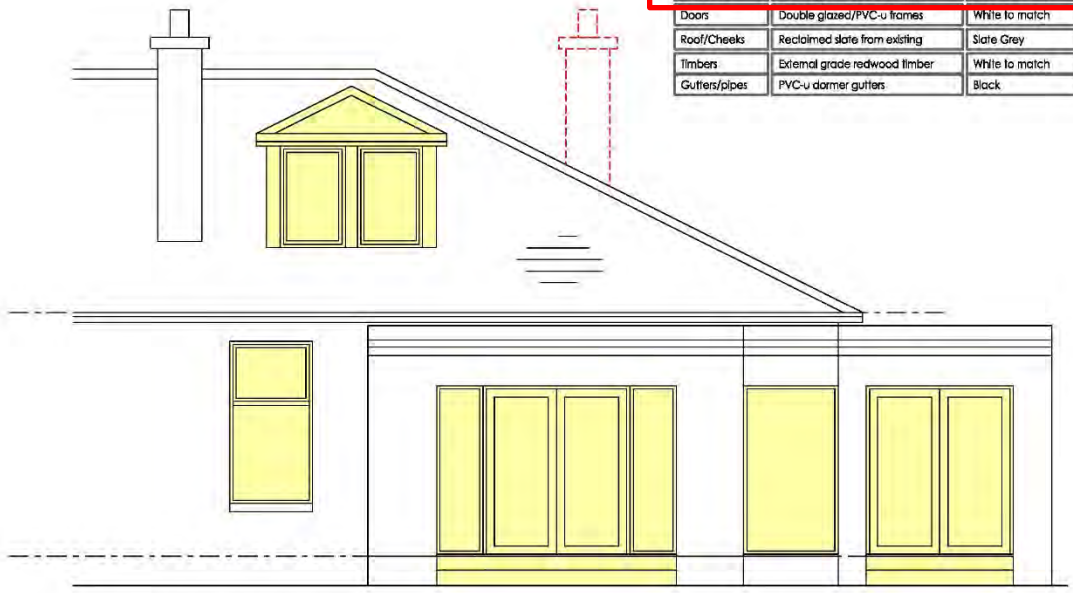
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No consultations undertaken.

