

# Notice of meeting and agenda

## Planning Local Review Body (Panel 2)

**10.00 am Wednesday, 30th November, 2022**

Mircosoft Teams

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

### Contacts

Email: [natalie.le.couteur@edinburgh.gov.uk](mailto:natalie.le.couteur@edinburgh.gov.uk)

Tel: 0131 529 6160

## **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 2) – 2 November 2022 – submitted for approval as a correct record 9 - 32

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

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- 5.1 Note of the outline procedure for consideration of all Requests for 33 - 36

## 6. Requests for Review

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- 6.1** 2 (2F) Albyn Place, Edinburgh – Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018) – application no. 22/03087/FUL. 37 - 74
- (a) Notice of Review and Supporting Documents
  - (b) Letters of Representation
  - (c) Appeal Reply
- Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.
- 6.2** 1 Avenue Villas, Edinburgh – Demolish existing rear extension and form new extension to the side and rear to house living, dining and utility facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair – application no. 22/02322/FUL. 75 - 214
- (a) Notice of Review and Supporting Documents
  - (b) Letters of Representation
  - (c) Further Repls Response from Agent
  - (d) Further Repls
- Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.
- 6.3** 28 Lanark Road West, Currie – Side extension to form new bedrooms /en-suites, front entrance extension plus new and replacement roof dormers and roof lights – application no. 22/02038/FUL. 215 - 248
- (a) Notice of Review and Supporting Documents
  - (b) Letters of Representation
- Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.

- 6.4** 8 North Bank Street (3F2), Edinburgh – Proposed Change of Use from dwelling to short-term let (in retrospect) – application no. 22/02284/FUL. 249 - 280
- (a) Notice of Review and Supporting Documents
  - (b) Letters of Representation
- Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.
- 6.5** 405 Webster's Land, Edinburgh – Change of use from residential to short-term let (STL) – application no. 22/02967/FUL. 281 - 302
- (a) Notice of Review and Supporting Documents
  - (b) Letters of Representation
- 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 303 - 322
- [Local Development Plan Online](#)
- Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
- 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 2 (City Centre)
- Edinburgh Local Development Plan Policy Env 1 (World Heritage Sites)
- 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 9 (Development of Sites of Archaeological Significance)

Edinburgh Local Development Plan Policy Env 12 (Trees)

Edinburgh Local Development Plan Policy Env 21 (Flood Protection)

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)

Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)

## 8. Non-Statutory Guidance

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8.1 [Guidance for Householders](#) 323 - 478

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[The Relevant Scottish Planning Policy – Sustainable Development Principles](#)

[Guidance for Businesses](#)

[Managing Change in the Historic Environment: Guidance on the principles of listed buildings](#)

Managing Change in the Historic Environment: Setting

**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.

## **Nick Smith**

Service Director, Legal and Assurance

## **Membership Panel**

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Councillors Beal, Booth, Hyslop, McNeese-Mechan, and Mowat.

## **Information about the Planning Local Review Body (Panel 2)**

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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 Natalie Le Couteur, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, Tel 0131 529 6160, email [natalie.le.couteur@edinburgh.gov.uk](mailto:natalie.le.couteur@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.

## **Webcasting of Council Meetings**

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Please note this meeting may be filmed for live and subsequent broadcast via the Council's internet site – at the start of the meeting the Convener will confirm if all or part of the meeting is being filmed. The Council is a Data Controller under the General Data Protection Regulation and Data Protection Act 2018. We broadcast Council meetings to fulfil our public task obligation to enable members of the public to observe the democratic process. Data collected during this webcast will be retained in accordance with the Council's published policy including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Any information presented by individuals to the Council at a meeting, in addition to forming part of a webcast that will be held as a historical record, will also be held and used by the Council in connection with the relevant matter until that matter is decided or otherwise resolved (including any potential appeals and other connected processes). Thereafter, that information will continue to be held as part of the historical record in accordance with the paragraphs above. If you have any queries regarding this, and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial damage or distress to any individual, please contact Committee Services ([committee.services@edinburgh.gov.uk](mailto:committee.services@edinburgh.gov.uk))

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# Minutes

## The City of Edinburgh Planning Local Review Body (Panel 2)

10.00 am, Wednesday 2 November 2022

**Present:** Councillors Beal, Booth, Hyslop, McNeese-Mechan and Mowat.

### 1. Appointment of Convener

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Councillor Beal was appointed as Convener.

### 2. 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)

### 3. Request for Review – Police Box, Bruntsfield Place, Edinburgh

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Details were submitted of a request for a review on behalf of BT Telecommunications Plc for the removal of 2 No. phone kiosks and the installation of 1 No. BT Street Hub unit at Police Box, Bruntsfield Place, Edinburgh. Application No. 22/02524/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 2 November 2022.

#### Assessment

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, 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 01-04, Scheme 1 being the drawings shown under the application reference number 22/02524/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance on Advertisements, Sponsorship and City Dressing
  - Guidance on Listed Buildings and Conservation Areas
  - The Edinburgh Design Guidance
  - The Street Design Guidance.
  - Other Relevant policy guidance
  - HES guidance Managing Change – Setting
  - The Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal
  - Scottish Planning Policy on Sustainable Development
- 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:

- It was difficult to see how this proposed hub unit would promote sustainable travel. It would be a potential for “way finding and cycle counters”.
- The proposal would host bus timetables and support sustainable transport.
- It was confirmed that it was the proposal was contrary to policy, the local development plan and the non-statutory guidance on adverts.
- Apparently, this structure would be 100% percent renewable powered. Would it have their own sustainable energy in the structure?

- It might have their own solar panels, but it could not be confirmed that it was 100% sustainable.
- Would there be noise emanating from the hub?
- The applicant had submitted a noise management plan. The hub would have to be audible to provide information, it had a talk back functionality and a touch screen, therefore, there would be some level of noise.
- This was in a conservation area and there was an enhancement with the removal of the 2 phone kiosks, however, the installation of the hub unit was not an enhancement, but was detrimental to the area. Was it possible to have a split decision?
- This would not be possible, but the removal of the phone boxes could be done without planning permission.
- This was not appropriate in a conservation area. The phone boxes could be removed, they were obsolete, and encouraged anti-social behaviour. The Panel should agree with officer's recommendations. The proposal was also in breach of Guidance on Advertisements, Sponsorship and City Dressing.

Having taken all the above matters into consideration, 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:**

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it was likely to have a high impact in visual terms to the detriment of the area.
2. The proposal did not comply with LDP policy Des 5 Development Design - Amenity as it was likely to adversely impact on the amenity of neighbouring properties.
3. The proposal was contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it would have a detrimental impact on the character and appearance of the conservation area.
4. The proposals were contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts were not supported on street furniture other than on bus shelters in appropriate locations.

(Reference – Decision Notice, Notice of Review, Report of Handling and supporting documents, submitted)

## 4. Request for Review – 81 Dundee Street (143 Metres North Of), Edinburgh

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Details were submitted of a request for a review for the removal of 2 No. phone kiosks and the installation of 1 No. BT Street Hub units at Proposed Telecoms Apparatus, 143 Metres North Of, 81 Dundee Street, Fountainbridge, Edinburgh. Application No. 22/02517/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 2 November 2022.

### Assessment

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/02517/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance on Advertisements, Sponsorship and City Dressing
  - The Edinburgh Design Guidance
  - The Street Design Guidance.
  - Other Relevant policy guidance

- 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:

- It was confirmed that regarding the question of the images, these were submitted with the application.
- The applicant seemed to be using different scales for certain drawings, which caused some confusion.
- In this type of application, was planning permission required to remove the existing phone boxes?
- It was confirmed the planning permission was not required to remove the phone boxes, as their footprint was of such a small scale.
- This might be the area in the City that was appropriate for this type of proposal. There was huge advertising sign in the vicinity, this was not a conservation area, and it might provide amenity to students in the area.
- There was a clear policy position on this. Until this policy was reviewed, the Panel should adhere to the policy. Also, there was some discomfort with this type of application. The applicant made claims that they could count data and could monitor pollution. This information should be open-sourced and it should be made known where that information would be gathered, so that it could be used appropriately.
- There needed to be a clear policy discussion. The policy context was clear, this was not the best place to put the hub and it impeded access. There was concern what this type of hub would attract with free wi-fi. Why would an anti-social policy be necessary if it this behaviour was not expected? There would be groups of people gathering which might be an issue. The Panel should refuse this application.
- There was concern about the location on the pavement, it would be close to the High School, would be a dominant structure and it would impact on the lines of sight on to the nearby streets.
- The application should be refused. Regarding the comment about the conservation area, the decision to refuse the application was not based on conservation area policies, but on LDP Policies such as Des 1 and Des 3 and breeches in advertising guidance.

- That visual amenity was the issue and there was less concern with attracting anti-social behaviour. According to overall guidance, it was necessary to affirm the planning officer's position.

Having taken all the above matters into consideration, 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:**

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it was likely to have a high impact in visual terms to the detriment of the area.
2. The proposal did not comply with LDP policy Des 5 Development Design - Amenity as it was likely to adversely impact on the amenity of the surrounding area.
3. The proposals were contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts were not supported on street furniture other than on bus shelters in appropriate locations.

(Reference – Decision Notice, Notice of Review, Report of Handling and supporting documents, submitted)

## **5. Request for Review –, Fountainbridge, Tollcross (Proposed Telecoms Apparatus), Edinburgh**

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Details were submitted for a request for a review for the removal of 2 No. existing phone kiosks and the installation of 1 No. BT Street Hub at Proposed Telecoms Apparatus, Fountainbridge, Tollcross Edinburgh. Application No. 22/02882/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 9 November 2022.

## **Assessment**

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, 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 01-04, Scheme 1 being the drawings shown under the application reference number 22/02882/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance on Advertisements, Sponsorship and City Dressing
  - The Edinburgh Design Guidance
  - The Street Design Guidance.

**Other Relevant policy guidance**

  - Scottish Planning Policy on Sustainable Development
- 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:

- Was the Transport Division not concerned with this proposal?
- Transport confirmed that there was enough pavement remaining to satisfy safety requirements
- Was Transport not concerned that the structure might be a distraction for drivers?
- It was confirmed that Transport did not have any objections in this respect.
- It was confirmed that the application was refused as it contravened LDP Policy Des 1 and non-statutory guidance on adverts.
- The montage indicated how dominant this structure would be on the landscape. When looking at Fountainbridge, there would be a loss of visibility of anything approaching in the opposite direction. This might have safety implications. It was perhaps necessary to add LDP Policy Des 5 on impact on amenity,

especially in that part of the road. It was now dark in winter, that stretch of road was unpleasant if it was not possible to see what was coming in the opposite direction.

- It was necessary to add LDP Policy Des 5 as a reason for refusal. There was surprise that safety had not been raised as an issue, also the hub was close to the road and was obtrusive.

Having taken all the above matters into consideration, the LRB believed 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. The LRB also agreed an additional reason for refusal that the proposal did not comply with LDP Policy Des 5 (Development Design and Amenity) as it was likely to adversely impact on the amenity of the surrounding area.

### **Decision**

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it would have an adverse impact on visual amenity, to the detriment of the area.
2. The application did not comply with the Council's Guidance on Advertisements, Sponsorship and City Dressing.
3. The proposal did not comply with LDP Policy Des 5 (Development - Design and Amenity) as it is likely to adversely impact on the amenity of the surrounding area.

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

## **6. Request for Review –139 Gorgie Road (32 Metres West Of), Edinburgh**

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Details were submitted of a request for a review for the removal of 2 No. phone kiosks with the installation of 1 No. BT Street Hub unit at Proposed Telecoms Apparatus 32 Metres West Of 139 Gorgie Road, Edinburgh. Application No. 22/02521/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 2 November 2022.

### **Assessment**

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/02521/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance on Advertisements, Sponsorship and City Dressing
  - The Edinburgh Design Guidance
  - The Street Design Guidance.

**Other Relevant policy guidance**

  - Scottish Planning Policy on Sustainable Development
- 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:

- Because there were 87 letters of representation, why was the application not being considered by the Development Management Sub-Committee?
- It was confirmed that as the application was refused and most of the letters of representation were against the proposal, it did not require to be considered by the DM Sub-Committee.
- LDP Policy Tra 9 was cited as a reason for refusal, but the Transport Division raised no objection to the proposal. Why did Transport not object if it did not comply with LDP Policy Tra 9?
- It was confirmed that LDP Policy Tra 9 was a consideration, but not a reason for refusal.