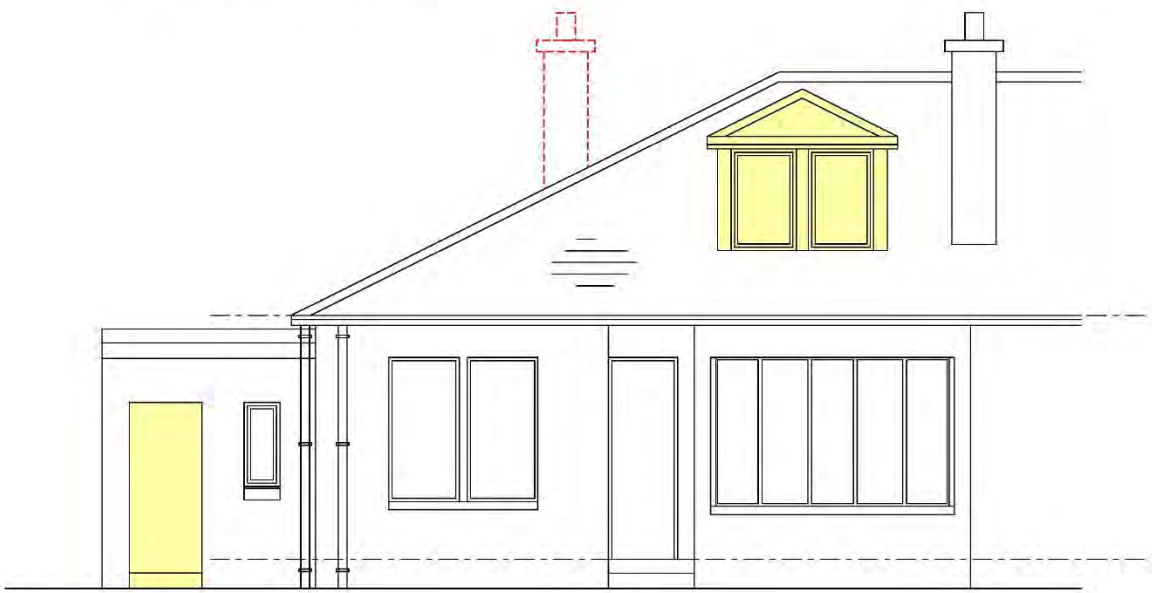
END

# 23 Netherby Road application number 18/07085/FUL

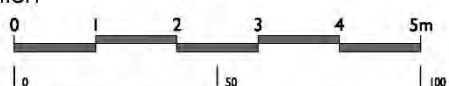
Description	Material	Colour
Windows	Double glazed/PVC-u frames	White to match
Doors	Double glazed/PVC-u frames	White to match
Roof/Cheeks	Reclaimed slate from existing	Slate Grey
Timbers	External grade redwood timber	White to match
Gutters/pipes	PVC-u dormer gutters	Black



Proposed Garden Elevation



Proposed Entrance Elevation



REV	DATE	DRAWN	DESCRIPTION
A	30/08/18	MK	ALTERATIONS TO REFLECT CLIENT INSTRUCTIONS

CLIENT	Mairi & Andy Stevenson		
JOB	Proposed alterations and conversions, 23 Netherby Road, Trinity.		
DRAWING	Proposed Elevations		
Drawn	Checked	Approved	Date 14/08/18 Job No KAV008779 No L1-104 Rev A
<small>This drawing and its data are the copyright of King Architects and must not be used for any purpose other than that for which it is intended. King Architects accepts no responsibility for any necessary in printing of this drawing by any party.</small>			
Scale	1:50	Sheet Size	A3
Do not scale from this drawing			

**king architects**

architecture alterations      masterplanning home improvement

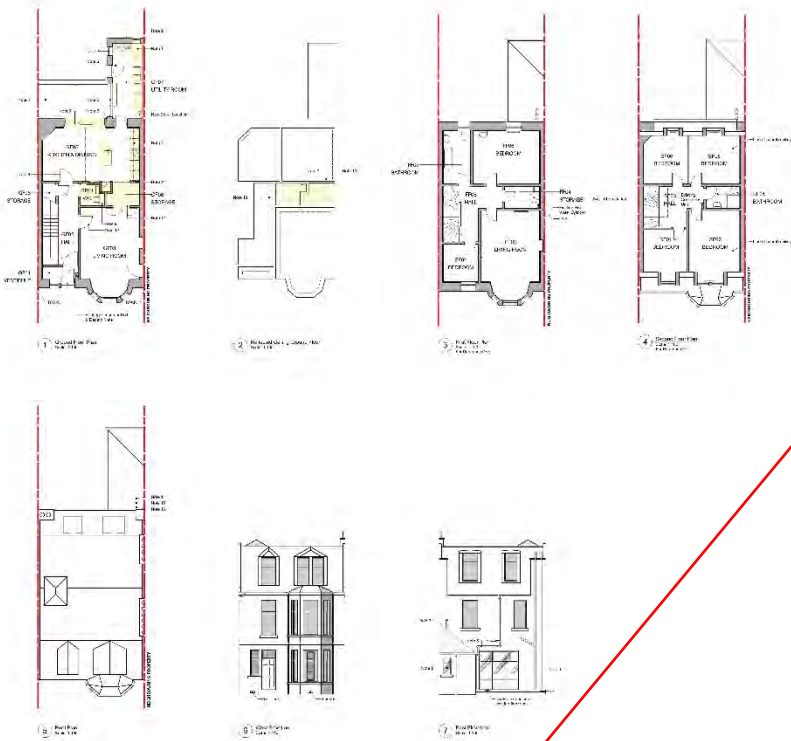
73 douglas road      t: 01875 899 466  
 longridley      m: 07517 625 580  
 east lothian      e: mark@kingarchitects.co.uk  
 eh32 0lj      www.kingarchitects.co.uk





23 Netherby Road is 88 meters from Number 26,

# 6 Netherby Road 19/01719/FUL



**Dimension Note:**  
 All dimensions are to be checked on site.

**Drawing Key:**  
 [Grey box] Indicates existing solid walls.  
 [Light grey box] Indicates existing stud walls.

**Line Type Key:**  
 [Dashed line] Cornicure / downstand / ceiling profile.  
 [Solid line] Steelwork.  
 [Blue dashed line] New / reinstated cornice.