- There was surprise that the proposal did not breach LDP Policy Tra 9, because of the amount of pavement taken up by the structure. Additionally, the scale of the drawings were confusing.

Having taken all the above matters into consideration, 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:**

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it was likely to have a high impact in visual terms to the detriment of the area.
2. The proposal did not comply with LDP policy Des 5 Development Design - Amenity as it was likely to adversely impact on the amenity of the surrounding area.
3. The proposals were contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts were not supported on street furniture other than on bus shelters in appropriate locations.

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

## **7. Request for Review – Haymarket Terrace, Edinburgh**

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Details were submitted of a request for a review for the removal of 2 No. phone boxes and the installation of 1 No. BT Street Hub unit at Phone Box Haymarket Terrace, Edinburgh. Application No. 22/01529/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 2 November 2022.

### **Assessment**

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/01529/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Local Development Plan Policy Env 1 (World Heritage Sites)
  - Local Development Plan Policy Env 3 (Listed Buildings - Setting)
  - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance on Advertisements, Sponsorship and City Dressing
  - Guidance on Listed Buildings and Conservation Areas
  - The Edinburgh Design Guidance
  - The Street Design Guidance.

**Other Relevant policy guidance**

  - HES guidance Managing Change – Conservation Areas
  - The New Town Conservation Area Character Appraisal
  - Scottish Planning Policy on Sustainable Development
- 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 presentation indicated that this site was part of public realm works for the City Centre West to East Link (CCWEL). Was this application competent, as these were quite old plans and were not accurate at the moment?
- It was confirmed that when the application was submitted, this was the situation that existed and the application needed to be considered in its current form. Information regarding the proposed CCWEL works was not available as part of

the Review, but it would be possible to continue consideration of the matter and ask transport colleagues to provide this information.

- The Panel might not need that information to make a decision, but it might be the case that it would help inform the correct decision.
- It was confirmed that non-determination was not an issue, so it would be possible to ask for additional information, not being hampered by timescales.
- There were quite extensive public realm works being carried out in this area, and it was unclear if the hub would be adjacent to the cycle lane, or in the cycle lane or the floating bus stop. Therefore, technical advice from Transport was required to make an informed decision.
- One member indicated it would not alter their view, especially as the proposal was in a conservation area.
- The additional information was unlikely to change the outcome but it might alter the reasons the Panel gave for their decision.
- It was necessary to undertake the due process, as the information might reveal additional grounds for making a decision. If the location was next to the cycle lane and if the work on the CCWEL and hub might restrict the pavement width, then it might contravene LDP Policy Tra 9.
- It was preferable that the Panel should delay making a decision and get a view from Transport, to ensure they were undertaking due process, rather than making a decision on the information available.

Having taken all the above matters into consideration, the LRB unable to reach a decision as it was of the opinion that more information was required. Therefore, it decided to continue consideration of the matter to request further information from Transport colleagues on the current layout of the road that was being constructed, and ask them for a view on how this would potentially impact.

## **Decision**

To continue consideration of the matter to request further information from Transport colleagues on the current layout of the road that was being constructed as part of the City Centre West to East Link, and to ask Transport for a view on how the BT Street Hub might would potentially impact on the works.

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

## **8. Request for Review – 37 Roseburn Street (34 Metres West Of), Edinburgh**

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Details were submitted of a request for a review for the removal of 2 No. phone kiosks and the installation of 1 No. BT Street Hub unit at Proposed Telecoms Apparatus, 34 Metres West Of 37 Roseburn Street, Edinburgh. Application No. 22/02519/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 31 August 2022.

## **Assessment**

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/02519/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance on Advertisements, Sponsorship and City Dressing
  - The Edinburgh Design Guidance
  - The Street Design Guidance.

### **Other Relevant policy guidance**

Scottish Planning Policy on Sustainable Development

- 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 there might be mistake in the Report of Handling, as it indicated that the Transport Division did not refuse this proposal.
- It was confirmed that Transport had objected to the proposal as it would affect crowd control. There was a mistake in the Report of Handling as Transport had objected to the proposals.
- The proposed structure would take up 50% of the pavement.
- There would be a threat to public safety, as the proposed hub would cause people to congregate.
- It was confirmed that the response from Transport was appended to the Report of Handling, but the page number for this would be checked out by the Lead Planning Officer.
- There was summary of the Transport Response in the report which was sufficient to make a decision.

Having taken all the above matters into consideration, 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 refuse planning permission for the following reasons:

### Reasons for refusal:

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it was likely to have a high impact in visual terms to the detriment of the area.
2. The proposal did not comply with LDP policy Des 5 Development Design - Amenity as it was likely to adversely impact on the amenity of neighbouring properties.
3. The proposals were contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts were not supported on street furniture other than on bus shelters in appropriate locations.
4. The proposal did not comply with LDP policy Tra 9 Cycle and Footpath Network as it was likely to adversely impact on the public safety of pedestrians.

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

## 9. Request for Review – 117 Dundas Street (16 Metres West Of), Edinburgh

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Details were submitted of a request for a review for the removal of 2 No. phone kiosks and the installation of 1 No. BT Street Hub unit at Proposed Telecoms Apparatus, 16 Metres West Of 117 Dundas Street, Edinburgh. Application No. 22/02528/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 2 November 2022.

## **Assessment**

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/02528/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance on Advertisements, Sponsorship and City Dressing
  - Guidance on Listed Buildings and Conservation Areas
  - The Edinburgh Design Guidance
  - The Street Design Guidance.

### **Other Relevant policy guidance**

- HES guidance Managing Change – Conservation Areas
- The New Town Conservation Area Character Appraisal

- 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:

- Only one of the phone boxes was in Stockbridge, the other was in the New Town, therefore one panel member rejected the appeal statement regarding siting. It was not appropriate to refer this area as Stockbridge. The reasons given, especially LDP Policy Env 6, inclined them her to support the officers report.
- The Panel should uphold the officer's decision, as the proposals were contrary to LDP Policies Des 1, Des 5, Env 6 and the non-statutory guidelines on Adverts and Sponsorship policies.

Having taken all the above matters into consideration, 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 refuse planning permission for the following reasons:

#### **Reasons for refusal:**

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it was likely to have a high impact in visual terms to the detriment of the area.
2. The proposal did not comply with LDP policy Des 5 Development Design - Amenity as it was likely to adversely impact on the amenity of neighbouring properties.
3. The proposal was contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it would have a detrimental impact on the character and appearance of the conservation area.
4. The proposals were contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts were not supported on street furniture other than on bus shelters in appropriate locations.

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



## 10. Request for Review – 28 Ferry Road (28 Metres East Of), Edinburgh

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Details were submitted of a request for a review for the removal of 2 No. phone kiosks and the installation of 1 No. BT Street Hub units at Proposed Telecoms Apparatus 38 Metres East Of 28 Ferry Road, Edinburgh. Application No. 22/02531/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 2 November 2022.

### Assessment

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, the LRB had been provided with copies of the notice of review submitted by you 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/02531/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance on Advertisements, Sponsorship and City Dressing
  - Guidance on Listed Buildings and Conservation Areas
  - The Edinburgh Design Guidance

The Street Design Guidance.

### **Other Relevant policy guidance**

HES guidance Managing Change – Conservation Areas

The Leith Conservation Area Character Appraisal

Scottish Planning Policy on Sustainable Development

- 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:

- One member indicated that this proposal was in their ward, they knew the area well and it was similar to the other applications. They were surprised that the Transport Division had not objected to this as there would be only 2.6 metres of pavement remaining, whereas the ideal width was 3 metres.
- The applicant stated that the pavement was already awash with street furniture. However, the authority was trying to reduce street clutter, to allow greater accessibility. The authority should not be adding to street clutter, therefore, the Panel should uphold the decision of the planning officer.
- There was also a listed painting in the vicinity, which was highly regarded and a Street Hub should not be installed in front of a community mural.
- This proposal took up 60% the pavement.

Having taken all the above matters into consideration, 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 refuse planning permission for the following reasons:

#### **Reasons for refusal:**

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it was likely to have a high impact in visual terms to the detriment of the area.
2. The proposal did not comply with LDP policy Des 5 Development Design - Amenity as it was likely to adversely impact on the amenity of neighbouring properties.
3. The proposal was contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it would have a detrimental impact on the character and appearance of the conservation area.

4. The proposals were contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts were not supported on street furniture other than on bus shelters in appropriate locations.

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

## **11. Request for Review – 36 Raeburn Place (11 Metres South Of), Edinburgh**

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Details were submitted of a request for a review for the removal of 2 No. phone kiosks and the installation of 1 No. BT Street Hub units at Proposed Telecoms Apparatus, 11 Metres South Of 36 Raeburn Place, Edinburgh. Application No. 22/02526/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 2 November 2022.

### **Assessment**

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/02526/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)

2) Relevant Non-Statutory Guidelines.

Guidance on Advertisements, Sponsorship and City Dressing

Guidance on Listed Buildings and Conservation Areas

The Edinburgh Design Guidance

The Street Design Guidance.

**Other Relevant policy guidance**

HES guidance Managing Change – Conservation Areas

The New Town Conservation Area Character Appraisal

Scottish Planning Policy on Sustainable Development

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 there seemed to be a general excess of street furniture.
- Referring to the LDP Policies Des1, Des 5 and Env 6, and because the proposal was located in a conservation area, it was necessary to affirm the decision of the planning officer.

Having taken all the above matters into consideration, 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 refuse planning permission for the following reasons:

**Reasons for refusal:**

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it was likely to have a high impact in visual terms to the detriment of the area.
2. The proposal did not comply with LDP policy Des 5 Development Design - Amenity as it was likely to adversely impact on the amenity of neighbouring properties.
3. The proposal was contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it would have a detrimental impact on the character and appearance of the conservation area.

4. The proposals were contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts were not supported on street furniture other than on bus shelters in appropriate locations.

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

## 12. Request for Review – 61 South Clerk Street (8 Metres West Of), Edinburgh

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Details were submitted of a request for a review for the removal of 2 No. phone boxes and the installation of 1 No. BT Street Hub unit at Proposed Telecoms Apparatus, 8 Metres West Of 61 South Clerk Street, Edinburgh. Application No. 22/02504/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 2 November 2022.

### Assessment

Because there were 10 items on the agenda, all for the installation of a BT Street Hub at 10 different locations across the city, the Planning Advisor started the meeting with a brief presentation about the Street Hubs and the generic information that had been provided for all of the cases. It was then possible to move on to the site specific details, to avoid repetition.

At the meeting on 2 November 2022, 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/02504/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 to determine the review.

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, principally:
  - Edinburgh Local Development Plan Policy Des 1 Design (Quality and Context)
  - Edinburgh Local Development Plan Policy Des 5 (Development Design – Amenity)
  - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
  - Edinburgh Local Development Plan Policy Tra 9 (Cycle and Footpath Network)

2) Relevant Non-Statutory Guidelines.

Guidance on Advertisements, Sponsorship and City Dressing

The Edinburgh Design Guidance

The Street Design Guidance.

**Other Relevant policy guidance**

Scottish Planning Policy on Sustainable Development

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:

- One member indicated that they could not find the Report of Handling or the Decision Notice in the papers, but there was sufficient information in the presentation to make a decision.
- These papers were in a different order from their usual format.
- The Decision Notice and Report of Handling were included in the papers, but it did not refer to LDP Policy Tra 9 as a reason for refusal. The objection from Transport was included in the report of handling, but was not noted in the Decision Notice.
- The Panel should include LDP Policy Tra 9 in the reasons for refusal, as this was busy pavement, especially in summer. Reducing the pavement to a minimum would be unacceptable. The Panel should therefore uphold that policy.
- That the area became very busy when people were coming out of the venue. It would be a safety issue and it was necessary to include LDP Policy Tra 9.
- The Panel should uphold the decision of the planning officer with the addition of LDP Policy Tra 9.

Having taken all the above matters into consideration, 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. The LRB also agreed an additional reason for refusal that the proposal does not comply with LDP Policy Tra 9 (Cycle and Footpath Network) as it was likely to adversely impact on the safety of pedestrians.

**Decision**

To refuse planning permission for the following reasons:

### **Reasons for refusal:**

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it was likely to have a high impact in visual terms to the detriment of the area.
2. The proposal did not comply with LDP policy Des 5 Development Design - Amenity as it was likely to adversely impact on the amenity of neighbouring properties.
3. The proposal was contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it would have a detrimental impact on the character and appearance of the conservation area.
4. The proposals were contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts were not supported on street furniture other than on bus shelters in appropriate locations.
5. That the proposal did not comply with LDP Policy Tra 9 (Cycle and Footpath Network) as it was likely to adversely impact on the safety of pedestrians.

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

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## 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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Mrs Johnston  
Walstone Muir  
Nine Mile Burn  
Penicuik  
EH26 9LR

**Decision date: 12 September 2022**

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

Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018).  
At 2F 2 Albany Place Edinburgh EH2 4NG

**Application No:** 22/03087/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 14 June 2022, 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 proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

Drawings 01-03., 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 proposal is acceptable with regards to Section 59 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion. It is recommended that the application be refused.

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 Laura Marshall directly at [laura.marshall@edinburgh.gov.uk](mailto:laura.marshall@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**  
**2F 2 Albyn Place, Edinburgh, EH2 4NG**

**Proposal: Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018).**

**Item – Local Delegated Decision**  
**Application Number – 22/03087/FUL**  
**Ward – B11 - City Centre**

## **Recommendation**

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

## **Summary**

The proposal is acceptable with regards to Section 59 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion. It is recommended that the application be refused.

## **SECTION A – Application Background**

### **Site Description**

The application site is a first-floor Georgian apartment and is located on Albyn Place. The property forms part of a four storey and a basement townhouse with shared access with other residential occupants of the building.

Properties 1-11 (inclusive numbers) Albyn Place are Category A listed (listing reference: LB28234, date of listing: 14/12/1970).

The property is located within the New Town Area with a mix of uses nearby, including offices, cafes, bars, and hotels.

### **Description Of The Proposal**



The application is for retrospective planning permission for a change of use of a flatted unit to a short stay visitor accommodation (sui-generis). No internal or external physical changes are proposed.

### **Supporting Information**

- Planning Statement
- Operating Terms and Conditions
- Hospitality awards and sample guests' reviews
- Sustainability Policy

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

None.

### **Consultation Engagement**

Historic Environment Scotland

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 23 June 2022

**Date of Advertisement:** 1 July 2022

**Date of Site Notice:** 1 July 2022

**Number of Contributors:** 2

## **Section B - Assessment**

### **Determining Issues**

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
  - (i) harming the listed building or its setting? or
  - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
  
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

## **Assessment**

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

### **a) The proposals harm the listed building and its setting?**

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

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

### **Conclusion in relation to the listed building**

The proposal does not harm the character of the listed building, or its setting or the setting of neighbouring listed buildings. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals harm the character or appearance of the conservation area?**

The New Town Conservation Area represents a planned urban concept of European significance with an overriding character of Georgian formality. Stone built terrace houses and tenements, built to the highest standards, overlook communal private

gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves.

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area.

### **Conclusion in relation to the conservation area**

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **c) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 1, Env 4 and Env 6
- LDP Housing policy Hou 7
- LDP Transport policies Tra 2 and Tra 3

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6.

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP policy Hou 7.

#### Listed Building

As addressed in section (a) above, the proposed change of use will not harm the special interests of the listed building. The proposal complies with LDP policy Env 4.

#### Conservation area impact

As addressed in section (a) above, the proposed change of use will not undermine the character or the appearance of the conservation area. The proposal complies with LDP policy Env 6.

#### World Heritage Site

As the proposal is for a change of use only, it will not harm the qualities which justified the inscription of the Old and New Towns of Edinburgh's World Heritage Sites. The proposal complies with LDP policy Env 1.

#### Principle of proposed use

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP).

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a SCVA:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration.

The submitted planning statement states that the property has been used as SCVA since 2018. There is no record of planning permission for its use as a SVCA and the proposal is therefore assessed in retrospect.

The property is a one-bedroom, first floor flat with shared access to the building that includes a shared staircase. The characteristics of the application property is such that a change of use to a SVCA will result in direct interaction/interference between users of the short-term letting accommodation and long-term residents of the residential building. The proposed change of use to a SVCA is not compatible with the residential use and character of the building due to conflicting with the shared access with neighbouring occupants of the building.

The property has one formal bedroom. The accommodation size and layout, however, would be capable of accommodating up to four or more related or unrelated visitors to arrive and stay at the premises for a short period of time on a regular basis in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbour's amenity than long standing residents.

The application property has a mix of uses nearby, including offices, cafes, shops, restaurants and hospitality venues. The application property, however, is part of a residential townhouse with shared access with other occupiers of the building. Residents would be accustomed to a degree of low ambience noise as a result of this arrangement. The proposed change of use to a SVCA would introduce noise and disturbance at a level and frequency that is different from the background ambience that long standing residents would be accustomed to. The proposed change of use to a SVCA in this location therefore will have a materially detrimental effect on the living conditions of nearby residents.

The applicant has provided a number of supporting information to explain that the property would be used for a maximum of two guests staying and aimed at high end market users. The business operation rationale, however, does not carry significant weight in the assessment of the proposals as it cannot be controlled through effective means of a planning condition.

There are no statutory policies on the loss of housing in the current Development Plan. In addition, there is no policies restricting the over-provision of SVCA's and each planning application is assessed on its own merits. While experience has shown that short term lets can impact on the quality of places, LDP policy Hou 7 (Inappropriate Uses in Residential Areas) is applicable to the assessment of proposals for SVCA's. The assessment has found that the proposed use is not appropriate for its location.

#### Parking standards

There is no car or cycle parking standards for SVCA's within the Edinburgh Design Guidance. The application property is within a short walking distance to nearby public transport and amenities. The proposal therefore complies with LDP policies Tra 2 and Tra 3.

#### **Conclusion in relation to the Development Plan**

##### **d) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development.

#### Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

#### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

### Public representations

A summary of the representations is provided below:

#### *material considerations*

- Noise and disturbance experienced during summer and weekends. Addressed on section c.
- Impact on World Heritage Site. Addressed in section c.
- Unsustainable growth of short term lets impacting on quality of places. Addressed in section c.

#### *non-material considerations*

- Maintenance and damage to listed buildings, contrary to LDP policy Env 4 - maintenance issues is not a material planning consideration and as no physical alterations are proposed, policy Env 4 is not applicable to the assessment of a change of use.
- Contrary to LDP policy Des 5 in terms of refuse/recycling and impact on amenity - as no physical alterations are proposed, this policy is not applicable to the assessment of a change of use. Planning does control/condition operational waste arrangements.

### **Conclusion in relation to identified material considerations**

The other material consideration has been identified and addressed. There are no new material considerations.

### **Overall conclusion**

The proposal is acceptable with regards to Section 59 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion. It is recommended that the application be refused.

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

The recommendation is subject to the following;

### **Reasons**

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let

will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

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

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

**Date Registered: 14 June 2022**

### **Drawing Numbers/Scheme**

01-03.

Scheme 1

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

Contact: Laura Marshall, Planning Officer  
E-mail: [laura.marshall@edinburgh.gov.uk](mailto:laura.marshall@edinburgh.gov.uk)

## Appendix 1

### **Consultations**

NAME: Historic Environment Scotland

COMMENT: No comment.

DATE: 8 September 2022

The full consultation response can be viewed on the Planning & Building Standards Portal.





**By email to:**  
**[laura.marshall@edinburgh.gov.uk](mailto:laura.marshall@edinburgh.gov.uk)**

City of Edinburgh Council  
Planning and Strategy  
4 Waverley Court  
East Market Street  
Edinburgh  
EH8 8BG

Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

Enquiry Line: 0131-668-8716  
[HMConsultations@hes.scot](mailto:HMConsultations@hes.scot)

Our case ID: 300059278  
Your ref: 22/03087/FUL  
05 July 2022

Dear City of Edinburgh Council

Town and Country Planning (Development Management Procedure) (Scotland)  
Regulations 2013

2F 2 Albyn Place Edinburgh EH2 4NG - Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018)

Thank you for your consultation which we received on 23 June 2022. We have assessed it for our historic environment interests and consider that the proposals affect the following:

| <b>Ref</b> | <b>Name</b>   | <b>Designation Type</b>          |
|------------|---|----------------------------------|
| 100018438, | Edinburgh World Heritage  | World Heritage Sites,            |
| LB28234,   | Site Boundary,<br>1-11 (INCLUSIVE NOS)  | Listed Building,                 |
|            | ALBYN PLACE,<br>INCLUDING RAILINGS,<br>WITH 2-4 (INCLUSIVE<br>NOS) WEMYSS PLACE |                                  |
| GDL00367   | MEWS,<br>THE NEW TOWN<br>GARDENS  | Garden and Designed<br>Landscape |

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

### **Our Advice**



We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.

### **Further Information**

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at [www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/](http://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/). Technical advice is available through our Technical Conservation website at [www.engineshed.org](http://www.engineshed.org).

Yours faithfully

**Historic Environment Scotland**

# Comments for Planning Application 22/03087/FUL

## Application Summary

Application Number: 22/03087/FUL

Address: 2F 2 Albyn Place Edinburgh EH2 4NG

Proposal: Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018).

Case Officer: Laura Marshall

## Customer Details

Name: Mr Eric Hughes

Address: 3 Wemyss Place Mews Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I have lived at a property in Wemyss Place Mews for the last 6 years. I have noticed and been kept up by significant amounts of noise late at night particularly during the Summer and put it down to the some of the properties on Albyn Place potentially being Student Flats; I now understand this to be a short term let and probably the source of the noise and would rather it was not put out as short term lets on a continuing basis as a result.

Long term tenants such as my neighbours in the adjacent properties are generally more amenable and not a nuisance like those coming in for a long weekend and a party.

# Comments for Planning Application 22/03087/FUL

## Application Summary

Application Number: 22/03087/FUL

Address: 2F 2 Albyn Place Edinburgh EH2 4NG

Proposal: Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018).

Case Officer: Laura Marshall

## 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 the proposals for the change of use to short-term let in an historic A-listed property within the New Town Conservation Area, and objects.

- 1) The proposals only relate to one property within the tenement, which is accessed from a shared stair. This would have a detrimental impact on the residential amenity of neighbouring properties, and limits the future of the flats not included within the application.
- 2) The change of use would contribute to the unsustainable growth of the short term let (STL) sector in Edinburgh. The economic benefits of tourism for Edinburgh are clear, and we celebrate the role that our architectural heritage plays in this sector. However, the current rising rate of STLs threatens the sense of place and community which are part of the city's attraction, and this is especially acute in the World Heritage Site.
- 3) Scottish Government Research has highlighted the links between STLs and the negative impacts of reduced availability of affordable housing, congestion and reduced quality of life through noise and disturbance (People, Communities and Places, October 2019, pp. iv-v)
- 4) With particular reference to architectural heritage the responsibility for the care and maintenance of communal areas and aspects of joint responsibility in listed buildings and conservation areas is diminished by the increase of short-term occupants.

The change of use does not respect the special characteristics of history and place reflected in the building's designation and location in the World Heritage Site, and would increase the negative impacts caused by the growth of STLs in Edinburgh.

The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of

place), DES5 (amenity of neighbours/refuse and recycling facilities), ENV 4 (Risk of unnecessary damage to historic structures), and HOU7 (Materially detrimental effect on the living conditions of nearby residents). We therefore object to the application.