**Drawing Notes:**



**somermacdonaldarchitects**  
 6 Netherby Road Edinburgh  
 Edinburgh, Scotland  
 Tel: 0131 220 1111  
 Email: info@somermacdonaldarchitects.co.uk  
 Website: www.somermacdonaldarchitects.co.uk

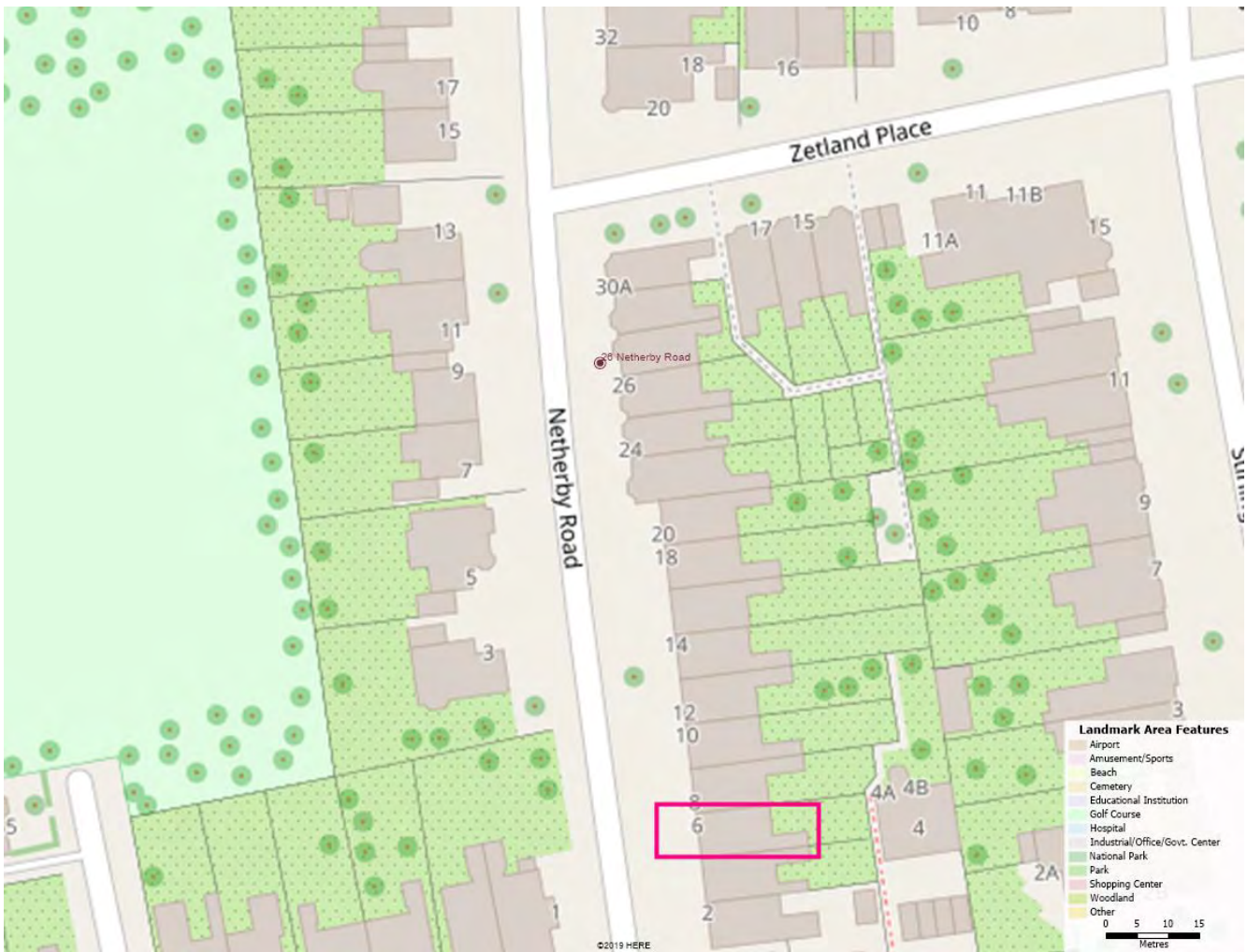
**Dimensions Note:**  
 All sizes to be checked on site by main contractor prior to order.

**Drawing Key:**  
 [Grey box] Indicates existing solid walls.  
 [Light grey box] Indicates existing stud walls.

**Line Type Key:**  
 [Dashed line] Cornicure / downstand / ceiling profile.  
 [Solid line] Steelwork.  
 [Blue dashed line] New / reinstated cornice.

- Drawing Notes:**
1. New utility furniture by others.
  2. **Fit replacement aluminium windowset.**
  3. Fit replacement glazed doorset.
  4. New terrace flush with interior FFL.
  5. New portion of R.W. & W.V.P..
  6. Fit new sliding aluminium glazed doorset.
  7. New kitchen furniture by others.
  8. Fit new glazed fire doorset.
  9. Form and fit out new WC.  
 Fit out new doorset.  
 Form new partitions to create niche for appliances.  
 New mezzanine level to create high level storage.
  10. Fit new glazed double doorset.
  11. New wall.  
 Opening to line through with adjacent new opening.  
 Alterations to form storage and desk space.
  12. Fit replacement glazed fire door.
  13. Form portion of new replicate cornice.
  14. New boiler flue position.
  15. New kitchen extract.
  16. New WC extract.

6 Netherby road is 76m from number 26.



## Precedent

Previous decisions are material considerations, set in law by *Sparkman v Secretary of State for the Environment* (1977) 1 AJ1ER257. Over and above this, Authorities have to be seen to be acting consistently. If they depart from a previous decision, they need to give planning reasons for doing so. This was seen in the case of *North Wiltshire DC v Secretary of State for the Environment* (1993) 65 P&CR137.

Furthermore, *Dunster Properties Ltd v First Secretary of state* (2007) EWCA Civ 236; (2007) 2 P&CR 2 shows that this includes decisions on other sites, not just for the land affected by the application under consideration.

---

Moreover, In the case of Fox Strategic Land & Property Ltd v Secretary of State for Communities and Local Government, the Court of Appeal upheld a decision of the High Court to quash an inspector's decision on a planning appeal because of serious inconsistencies between that decision and one for another appeal on a different site in the same area. Although the inspector was entitled to reach a different decision, his handling of the appeal was flawed because he had neither considered the other application nor given reasons for reaching a different decision.

Discretionary powers must also be exercised reasonably, in the special legal sense of Wednesbury reasonableness (Associated Provincial Picture Houses Ltd v Wednesday Corp (1948) K.B.223 )requires the decision-maker to consider all material considerations and ignore all irrelevant matters or ulterior motives.

The supervisory jurisdiction allows the court to insist on standards of procedural fairness beyond what is expressly required by statute. Judicial review on this ground reached.

**Considering all of the above, we would ask the delegated officer and her senior to relook at this application.**

**Thomas Cochrane BSc. (Hons)**

**Planning consultant**

**TmC Planning Ltd**

**0131 210 0400**

**07450939889**

**[tommy@tmcplanning.co.uk](mailto:tommy@tmcplanning.co.uk)**



## **Planning Statement**

### **Replacement of Windows to Property**

26 Netherby Road

Edinburgh

EH5 3NA

Client: Mr Stan Cook

Planning Statement prepared by Jennifer Campbell

# Contents

- Planning Statement .....1**
- 1 Location of development .....3**
- 2 History of the site.....5**
- 3 Current Use .....5**
- 4 Proposal .....5**
- 5 Local Development Plan. ....7**
- 6 Listed Building.....7**
- 7 Summary .....9**

## 1 Location of development

Netherby Road is a Victorian Terrace situated between Zetland Place and Cargil Terrace. It is located within the Trinity Conservation Area situated North of Edinburgh and located close to the Firth of Forth. 26 Netherby Road is a residential dwelling located within the middle section of six terraced houses located on the eastern side of Netherby Road.