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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      100603608-002

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:               | Mrs        | You must enter a Building Name or Number, or both: * |                |
| Other Title:         |            | Building Name:                                       | Walstone Muir  |
| First Name: *        | Fiona      | Building Number:                                     |                |
| Last Name: *         | Johnston   | Address 1 (Street): *                                | Nine Mile Burn |
| Company/Organisation |            | Address 2:   |                |
| Telephone Number: *  | [REDACTED] | Town/City: *   | Penicu k       |
| Extension Number:    |            | Country: *   | Scotland       |
| Mobile Number:       |            | Postcode: *  | EH26 9LR       |
| 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:

2F

Address 2:

2 ALBYN PLACE

Address 3:

NEW TOWN

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH2 4NG

Please identify/describe the location of the site or sites

Northing

674081

Easting

324796

## 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)

Planning Application Appeal - 22/03087/FUL Retrospective Change of Use from a residential apartment to a short term letting apartment in line with recent legislation (for an already established short term letting operation since 2018)

## 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: Supporting Documents Section

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)

1. Planning Application Appeal Statement 2. Supporting Documentation as Attachments:- Attachment A - Residents Declarations that there is no objection Attachment B - External Photos Attachment C - Noise Survey Attachment D - Business Locator Listing of the Immediate Area Attachment E - Internal Photos Attachment F - Tourism Awards & Guest Reviews

## Application Details

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

22/03087/FUL

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

14/06/2022

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

12/09/2022

## 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: Mrs Fiona Johnston

Declaration Date: 17/10/2022

**Residents of 2 Albyn Place - Statements**

**Confirmation of Support for Applicants Planning Application to continue to operate a STL:**

*Email addresses removed below for privacy reasons. Originals available if required for inspection.*

Allan Hackland – 2.1 Albyn Place

**From:** Allan Hackland < >  
**Subject:** Re: Flat 2 Albyn Place  
**Date:** 17 September 2022 at 14:36:19 BST  
**To:** Fiona Johnston < >

Hi Fiona

I'm happy to offer whatever help I can and obviously support you continuing to rent out your flat.

Regards

Allan

Julian Rawel – 2.4 Albyn Place

**From:** Julian Rawel < >  
**Subject:** Rental - 2 Albyn Place  
**Date:** 13 September 2022 at 20:58:37 BST  
**To:** "Fiona Johnston" < >

Dear Fiona

I am contacting you to confirm that I am very happy for you to continue to rent out your flat at 2 Albyn Place, Edinburgh, EH2 4NG.

The current arrangement appears to have worked very smoothly and with no inconvenience to myself.

Regards  
Julian

Paul Padfield – 2.3 Albyn Place

**From:** padfield paul < >  
**Subject:** Renting out flat at 2/2, Albyn Place, Edinburgh, EH2 4NG  
**Date:** 22 September 2022 at 17:42:24 BST  
**To:** "Fiona Johnston" < >

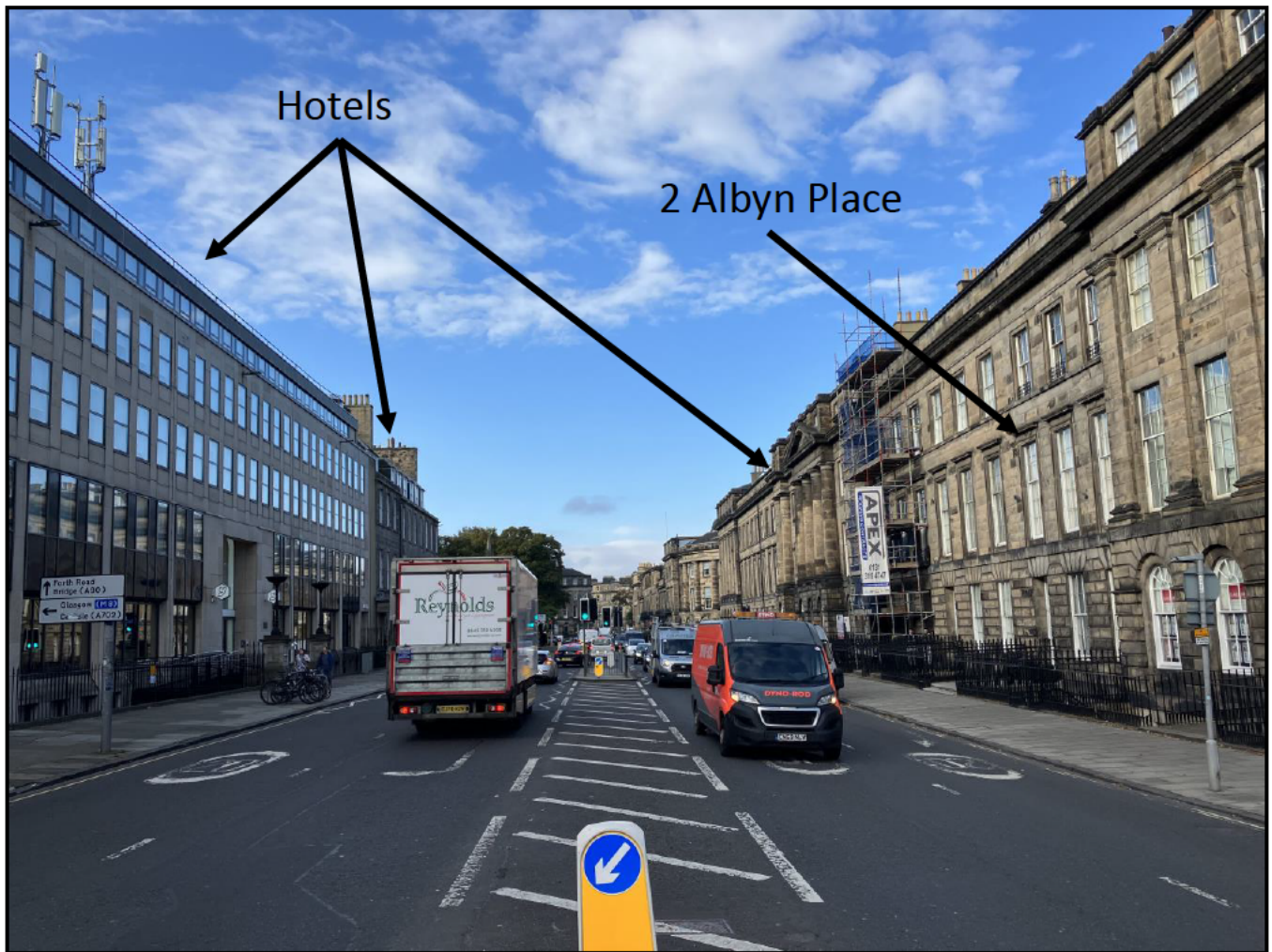
Dear Fiona,

I understand that you are looking for support for the ongoing rental of your flat.

We are happy to give you this support on the understanding that things continue as they have been over the last two years. We have rarely been aware of tenants in your flat (we are, as you know, in the flat above) and have no issues with this.

Best Wishes,

Paul



View of flat Location on Queen St



View of Queen St outside flat



View of Queen St outside flat



View of Queen St and Hotel from Flat Window



View of Queen St and Hotel from Front Door

**EXTERIOR Noise Monitoring**

(Recorded dBA just outside flat door)

| DAY       | TIME | AVERAGE READING | HIGHEST READING |
|-----------|------|-----------------|-----------------|
| Monday    | 0800 | 71              | 95              |
|           | 1200 | 75              | 95              |
|           | 1700 | 74              | 91              |
| Tuesday   | 0800 | 68              | 93              |
|           | 1200 | 74              | 97              |
|           | 1700 | 73              | 93              |
| Wednesday | 0800 | 73              | 98              |
|           | 1200 | 77              | 100             |
|           | 1700 | 73              | 95              |
| Thursday  | 0800 | 68              | 101             |
|           | 1200 | 71              | 97              |
|           | 1700 | 74              | 98              |
| Friday    | 0800 | 65              | 97              |
|           | 1200 | 78              | 94              |
|           | 1700 | 70              | 90              |
| Saturday  | 0800 | 60              | 94              |
|           | 1200 | 78              | 90              |
|           | 1700 | 64              | 91              |
| Sunday    | 0800 | 58              | 71              |
|           | 1200 | 70              | 89              |
|           | 1700 | 63              | 75              |

**INTERIOR Noise Monitoring**

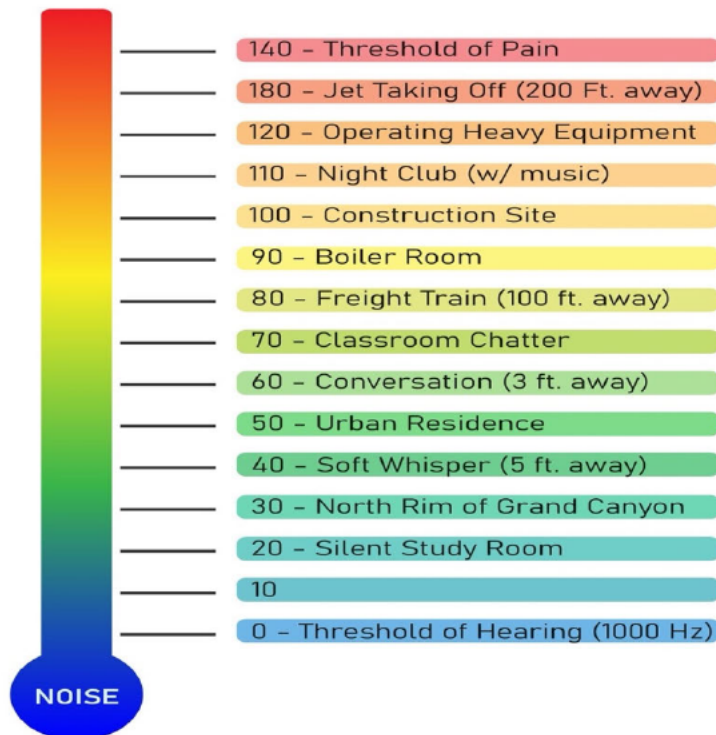
(Recorded dBA inside flat)

| DAY       | TIME | AVERAGE READING | HIGHEST READING |
|-----------|------|-----------------|-----------------|
| Monday    | 0800 | 59              | 74              |
|           | 1200 | 64              | 71              |
|           | 1700 | 68              | 75              |
| Tuesday   | 0800 | 61              | 71              |
|           | 1200 | 67              | 75              |
|           | 1700 | 65              | 70              |
| Wednesday | 0800 | 61              | 73              |
|           | 1200 | 63              | 73              |
|           | 1700 | 64              | 71              |
| Thursday  | 0800 | 58              | 70              |
|           | 1200 | 68              | 73              |
|           | 1700 | 63              | 72              |
| Friday    | 0800 | 66              | 72              |
|           | 1200 | 67              | 76              |
|           | 1700 | 60              | 69              |
| Saturday  | 0800 | 56              | 62              |
|           | 1200 | 60              | 76              |
|           | 1700 | 61              | 70              |
| Sunday    | 0800 | 54              | 65              |
|           | 1200 | 62              | 69              |
|           | 1700 | 59              | 68              |

Location Outside Front door at 2 Albyn Place,  
Date of test: September 20-26, 2020

Location Front Room at 2 Albyn Place, EH2 4NG  
Date of test: September 20-26, 2020

**Typical Sound Levels (dBA)**



## Known Commercial Organisations in the Immediate vicinity of 2 Albyn Place

(Confined to a distance under 100m from 2 Albyn Place. Many share a main door entrance with residences)

| Type/Name | Description | Distance from Applicant's Property | Address | Total |
|-----------|-------------|------------------------------------|---------|-------|
|-----------|-------------|------------------------------------|---------|-------|

| Hotels                              |                                    |     |                |   |
|-------------------------------------|------------------------------------|-----|----------------|---|
| Yotel Hotel                         | 280 Room Hotel (Directly opposite) | 25m | 68 Queen St    | 1 |
| Native Edinburgh Apart Hotel        | 82 Room STL Apartment-Hotel        | 35m | 74-78 Queen St | 2 |
| Stewart Apart Hotel                 | 37 Room STL Apartment Hotel        | 60m | 10 Young St    | 3 |
| Mitchells Residences                | 4 Room Commercial STL              | 80m | 13 Young St    | 4 |
| Commercial STL Planning Application | 20 room STL Apartment-Hotel        | 20m | 8-9 Albyn Pl   | 5 |

| Estate Agents                  |                     |     |                |    |
|--------------------------------|---------------------|-----|----------------|----|
| DJ Alexander                   | Sales & Rentals     | 10m | 1 Wemyss Pl    | 1  |
| Savills                        | Sales & Rentals     | 10m | 8 Wemyss Pl    | 2  |
| Rettie & Co                    | Sales & Rentals     | 50m | 11 Wemyss Pl   | 3  |
| Knighth Frank                  | Sales & Rentals     | 50m | 80 Queen St    | 4  |
| Lovatt                         | Property Management | 80m | 21 Young St    | 5  |
| South Side Property Management | Rentals             | 10m | 2B Albyn Place | 6  |
| TFC The Flat Co                | Rentals             | 60m | 61a Queen St   | 7  |
| Saltouns                       | Property Management | 60m | 61a Queen St   | 8  |
| Murray & Currie                | Sales & Rentals     | 50m | 60 Queen St    | 9  |
| Milards                        | Sales & Rentals     | 20m | 5 Wemyss Pl    | 10 |

| Shops                 |        |     |             |   |
|-----------------------|--------|-----|-------------|---|
| Stock Exchange        | Retail | 80m | 5 Young St  | 1 |
| Stewart Christie & Co | Tailor | 40m | 63 Queen St | 2 |

| Café's and Restaurants |            |      |                  |    |
|------------------------|------------|------|------------------|----|
| Lola's Sandwich Bar    | Café       | 50m  | 6 N Charlotte st | 1  |
| Fortuna Coffee bar     | Coffee Bar | 30m  | 77 Queen St      | 2  |
| Panda & Sons           | Bar        | 30m  | 79 Queen St      | 3  |
| Counter Edinburgh      | Canteen    | 30m  | 77 Queen St      | 4  |
| The Chaumer            | Café       | 30m  | 61 Queen St      | 5  |
| Rico's                 | Restaurant | 50m  | 58 N Castle St   | 6  |
| Waka Café              | Cafe       | 100m | N Castle St      | 7  |
| Oxford Bar             | Pub        | 80m  | Young St         | 8  |
| Cambridge Bar          | Pub        | 80m  | Young St         | 9  |
| Milk & Honey           | Café       | 30m  | 78 Queen St      | 10 |

| Educational Institutions/Schools |                 |     |             |   |
|----------------------------------|-----------------|-----|-------------|---|
| Basil Paterson                   | Language School | 30m | 66 Queen St | 1 |
| Kaplan Institute                 | Language School | 20m | 9 Albyn Pl  | 2 |
| The Educational institute        | College         | 40m | 46 Moray Pl | 3 |
| ECS Scotland                     | Language School | 80m | 17 Young St | 4 |
| Busy Bees                        | Nursery         | 50m | 4 Forres St | 5 |

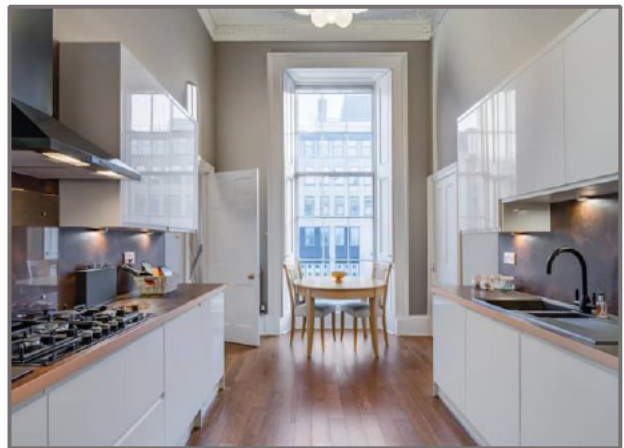
| Other                            |            |      |             |   |
|----------------------------------|------------|------|-------------|---|
| First Church of Christ Scientist | Church     | 80m  | 11 Young st | 1 |
| Spanish Consulate                | Diplomatic | 100m | N Castle St | 2 |
| NASUWT                           | Union      | 70m  | 35 Young St | 3 |

Distances approximate

| Type/Name | Description | Distance from Applicant's Property | Address | Total |
|-----------|-------------|------------------------------------|---------|-------|
|-----------|-------------|------------------------------------|---------|-------|

| Other Commercial Organisations |                        |      |                 |    |
|--------------------------------|------------------------|------|-----------------|----|
| Opus 2                         | Software Company       | 10m  | 3 Wemyss Pl     | 1  |
| Ipsos                          | Market research        | 10m  | 4 Wemyss Pl     | 2  |
| Signature Group                | Pubs                   | 10m  | 6 Albyn Pl      | 3  |
| Abbot Consultants              | Insurance              | 15m  | 11 Albyn Pl     | 4  |
| Stevenson Associates           | Consultants            | 20m  | 2 Albyn Pl      | 5  |
| Millard Laird                  | Architects             | 60m  | 5 Forres St     | 6  |
| Reiech & Hall                  | Architects             | 80m  | 8 Darnaway St   | 7  |
| Rankinfraser                   | Architects             | 80m  | 8 Darnaway St   | 8  |
| Ash Studios                    | Hairdresser            | 100m | 8 Darnaway St   | 9  |
| Chai Counselling               | Psychotherapy          | 60m  | 1 St Colme      | 10 |
| Colin Buchanan                 | Taxi Company           | 60m  | 4 St Colme      | 11 |
| Geoghans Associates            | Accountants            | 60m  | 6 St Colme      | 12 |
| McLeod Aitken                  | Chartered Surveyors    | 80m  | 14 Young St     | 13 |
| Nexus Business Centre          | Business Centre        | 80m  | 16 Young St     | 14 |
| Qmile Group                    | Property Development   | 20m  | 4 Wemyss Pl     | 15 |
| Moray & CO                     | Legal Services         | 20m  | 5 Wemyss Pl     | 16 |
| Maptek                         | Software Company       | 50m  | 3 Darnaway St   | 17 |
| Rossie House Management        | Investments            | 50m  | 50 Moray Pl     | 18 |
| D2                             | Chartered Surveyors    | 100m | 10 St Colme St  | 19 |
| Thomson Bethune                | Property Development   | 30m  | 6 Forres St     | 20 |
| Walter Scottt                  | Investments            | 100m | N. Charlotte St | 21 |
| Morris & Steadman              | Architects             | 70m  | 38 Young St     | 22 |
| Robertson & Eadie              | Construction           | 50m  | 6 N Charlotte   | 23 |
| George Goldsmith               | Experience and Rentals | 100m | 48 N Castle St  | 24 |
| North Capital Management       | Investments            | 100m | 58 N Castle St  | 25 |
| Edinburgh Film Co              | Film                   | 80m  | 3 Young St      | 26 |
| Clear Taxation                 | Accountancy            | 80m  | 18 Young St     | 27 |
| Hazelant Ltd                   | Finance                | 70m  | 21 Young St     | 28 |
| Multi Busienss Media           | Media                  | 80m  | 18 Young St     | 29 |
| Simply Blue Management         | Marine                 | 80m  | 21 Young St     | 30 |
| Hunger Hydraulics              | Machinery              | 80m  | 21 Young St     | 31 |
| Lothian Broadband Net          | Communications         | 80m  | 21 Young St     | 32 |
| JM Architects                  | Architects             | 40m  | 64 Queen St     | 33 |
| Callidus Wealth Management     | Investments            | 80m  | 21 Young St     | 34 |
| OK Positive Ltd                | Health Services        | 80m  | 21 Young St     | 35 |
| PGMBM (Scotland                | Legal Services         | 80m  | 21 Young St     | 36 |
| City & Wharf                   | Estate Management      | 80m  | 21 Young St     | 37 |
| GEO Solutions Ltd              | Engineering            | 80m  | 22 Young St     | 38 |
| AI Explorations                | Environmental          | 80m  | 22 Young St     | 39 |
| Cullross Holdings              | House Builders         | 80m  | 22 Young St     | 40 |
| Hampden Agencies               | Finance                | 80m  | 22 Young St     | 41 |
| Surface Beauth Aesthetics      | Beauty                 | 30m  | 78a Queen St    | 42 |
| Embark Group                   | Investments            | 10m  | 4 Albyn Place   | 43 |
| Laura McNaught                 | Psychotherapy          | 80m  | 21 Young St     | 44 |
| Highland Experience            | Tour Operator          | 60m  | 6 St Colme      | 45 |
| Calibre                        | Business Centre        | 60m  | 1 St Colme      | 46 |

Total Number of Commercial Organisations within 100m of 2 Albyn Place, EH2 4NG: **82**







## Attachment F - Recent Guest Comments and Feedback

"We have no words to describe this amazing place. This is the best apartment we've stayed at. There are details in every corner that makes this home look like a palace! We really appreciate the effort that Fiona has put into this apartment to make it extra comfortable and beautiful for guests. Why would you need a hotel when you can stay at this fabulous house? 5 stars for location! We were able to walk everywhere we wanted to go. And last but not least, you will find this home sparkling clean upon your arrival." (Wendy, USA, 2022)

"We couldn't have chosen a more luxurious apartment for our stay in Edinburgh. Albyn Place was stunning and staying here completed our fantastic trip around Scotland. Very comfortable and situated right in the center of the city - it had everything we needed. We didn't want to go home!" (John, Canada, 2022)

"Your dream trip to Edinburgh starts here, with Fiona's flat. I have stayed in Edinburgh several times and this apartment by far exceeded my every wish and expectation. Decorated with period furnishings and decorative arts but with a nod toward the contemporary, this apartment with its central location, exquisite amenities and modern comfort made my stay in the city truly memorable. From my first communication with Fiona, I knew I had found the right place for my homebase during a trip to Edinburgh. Fiona is kind and quick to respond and answered all of my questions promptly. I can't describe how exquisite this apartment is, Edinburgh is truly right outside the front door yet at night you feel like you're in your own world in this peaceful location. I will never stay in another location when I visit Edinburgh, I have found my home away from home." (Elizabeth, USA, 2022)

"WOW! Beyond gorgeous. This is hands-down the most beautiful, luxurious apartment my husband and I have ever stayed in. Never before have we been so impressed by a listing only to find that the place itself is even better in person! What the photos don't capture are the super high ceilings that made me feel like a queen on our honeymoon. This apartment felt like a home - it is so well designed with the comfiest furniture. I loved reading in the big comfy armchair with a cup of tea; there were some days we didn't even go out and enjoyed this little palace instead! The location is great as well- we've never stayed in this part of town before and I wasn't sure how easy it would be to get to attractions, but it was just perfect! Less hilly than Old Town so it was even easier to get around in foot, and I LOVED all of the designer shopping close by. Fiona was a super helpful and communicative host as well, warmly meeting us at check in and going over specific things we might need. This is the best experience we've had yet, and will definitely be our go-to whenever we come to Edinburgh. 11/10, highly recommend!" (Kat, USA, 2022)

"Stunning apartment in a lovely location. We couldn't recommend Fiona's apartment more and would go out of our way to return to Edinburgh just to stay there again. Fiona was so welcoming and friendly. Thank you for such a wonderful stay." (Olivia, UK, 2022)

"Quite simply the best apartment we've ever rented anywhere, and we're serial city breakers. It's even better than the photos. It's like staying in a suite in a 5 star hotel but with an excellent, spacious and well equipped kitchen. Add to that some nice welcome provisions and it's pretty perfect. Edinburgh is a beautiful city and the apartment is well located and feels very secure. Excellent!" (Derek, UK, 2022)

"If you are in Edinburgh, 2 Albyn Place should be your address! What a beautiful apartment - spotless, welcoming, comfortable and in a great location. Fiona has such attention to every detail-we felt so at home there. The apartment is more beautiful than the photos-convenient to all you might want to see and do in Edinburgh-we had the BEST time!" (Stephen, Canada, 2022)

"Book now. Here are some reasons: The property is beautiful. Fiona's property is well cared for and thoughtfully curated. It's a beautiful home filled with Scottish history that properly welcomes you to Edinburgh. It truly provided a sense of place for us. Fiona is a wonderful host. Fiona greeted us at the door and gave us a tour of the property. She also accommodated us with check in because my partner was a nursing mom. Additionally, we found thoughtful touches throughout the property that made us feel truly welcomed in the home. The location is fantastic. The property is a short 13 minute walk to Stockbridge, where we found wonderful shops, dining, and coffee. It takes around the same time to get to the Castle, Dean Village, and maybe 4-5 min more to Calton Hill." (Laurence, US, 2022)

## **PLANNING APPLICATION APPEAL**

### STATEMENT

Planning Application Reference: **22/03087/FUL**

***Change of use from a residential apartment to short term letting apartment in line with recent legislation (for an already established short term let operating since 2018)***

Address: **2F, 2 Albyn Place EH2 4NG**

Applicant: **Fiona Johnston, EscapeToEdinburgh.com**

PLANNING APPLICATION LINK:

<https://citydev-portal.edinburgh.gov.uk/idoxpa-web/caseDetails.do?action=dispatch&keyVal=RDGN6PEWJGT00&caseType=Application>

APPLICANT WEBSITE:

<https://escapetoedinburgh.com>

|                         |                  |
|-------------------------|------------------|
| Submission Date:        | 14 June 2022     |
| Determination Date:     | 12 August 2022   |
| Notification Date:      | 12 Sept 2022     |
| Decision:               | Refusal          |
| Reason:                 | LDP Policy Hou 7 |
| Appeal Submission Date: | 17 October 2022  |

## GROUNDS FOR APPEALING THE DECISION

### Response to Comments made in the Report of Handling:

#### 1. The assertion that disruption to other residents using the same shared hallway and main door entrance would occur

There are 3 residents who share the same building, hallway and main door entrance with the Applicant. All were invited to submit comments by the Council and none chose to do so.