This property is not listed and is located within the Trinity Conservation Area, therefore permitted development does not apply.

Access to the front of the property is from Netherby Road, while access to the rear of the property is accessed via a garden gate by Zetland Place and is not visible from the public road.

Our client is submitting a householder planning application to replace three existing wooden windows with thin profile uPVC case and sash windows at the front of the property and three existing wooden windows with uPVC windows at the rear.

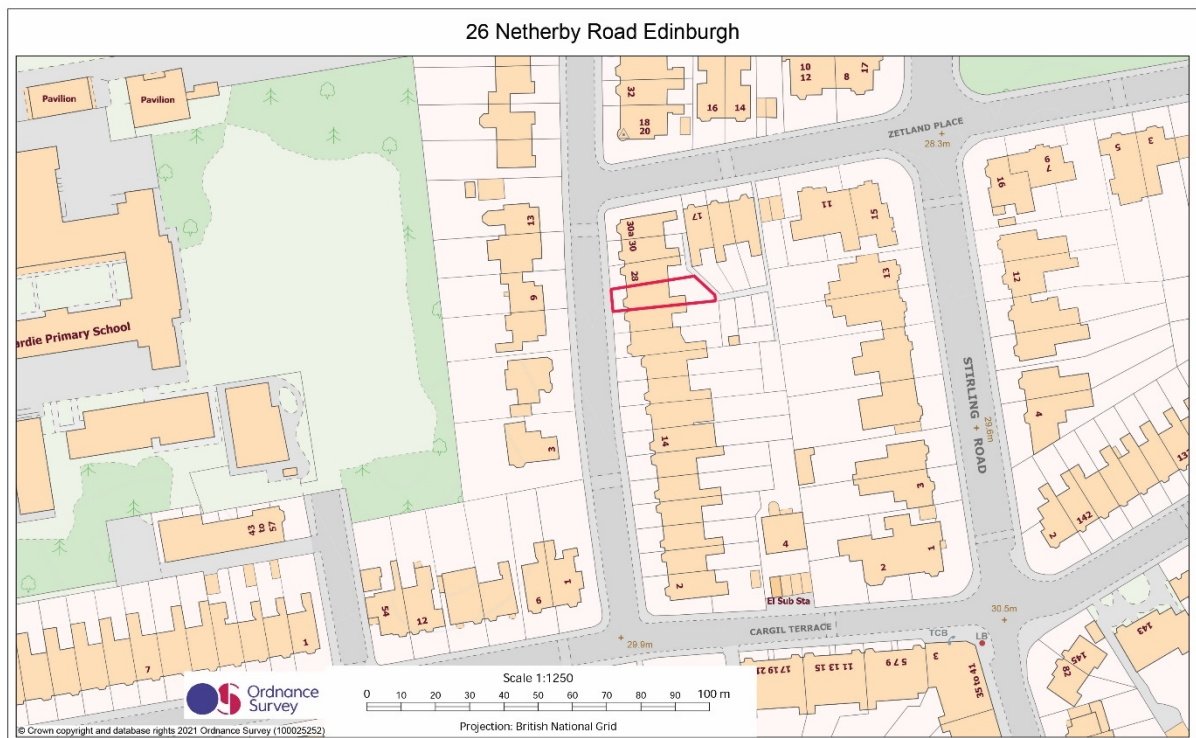
### *Front of property*



**Rear of Property**



**The property is within the redline boundary shown below.**





## **2 History of the site.**

The Trinity area expanded South and West until 1914, which was when these Victorian terraced dwellings were established.

According to the Conservation Appraisal, the conservation area of Trinity expanded, including Netherby Road in the 1990s.