The Applicant has maintained a good relationship with the other residents and has consulted with them on the planning application process. All residents received invitations to comment on the planning application and no objections were submitted.

The other occupying residents have also stated that they do not object to the operation of a Short Term Let by the Applicant and have made written declarations to that effect. (see **Attachment A**).

The Applicant has taken on the responsibility for maintaining the upkeep of the common areas (including organising a recent £14,000 course of works in the common areas) which is in keeping with the historical heritage and character of the building.

Visitors who stay at the Applicant's flat have no access to any other areas of the building. There is no access to any communal gardens, greens or other common or shared areas. Additionally, no parking facilities - shared or otherwise - are provided.

Disruption to other residents by operating this STL has not been a problem at any time in the past. All visitors are personally met and informed of the requirement to be sensitive to all neighbours and all visitors are made fully aware of the Applicant's noise and disturbance policies. Arrival and departure times are strictly managed to minimise any possible disruption.

#### 2. The assertion that residents would be used to a low level of ambient noise

The nature of the Applicant's STL is that it is a high end, premium luxury holiday rental and the nature of the visitor profile is one where they are more likely to appreciate, value and respect acceptable noise levels.

The Applicant's STL is located on one of Edinburgh's busiest roads (Queen Street) which has a consistently high level of ambient noise for significant and extended periods of both the day and night.

Edinburgh Council have proposed plans to introduce a Low Emission Zone (LEZ) in the central area of Edinburgh with the intention of significantly reducing noise and pollution levels.

Queen Street was deliberately excluded from the LEZ area in order to facilitate East-West movement across the city and has already seen significant rises in traffic and noise levels since the planned introduction of the LEZ and further increased levels of noise will be expected once the LEZ is formally implemented. A 21% increase in levels of traffic is expected as a result (source: *Edinburgh Low Emission Zone, Revised Composition, Transport Modelling Report, Edinburgh City Council, 2021*).

Other businesses at this location, in particular the 280 room hotel and 82 room apart-hotel directly opposite the Applicant's STL, contribute significantly to existing noise levels with guests arriving and departing at all times of the day and night currently.

Additionally, the level of noise from traffic using Queen Street is significant and incessant. The traffic is constant throughout the day and night – and the noise levels from goods vehicles, buses, tourist buses and regular traffic using this main Edinburgh city road is very high. External photographs are provided to show the flat location in relation to busy Queen Street. (see **Attachment B**)

The assertion that the operation of a STL will increase the level of noise and frequency beyond that which residents currently endure is not correct. A noise survey commissioned by the applicant demonstrates that there is already a high level of background noise in the area now - both inside and outside the flat (see **Attachment C**). All other residents are used to a high level of ambient noise and have regularly remarked at not hearing any noise emanating from the Applicant's flat.

### **3. The assertion that Multiple Occupants could be able to stay**

The Report asserts that despite being a one-bedroom flat (only one bed present) that it would be possible for more than two people – up to four – could stay at the premises.

This is not possible as all bookings are managed to strict occupancy requirements (maximum 2 people) and all visitors are met personally on arrival and contact is maintained throughout visitor stays.

Additionally, the planned Licencing Scheme for STL's is likely to legislate the number of permitted occupants that would be allowed to stay.

### **4. Neighbour Consultation**

The Planning Regulations define "neighbouring land" as "an area or plot of land (other than land forming part of a road) which, or part of which, is conterminous with or within 20 metres of the boundary of the land for which the development is proposed." This provides some flexibility in determining the appropriate levels for neighbour consultation.

However, it does appear as if the neighbour notification has gone further than the definition in relation to this application. Some 38 residents were contacted in the neighbourhood giving residents in a very wide area an opportunity to object. An extensive neighbour consultation process was undertaken.

### **5. Neighbour Objections**

Of the 38 neighbours contacted, only 2 objections were received in total which are believed to be of limited or no relevance to the application. Only one objection arises from a neighbour who received a Notification and the second comes as a general objection from the Heritage Society outwith the area consulted.

The neighbour's objection is not flat specific and is general in nature. It references the noise coming from 'potential student flats or parties' which is evidently not related to the residence owned by the Applicant.

The second objection received is of a general nature from the AHSS and there is no evidence, that this STL application will negatively impact the World Heritage site.

AHSS states that, *'With particular reference to architectural heritage the responsibility for the care and maintenance of communal areas and aspects of joint responsibility in listed buildings and conservation areas is dismissed by the increase of short-term occupants.'* The Applicant refutes the assertion made by the AHSS that the use of the property as a STL would be a detriment to the maintenance of the communal areas of the building. On the contrary there is a greater incentive to maintain and preserve the building as stated in Section 1 above of the Appeal.

## 6. The assertion that the location is a residential neighbourhood and therefore not conducive to a STL

Whilst there are clearly other residences in the general vicinity of the Applicant's flat it is also true that there are also a significant number of businesses in the area. For this reason it is hard to conclude that the neighbourhood is purely residential in nature and, therefore, not conducive to a STL.

The flat is located on arguably the busiest road in downtown Edinburgh - Queen Street; which has incessant traffic running almost 24 hours per day – commercial, public, private and emergency vehicles.

The Applicant's STL sits directly opposite both a 280 room Hotel and an 82 room Apart-Hotel. It is also in close proximity to many other businesses, restaurants and cafes. An analysis of the number of commercial organisations that are operating and present *within 100m* of the Applicant's flat comes to a total of 82 businesses (see **Attachment D**). Included in this number are 5 separate hotels or apartment-hotels with over 423 guest rooms in total – all within 100m of the Applicant's flat.

It is difficult to see how this area can be described as 'residential and not conducive to a STL'.

Furthermore, the Edinburgh Local Development Plan 2016, **Policy Emp 10 Hotel Accommodation**, states that *'Tourism is the third biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Maintaining and developing this key sector in the city's economy relies upon sufficient provision of high quality tourist accommodation.'*

As can be seen from the internal and external photographs (see **Attachment E and B**), the Applicant provides premium accommodation in an elegant and historic context aimed at a high end clientele. Furthermore the Applicant is providing low impact accommodation in a city centre location highly accessible by public transport and is, therefore, ideally suitable for the location.

The Applicant's business has also received a number of tourism industry accolades and awards demonstrating the contribution they are making to Edinburgh's local economy and more widely Scotland's tourism (see **Attachment F**).

## **Conclusion**

The Applicant believes that the proposed change (retrospective planning approval) would not cause a materially detrimental effect on any residents and, therefore, is not contrary to LDP Policy Hou 7.

The use of the flat as a STL in this case will not result in any increased risk of antisocial behaviour (such as it being a 'party flat') nor an increase in the level of disturbance arising from arrivals and departures. There will also be no loss of a sense of community and no detriment to the immediate location.

The flat is sited at an extremely noisy and busy location and there will be no increase in noise levels experienced by other residents in the neighbourhood. The use of this particular property as a STL would be far less noticeable to local residents than similar properties located in more residential areas might otherwise be.

On the basis of the evidence provided the Applicant believes that the application for a change of use (in retrospect) from residential to short term let should be **granted**.

### **Additional Concerns Arising During the Application Process**

1. There was limited guidance available in the Application Planning process as to what information is required for STL applications and it is left up to the Applicant to determine what criteria may be applied for review and also what information may be required for any application. Consequently, information may have been missed or information provided which may not be relevant.
2. If the application for planning permission has been determined under the statutory scheme of delegation, there is an entitlement to seek a review of the decision by the City of Edinburgh Planning Local Review Body.
3. A review of the planning application was not determined within the 2-month time period for a decision. Whilst understanding the level of applications currently being managed, the decision in this Applicant's case was received three months after making the application.
4. The Planning Application Assessment was conducted with no site visit nor discussion or engagement directly with the Applicant to understand the Application's merits, unique circumstances, etc. This may have provided valuable insights.

### **Attachments**

- A. Residents Declarations that there is no Objection
- B. External Photos
- C. Noise Survey
- D. Business Locator Listing of the Immediate Area
- E. Internal photos
- F. Tourism Awards and Guest Reviews

See also documents submitted in the Planning Application (link above)

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HISTORIC  
ENVIRONMENT  
SCOTLAND

ÀRAINNEACHD  
EACHDRAIDHEIL  
ALBA

**By email to:**  
**localreviewbody@edinburgh.gov.uk**

Local Review Body Support Team  
City of Edinburgh Planning  
Local Review Body  
Waverley Court Business Unit G24  
East Market Street  
Edinburgh  
EH8 8BG

Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

Enquiry Line: 0131-668-8716  
[HMAppeals@hes.scot](mailto:HMAppeals@hes.scot)

Our case ID: 300059278  
Your ref: 22/00153/REVREF  
31 October 2022

Dear Local Review Body Support Team

Notification of Local Review Body Hearing on: 2F 2 Albyn Place Edinburgh EH2 4NG

We have been notified of the above review of the decision to refuse planning permission.

We have previously been consulted on this application and made no comment. Therefore we have nothing further to add.

If the Review Body has specific questions where our expertise would be useful we will be happy to provide further submissions in response to these.

Yours faithfully

**Historic Environment Scotland**

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David Blaikie Architects.  
10 Deanhaugh Street  
Edinburgh  
EH4 1LY

Mr Hancox  
1 Avenue Villas  
Edinburgh  
EH4 2HU

**Decision date: 1 July 2022**

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

Demolish existing rear extension and form new extension to the side and rear to house living, dining and utility facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair. At 1 Avenue Villas Edinburgh EH4 2HU

**Application No:** 22/02322/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 29 April 2022, 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 proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as the location of the extension would impact on the long-term growth of replacement trees.

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

Drawings 1-7, 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 works have no significant impact on the character of the listed building and are acceptable in regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, the proposal would impact on the replacement trees within the TPO site contrary to the objectives of LDP policy Env12.

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 Stephen Dickson directly at [stephen.dickson@edinburgh.gov.uk](mailto:stephen.dickson@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  
1 Avenue Villas, Edinburgh, EH4 2HU**

**Proposal: Demolish existing rear extension and form new extension to the side and rear to house living, dining and utility facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair.**

**Item – Local Delegated Decision  
Application Number – 22/02322/FUL  
Ward – B05 - Inverleith**

## **Recommendation**

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

## **Summary**

The works have no significant impact on the character of the listed building and are acceptable in regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, the proposal would impact on the replacement trees within the TPO site contrary to the objectives of LDP policy Env12.

## **SECTION A – Application Background**

### **Site Description**

The property is an end-terraced villa, forming part of an isolated Georgian group, north-west of the Stockbridge district. It was listed category C on 7.10.2003 ref.49516. The trees on the west section of the site are protected by a Tree Preservation Order. A number of trees were removed on the north section of the TPO and replanting as taken place in reparation.

### **Description Of The Proposal**

The application proposes removal of the existing rear extension and replacement with a "wrap-around" form: 6 x 3m on the rear (south) side, with a flat roof; and 5 x 11m on the gable (west) side. This is of contemporary design with a monopitched slate roof. Walls are mainly glass and timber cladding.

### **Supporting Information**

A tree survey and surface water management plan were submitted.

### **Relevant Site History**

14/05083/FUL  
1 Avenue Villas  
Edinburgh  
EH4 2HU

Alterations to house and form new vehicle access to front garden along with the removal of the structurally unstable garden wall (as amended to locate access and parking to side)

Granted

17 February 2015

14/05083/LBC  
1 Avenue Villas  
Edinburgh  
EH4 2HU

Alterations to house and form new vehicle access to front garden along with the removal of the structurally unstable garden wall (as amended to locate parking and access to the side)

Granted

29 January 2015

15/00682/TPO  
1 Avenue Villas  
Edinburgh  
EH4 2HU

Application to carry out remedial works as detailed in accordance with tree condition assessment report.

Granted

23 April 2015

### **Other Relevant Site History**

### **Consultation Engagement**

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 1 July 2022

**Date of Advertisement:** Not Applicable

**Date of Site Notice:** Not Applicable

**Number of Contributors:** 3

## **Section B - Assessment**

### **Determining Issues**

Due to the proposals relating to a listed building(s), this report will first consider the proposals in terms of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development harming the listed building or its setting?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

## **Assessment**

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

### **a) The proposals harm the listed building and its setting?**

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

- Managing Change -Extending Listed Buildings

The property has an existing non-original extension on the south side. There is no objection to the removal of this element.

The essential character of the group lies mainly in its overall form and frontage (to the north). The proposal has minimal impact on the historic fabric and building across the blank gable and the section already covered by an extension has no significant impact on the character of the building.

## **Conclusion in relation to the listed building**



The works have no significant impact on the character of the listed building and are acceptable in regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

**b) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policy Env 4
- LDP Environment policies Env9 Env12 and Env21
- LDP Design policy Des12

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policy Env 4.

Historic Environment

The works have no significant impact on the character of the listed building and are acceptable in regard to LDP policy Env4.

Impact on Trees

LDP policy Env12 considers impact on trees.

The trees on the western section of the site are covered by a TPO and this is a major impediment to development.

Mature trees on the north section were previously removed and are now replaced by new trees. Whilst the proposal has no impact on the root system of these trees, the purpose of the replanting is to eventually produce trees of the scale which were removed. The proposed extension would impact on the potential growth and future of the replacement trees, undermining the long-term purpose of the TPO.

Consequently LDP policy Env12 is not met.

Flood Risk

LDP policy Env21 considers flood protection

A surface water management plan was submitted. The works would have no significant impact on flood risk.

Archaeology

LDP policy Env9 considers sites of archaeological significance.

The site has potential for archaeological interest and if approved a standard archaeological condition would be applicable.

Scale, Form and Design

LDP policy Des12 considers extensions to houses.

The proposal raises no policy concerns in relation to this policy.

### **Conclusion in relation to the Development Plan**

Whilst the majority of policies are met, policy Env12 in relation to trees is not, and the compliance with other policies does not outweigh the non-compliance with Env12. The application is refused for this reason.

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

The following material planning considerations have been identified:

##### SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

##### Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

##### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

##### Public representations

Three objections were received, including objection from the Cockburn Association. A summary of the representations is provided below:

##### *material considerations*

- \* impact on the listed building - addressed in section a)
- \* impact on TPO - addressed in section b)

*non-material considerations* - long planning history

## **Conclusion in relation to identified material considerations**

The material issues raised are addressed above.

### **Overall conclusion**

The works have no significant impact on the character of the listed building and are acceptable in regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, the proposal would impact on the replacement trees within the TPO site contrary to the objectives of LDP policy Env12.

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

The recommendation is subject to the following;

### **Reasons**

1. The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as the location of the extension would impact on the long-term growth of replacement trees.

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

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

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

**Date Registered:** 29 April 2022

### **Drawing Numbers/Scheme**

1-7

Scheme 1

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

Contact: Stephen Dickson, Senior planning officer

E-mail:stephen.dickson@edinburgh.gov.uk

## Appendix 1

### **Consultations**

The full consultation response can be viewed on the Planning & Building Standards Portal.

# Comments for Planning Application 22/02322/FUL

## Application Summary

Application Number: 22/02322/FUL

Address: 1 Avenue Villas Edinburgh EH4 2HU

Proposal: Demolish existing rear extension and form new extension to the side and rear to house living, dining and utility facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair.

Case Officer: Local1 Team

## Customer Details

Name: Mr Alastair McKie

Address: 1 Rutland Court, Edinburgh EH3 8EY

## Comment Details

Commenter Type: Other

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Dear Sir

Planning Application 22/02322/FUL ("Planning Application") to Demolish existing rear extension and form new extension to the side and rear to house living and dining facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over exiting stair ("Proposed Development")

Listed Building Consent Application 22/02323/LBC ("LBC Application") to Demolish existing rear extension and form new extension to the side and rear to house living and dining facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair

The property affected by the Planning Application and LBC Application is No 1 Avenue Villas ,Edinburgh EH4 2HU

Katrina Lumsdaine and Bruce Farquhar, 2 Avenue Villas, Edinburgh (our "Clients")

1.0 TAKE NOTICE that our Clients OBJECT to both the Planning Application and the LBC Application on planning grounds. These grounds of objection are fully explained below.

1.1.No 1 Avenue Villas form part of a terraced lager listed building that comprises 1, 2 and 3 Avenue Villas. We attach the citation of the Listing in Appendix 1. The listed buildings are characterised by a relatively simple architectural form and comprise 2-storey 7-bay terrace of 3 houses.

1.2. Historic maps suggest the area to the west of the gable (where part of the Proposed Development is to be located) was either a separate plot, or at least in separate use (possibly as part of the farm). The garden wall separating the two still exists. This separate plot of is subject to a Tree Preservation Order No.1 2006 (Avenue Villas, Edinburgh), Tree Preservation Order No 157 ("TPO") and was until recently characterised by mature trees that made an important contribution to the amenity of the area and the setting of the listed buildings.

1.3.No 1 Avenue Villas has a complex planning history characterised by repeated and unsuccessful attempts by the applicant to obtain planning and listed building consent for unacceptable developments and removal of the trees the subject of the TPO. These matters will be well known to the Council and can be viewed on the Council's planning portal :-

- Ref. No: 15/05425/FUL - New House and Garden Ground

- Ref. No: 15/05425/LBC - Alterations to boundary wall to form new entrance for new house in garden grounds

- Ref. No: 16/05816/LBC - Proposed new house in the grounds of a listed building

- Ref. No: 16/05815/FUL - Proposed new house adjacent to 1 Avenue Villas

- Ref. No: 20/03476/LBC - Demolish existing rear extension and form new extension to the side and rear to house living, dining and kitchen facilities as well as some internal alterations to existing dwelling

- Ref. No: 20/03559/FUL - Demolish existing rear extension and form new extension to the side and rear to house living, dining and kitchen facilities as well as some internal alterations to existing dwelling

- Ref. No: 21/03857/FUL - Demolish existing rear extension and form new extension to the side and rear to house living and dining facilities. Form basement to extension with guest bedroom and plant room. Minor internal remodelling of existing house.

- Ref. No: 21/03858/LBC - Demolish existing rear extension and form new extension to the side and rear to house living and dining facilities. Form basement to extension with guest bedrooms and plant room. Minor internal remodelling of existing house.

1.4. It appears that in each case that the applicant, when faced with an impending decision to refuse, has taken the decision to withdraw and resubmit. Rarely if ever has a listed property in Edinburgh been subject to such an attritional barrage of applications. Whilst one might expect an applicant on occasion to test the water with an application and to establish the attitude of the planning authority and his neighbours, in the present case the applicant and his architect appear to be unable to heed sound planning advice that the listed building affected is an architecturally important building and is very sensitive to what amounts to major and unsympathetic

development.

1.5. We consider that the advice of the Council Planning Officer, Diana Garrett in her email to the applicant's agent dated 3 December on applications 21/03857/FUL and 21 /03858/LBC is a relevant and important planning basis for assessing the Planning Application and the LBC Application. We set out the terms of her email with our Clients' comments in red beneath commenting on the extent that the Planning Application and the LBC Application heed this sound advice. As you will quickly ascertain they do not.

"Design

The reduction in scale between Scheme 1 and 2 is very welcome. The configuration of the plan, its massing and materials, however, have an uneasy relationship with the pattern and grain of historic built form. This is exacerbated by:

Presenting a highly visible glass "frontage" to Crewe Road South. The preference is for a more solid frontage - replicating the gable/main road relationship."

Clients' Response

The frontage proposed to the south west, fronting the public road does not in any way replicate or complement the existing gable/main road relationship of the listed building and the Proposed Development is characterised by a highly visible glass frontage. The scale and massing of the Proposed Development is not acceptable. Given the likely tree loss this effect will be exacerbated.

"Wrapping the extension around the corner of the building. The historic maps suggest the area to the west of the gable was either a separate plot, or at least in separate use (possibly as part of the farm) (maps below - 1933 left; 1877 right). The garden wall separating the two still exists. Merging the plots with a modern extension interrupts the strong, surviving grain/ plot pattern. The preference would be for the extension to sit entirely within the plot lining C Rd S, and be subservient to the main building - i.e. either set back from both corners of the gable, or respecting the footprint of the "former building" mentioned in the clip from Drg 02 below. I note that both neighbouring properties have single storey extensions. The proposed design of the extension is overly complex. It is too busy and would benefit from being more restrained. As tabled, it's competing with the historic built form."

Clients' Response

The Proposed Development has quite simply ignored this advice and if approved would unacceptably wrap the extension around the building and sit as a modern and complex extension jarring the strong surviving grain/plot pattern of the listed building. The unacceptable effect of "merging plots" is maintained with the Proposed Development. The extension is still of considerable scale and the external area has only been reduced in area from the previous



application from 77.5sqm to 71.2sqm with the GIA at ground floor level reducing from 70.7sqm to 65sqm. These are modest reductions. The GIA of the existing house is 77.5sqm at ground floor level. On no reasonable basis can the Proposed Development be considered to be subservient to the existing listed house and if consented would become overwhelming and dominant.

"The proposed new basement has the potential to impact on flooding and drainage. A Surface Water Management Plan (SWMP) will be required to confirm the drainage proposals and to support the planning application. An engineers report would therefore be required."

#### Clients' Response

No SWMP has been provided and it is essential that it is. The Planning Application and LBC Application must not be progressed further until it has been lodged. Our Clients reserve the right to comment upon on these matters if and when it is lodged.

#### "Trees

There is extensive planning and enforcement history to the trees within the site. The efforts of CEC to ensure replacement planting recognised the importance of re-instating the amenity and character of the locality lost by the illegal felling of trees by the owner. The proposal will adversely affect amenity and character of the locality the TPO and subsequent enforcement action taken were intended to protect by

- physical damage to protected trees and also creating a juxtaposition which does not allow replacement trees enough space to grow without coming into conflict with the proposed building thereby creating likely pressure to have trees removed as happened with the original tree which were felled, and

- Bringing the building closer to the trees and Crewe Road South making the building more prominent thereby undermining the visual the trees and woodland strip make. In addition, the current applications do not provide a full tree survey to address concerns.

The proposal is contrary to ENV 12 and would have an adverse effect on amenity."

#### Clients' Response

Our Clients agree with the above statements but have serious concerns that the Proposed Development will adversely impact on the trees that have been planted on the plot and are protected by the TPO and that are in close proximity to the Proposed Development.

Our Clients have no confidence on the basis of his prior conduct that the applicant will respect these protected trees in any way. It is alarming that whilst the Design Statement makes reference

to an Arboriculture Impact Assessment and Tree Survey (that is stated to accompany the Planning Application and LBC Application) no such assessment and survey has been provided. These are essential matters to be addressed. Due to this, the Planning Application and LBC Application must not be progressed further until they have been lodged. Our Clients reserve the right to comment on these matters if and when they are lodged.

## "Conclusion

Having reviewed the information there are considerable concerns with regard to current proposals, which, as presented, are contrary to planning guidance. The principle of an extension is accepted, but one that respects the historic built form and woodland setting of the site. The current scheme with the existing design and lack of supporting information in relation to trees and flooding would be recommended for refusal.

Our advice would be to withdraw the current applications and resubmit once a revised scheme has been prepared and the additional information is provided."

## Clients' Response

From an assessment of the Planning Application, LBC Application and supporting plans and documents it is clear that the above conclusion applies equally to the Planning Application and LBC Application and it must be refused.