## **3 Aim of Proposal and Design**

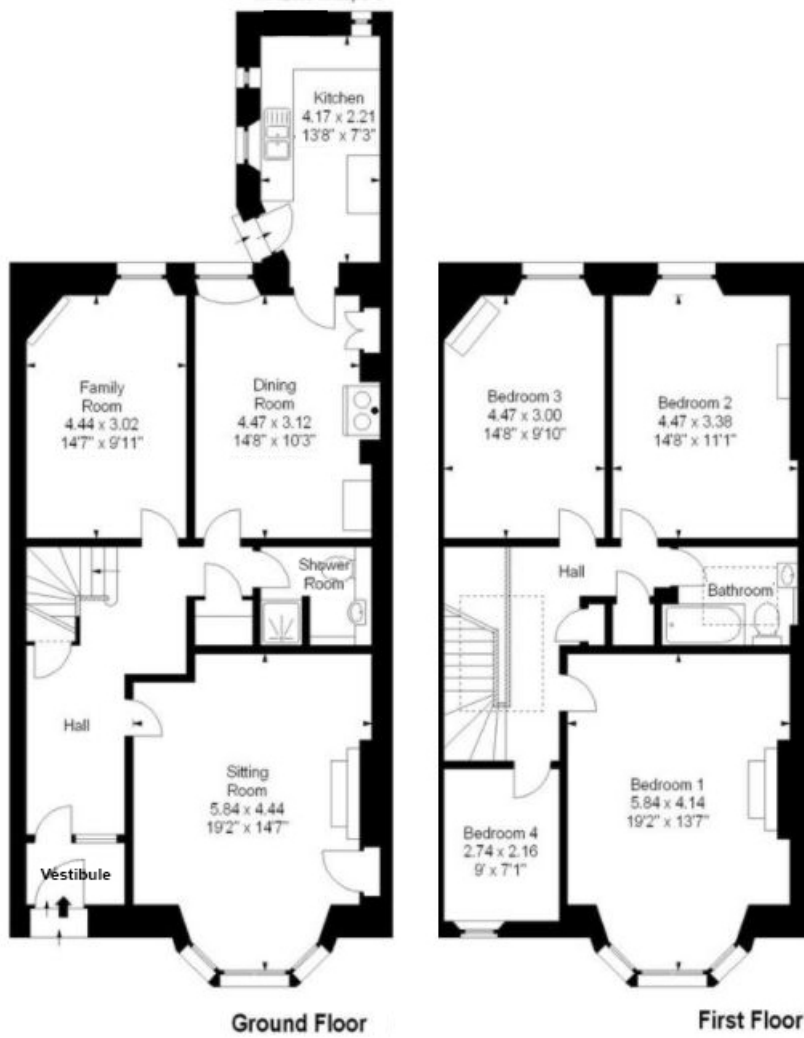
The proposal is to replace three rear wooden windows with slim profile uPVC on the building's front elevation.

These windows at the front elevation, ground floor, will retain the sliding sash and case design with similar dimensions to the existing windows but replacing the existing timber windows with uPVC, thus maintaining the character of the windows, and addressing the deterioration and improving the quality and maintenance of windows with a more energy-efficient design.

The proposed three windows at the front will match the windows directly above on the first floor, where the timber sash and case design had previously been replaced with uPVC windows of similar design in the early 1990s.

The proposed three windows at the rear will be replaced with a similar sliding sash and case uPVC design, excluding the vertical astragal currently on the existing timber frame windows. These windows include the two upper bedroom windows and the lower kitchen window hidden from view from the public road. Again, the aim is to address the timber-framed windows' deterioration and maintain a more energy-efficient design.

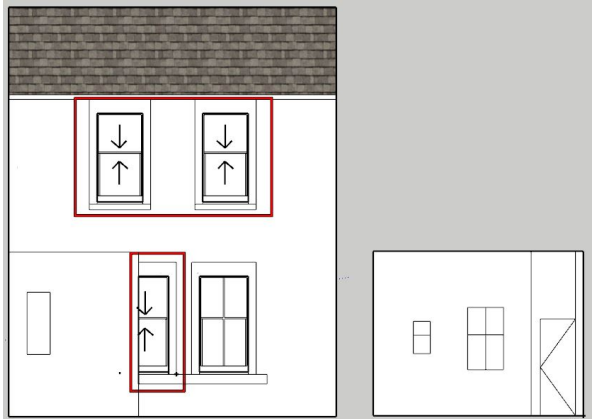
Overall, the windows will be slim white uPVC with sealed double-glazed units, and no alterations to the existing ashlar brickwork shall be made, thus maintaining the overall character of the building.



**FLOORPLAN**



*Front Elevation Proposal*



*Rear Elevation Proposal*

## 4 Edinburgh Local Development Plan.

The property is within the Trinity Conservation area, and the overriding policies will be ENV 6 and Policy Des 12 Alterations and Extensions

### Policy Env 6 Conservation Areas - Development

Development within a conservation area or affecting its setting will be permitted which:

- a) preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal
- b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area and
- c) demonstrates high standards of design and utilises materials appropriate to the historic environment.

Planning applications should be submitted in a sufficiently detailed form for the effect of the development proposal on the character and appearance of the area to be assessed.

174 The purpose of the above policies is to protect and, where possible, enhance the character and appearance of Edinburgh's many conservation areas. By controlling the demolition of buildings and ensuring new development is of appropriate design and quality, their aim is to protect the City's heritage for future generations.

175 Applications for demolition will be permitted only where this does not erode the character and appearance of the conservation area. The general presumption will be in favour of retaining buildings that make a positive contribution to the conservation area, particularly where it can be demonstrated that the building is able to support a new viable use, or might be capable of such in the future. Conservation Area Consent may be subject to conditions or a legal agreement to link demolition works to the

provision of the proposed replacement building or, in exceptional circumstances, to require temporary landscaping.

176 Design statements are required for new developments in a conservation area. This statement should include reference to the relevant Conservation Area Character Appraisal and Council guidance on Conservation Areas and Listed Buildings and show how these have informed the proposed design.

### **Env 6**

- (a) The design of the windows will preserve the visual amenity of the area.
- (b) not applicable
- (c) The windows have been designed to look as close to the original windows as is possible whilst delivering high heat and noise insulation.

### **Policy Des 12 Alterations and Extensions**

## Policy Des 12 Alterations and Extensions

Planning permission will be granted for alterations and extensions to existing buildings which:

- a) in their design and form, choice of materials and positioning are compatible with the character of the existing building
- b) will not result in an unreasonable loss of privacy or natural light to neighbouring properties
- c) will not be detrimental to neighbourhood amenity and character

168 Every change to a building, street or space has the potential to enrich or, if poorly designed, impoverish a part of the public realm. The impact of a proposal on the appearance and character of the existing building and street scene generally must be satisfactory and there should be no unreasonable loss of amenity and privacy for immediate neighbours.

## 8 Design Precedence

Our onsite visit has noticed a precedent within the area, in that various residential dwellings within the conservation area have had their wooden windows replaced by uPVC, aluminium windows of various designs.

As well as an onsite inspection, similar approved projects were granted planning permission. Accordingly, all the following properties applying for planning permission were of similar status as 26 Netherby Road; within the conservation context, they were all unlisted residential dwellings within the Trinity Conservation area.

**20/01694/FUL | Installation of 7x replacement windows to rear | 24 Netherby Road  
Edinburgh EH5 3NA**

**19/01719/FUL | Alterations to rear elevation fenestration including the combination of  
2no. Openings into 1no. Sliding doors opening and replacement of 2no. Windows and 1no.  
door to the annex. | 6 Netherby Road Edinburgh EH5 3NA**

**18/02711/FUL | Extension to side & rear, Velux windows to front & rear, creation of off-  
street parking place (as amended). | 11 Zetland Place Edinburgh EH5 3LZ**

## 8 Summary

Our client's proposal of replacing rotting timber-framed windows with uPVC frame double glazed replacements is appropriate for the scale and sympathetic to the original design and, therefore, will have no detriment to the look of the conservation area. In addition, our client's proposal will improve energy efficiency, better light and maintenance.

There are no amenity issues in terms of overlooking or privacy due to the position of the house, and therefore, the proposed replacement of windows to the rear elevation will not be visible to the public. Therefore, we look forward to the Edinburgh City Councils response hoping that planning permission will be approved.

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