1.6 It is considered that the Proposed Development would (if approved):-

- Unacceptably impact on 1, 2 and 3 Avenue Villas (in regard to its features of special architectural or historic interest) as an important listed building and also adversely affect its setting.
- Gives rise to unassessed structural and flooding impacts on 1-3 Avenue Villas owing to the incorporation of a substantial basement level.
- Unacceptably impact on the trees that have been replanted as a result of a tree replanting notice (contested by the applicants) which was served by the Council following unauthorised felling of mature trees that were protected by a TPO.
- Be contrary to the Council's statutory duties and policies as set out below.

2.0 Legal Assessment- Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Town and Country Planning (Scotland) Act 1997

2.1 Sections 14 and 59 of the Listed Building Act 1997 contain important statutory duties that must be complied with by the Council in its determination of the Planning Application and LBC Application. These are set out below-

"Section 14 --Decision on (LBC) application.

..(2) In considering whether to grant listed building consent for any works, the planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

"Section 59.- General duty as respects listed buildings in exercise of planning functions.

(1) In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"

2.2 Section 25 of the Town and County Planning (Scotland) Act 1997 establishes the primacy of the development plan. Where a proposed development is contrary to the development (as is the case with the Planning Application) there is a legal presumption against permission being given and in this case there are no material considerations that indicate otherwise.

"Section 25 Status of development plan

(1) Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise-  
(a) to be made in accordance with that plan..."

### 3.0 Policy Assessment

3.1 We have examined the Council's policies on extensions to listed buildings including the adopted Local Development Plan and the Guidance on Listed Buildings and Conservation Areas (updated in February 2019) and other important statements of national planning policy. The statutory duties set out above are enshrined in the Development Plan Policies and national policies.

3.2 Policy Env 4 Listed Buildings - Alterations and Extensions of the Local Development Plan advises that proposals to alter or extend a listed building will be permitted where there will be no unnecessary damage to historic structures or diminution of its interest; and where any additions are in keeping with other parts of the building. The Proposed Development does not protect the character and appearance of the listed building-the special architectural and historic interest will be unacceptably adversely affected. As can be seen from the planning drawings the Proposed Development is not subordinate to the main historic structure, either in scale or form. The Proposed Development is detrimental to the listed building's character and appearance. The Proposed Development would extend and elongate the original building in a way that impacts upon its special interest. The Proposed Development due to its scale, massing and inappropriate design is clearly contrary to this policy.

3.3 The Guidance states that extensions should be subservient to the main building and will rarely be permitted to principal elevations. The Proposed Development "wraps around" the existing listed

building is substantial and is not subordinate to the main building. It adversely impacts on principal elevations- and will be highly visible particularly when viewed from the south west. It will be readily seen from the principal public view points on Crew Road South above the listed boundary wall. The Proposed Development due to its scale massing and design is clearly contrary to the Guidance.

3.4 The Proposed Development will also harm the setting of the overall listed building. Its setting includes views to and over the building.

3.5 The Proposed Development is excessive in scale and would be a dominant and unacceptable feature. It jars with the elegant listed building and is insensitive to its essential characteristics and unique setting. It is contrary to Local Plan Policy ENV 3 which seeks to protect listed buildings from unacceptable development.

3.6 The Proposed Development is also contrary to Policy Des 1 - Design Quality which opposes poor quality development or that which would be damaging to the character or appearance of the area around it, particularly where this has a special importance. We question whether it is acceptable to have such a scale of development with habitable rooms with no natural light.

3.7 The Proposed Development is also contrary to Policy Des 3 - Development Design which only allows new development that will have a positive impact on setting and wider townscape; retains important features; respects the amenity of neighbours in terms of preserving amenity and privacy. The policy advises particularly against proposals that would be damaging to the character or appearance of the area around it, particularly where this has a special importance.

- The highly visible glass elements have an uneasy relationship with the pattern and grain of the historic built form.

- Importantly, the Proposed Development "wraps around" the listed building, extending the existing house from its current plot, into the woodland/adjoining plot. The adjoining woodland plot has clearly been quite separate. Maps dating back to the 1800s show the woodland plot as quite separate, separated from the current house plot by a garden wall which still exists and forms part of the listed building.

- It is noted that there have been previous buildings on the adjoining woodland plot. However as can be clearly seen from the terms of the Listed Building Citation (set out in full above), these buildings were glasshouses for the nursery garden. These are all entirely consistent with the rural past, the basis for the listing of this building. They are not a precedent for the Proposed Development

- Connected to this, there are existing modest one-story extensions currently on the properties on the site. They are modest uniform boxes. They are single height, with uniform walls constructed from one material and roof. They are not complex and importantly are not competing with the existing listed building. The Proposed Development is in comparison of significant scale and massing which will draw the eye competing with the current listed building for dominance.

3.8 The Proposed Development is also contrary to Scottish Planning Policy and the Historic Environment Policy for Scotland. These national planning policies seek to protect important built heritage from unacceptable development. The Proposed Development is also contrary to the Draft

NPF4 and City Plan 2030.

#### 4.0 Unassessed structural impacts on 1-3 Avenue Villas

4.1 The Proposed Development incorporates a significant new development at basement level. In a report by McColl Associates, Consulting Civil and Structural Engineers, dated 4 February 2016 reference was made to the property having shallow foundations- no more than 500mm. It is deeply concerning that the scale of these works (which do not appear to have been assessed from a structural point of view) may destabilise 1-3 Avenue Villas to their significant detriment. No information is provided on the scale of the construction works impacts. Stability issues are a relevant planning consideration and the preservation of ground stability is covered under the adopted local plan policy ENV22. This states that planning permission will only be granted for development where: .....b) there will be no significant adverse effects on: on ground stability c) appropriate mitigation to minimise any adverse effects can be provided

4.2 In the absence of any certainty being provided that the works will not have an adverse effect on ground stability then the Proposed Development is contrary to this policy.

4.3 It is also of very considerable concern that there appears to have been no attempt to consider the flooding issues. There is a statement that a Flood Risk and Surface Water Management Plan will accompany this application. This is not on the Council's website. We therefore assume that it has not been produced.

4.4 Buildings of this age have shallow foundations, as emphasised by the applicant himself when he sought to argue that it was not possible to have any trees in the woodland near to the existing building, lest damage be caused to the shallow foundations. It can only reasonably be assumed that digging into a basement level exactly next to the existing listed building will have a material impact on the building itself. Our Clients are aware of structural issues being caused to other buildings in Inverleith when basements were dug to add to extend existing buildings. Reference is made to the information in the public domain concerning a basement extension which caused material damage to neighbouring buildings:

<https://www.edinburghlive.co.uk/news/edinburgh-news/furious-locals-edinburgh-object-neighbours-21198261>

4.5 Similarly, flooding is a real issue in the area. There have been recent significant flood impacts in both neighbouring Stockbridge and off Crewe Road South. It can only reasonably be assumed that replacing a woodland, which supports water storage, with a building, including digging down to form a basement will increase flood risk to the whole area. Comelybank is so named as it was formed on a comley bank of a river. The site itself sits just back from that ancient river. As expected, that river ran at the bottom of a gully. That gully is now banked by Orchard Brae and Crewe Road South. Therefore, it can reasonably be assumed that current woodland has formed an important role in managing water in the gully between these two roads which slope upwards from Avenue Villas. Flooding is likely to increase by removing that woodland to replace with a

basement building.

4.6 Absent any Surface Water Management Plan and full structural engineering report regarding structure and flooring, the Proposed Development cannot be said to comply with the policy and therefore must be refused.

#### 5.0 Impacts on Trees - Tree Preservation Order 157

5.1 The site of the Proposed Development was, until recently, strongly characterised by the presence of many mature trees which were and continue to be the subject of The City of Edinburgh Tree Preservation Order No.1 2006 (Avenue Villas, Edinburgh), Tree Preservation Order No 157 ("TPO"). This is the strongest protection that the Council can provide to trees and underlines their importance and the positive effect which they had (until they were felled) and will continue to have, following the subsequent replanting, on the character and amenity of the area.

5.2 The TPO covers the whole area in which the Proposed Development is located. There are currently no buildings or developments in this area, nor have there been since the TPO was granted. It is a woodland.

5.3 The TPO expressly prohibits, without permission, the wilful damage or destruction in a woodland specified in the TPO.

5.4 We attach an aerial photograph from Google Earth in which the canopies of the trees can be seen across the site of the Proposed Development including that area over which the Proposed Development is intended to be built. These trees made an important contribution to the amenity of the area generally but also to the setting of and providing a pleasant bucolic gateway to 1, 2 and 3 Avenue Villas as a listed building. This is the condition to which the site will return upon the maturing of the trees which have been replanted on the site. As can be seen, there is simply no room for the trees' canopy to mature to the same levels (as they would and should naturally do), whilst still accommodating an extension of the size sought.

5.5 The photograph does not reveal the size of the root systems, however we understand that this would be expected to cover at least as wide an area as that of the canopy.

5.6 British Standard "Trees in Relation to Design, Demolition and Construction to Construction - Recommendations" (BS 5837) (2012), details the steps that should be taken to ensure that trees are appropriately and successfully retained when a development takes place. It provides that it is vital that there is a Tree Constraints Plan and that such a plan should clearly show the Root Protection Area of each tree. On the applicant's own submissions in his previous application by the same firm of architects, which is referenced in the current application, a root protection area of 25m<sup>2</sup> plus should be allowed for the sycamore and lime trees. No Tree Constraints plan is provided with this application. There is no allowance for a root protection area of anything approaching that size.

5.7 The Planning Application states that an Arboriculture Impact Assessment and Tree Survey will accompany the application. None is produced on the City of Edinburgh Council's website. As with the missing structure and flooding report, without our Clients having an opportunity to consider any assessment and survey, they cannot adequately comment on this. Without such an opportunity,

the application must not be determined. However, standing the comments made above, it is fair to assume that the Planning Application cannot be compatible with the existing TPO. Our clients reserve the right to comment on these matters if and when they are lodged.

#### Comments on the Planning Application

5.8 The Proposed Application proposes construction works and an extension to be built in the woodland specified in the TPO. No permission to damage and destroy the woodland is sought in the Planning Application. Indeed, there is little reference to the TPO save a suggestion that there is an attempt to avoid the existing trees. However, in so far as any information is given, there is an indication that all the trees in the TPO may be intended to be removed in that they all appear to be encircled by a red circle in the proposed site plan and plans. This is entirely inconsistent with the TPO.

The Council's the City of Edinburgh Local Plan ("Adopted Local Plan") states:-

#### "Protection of Trees Policy Env 12 - Trees

Development will not be permitted if likely to have a damaging impact on a tree or trees protected by a Tree Preservation Order or other trees worthy of retention on or around a proposed development site, unless necessary for good arboricultural reasons. Where such consent is granted, replacement planting will be required to offset the loss to amenity.

The Council has placed Tree Preservation Orders on a large number of trees where they make a positive contribution to the character of the urban or rural environment, particularly where trees are threatened by development proposals."

5.9 The text of Policy ENV 12 quoted above outlines that TPOs will be made where they make a positive contribution to the character of an area and where they are threatened by development proposals. This is particularly relevant to the case in hand. No arboriculture considerations are put forward for the diminution of the woodland area. Indeed, no reasons at all are put forward save the convenience to the Proposed Development.

5.10 It is considered that the Planning Application is contrary to Policy ENV 12. The Council has the power to refuse the Proposed Development due to an adverse impact on the protected woodland. It should invoke those powers to preserve the amenity and character of the site.

#### Proximity of Building to Trees

5.11 The trees remain subject to the TPO. The reasons for the TPO remain unchanged. This is an important historic site. The woodland increases the amenity and speaks to the rural history of the listed building next to which they are located. They provide an important positive contribution to the area.

5.12 It was the basis of the applicant's appeal to the Scottish Ministers that the size of the current site, without any extension to the listed building, was too small to accommodate the replanting of the 13 extra-heavy trees. It would be absurd now to propose that the same 13 trees can be accommodated in the far smaller site which would remain after the Proposed Development.

5.13 Turning to some of the arguments put forward previously by the applicant as to why the current site was too small to accommodate the 13 trees, he relied upon the following:

- NHBC recommendation that 7 metres be allowed between a building and trees.

- British Standard BS5837:2012 that the trees should be a minimum of 1 - 2 metre from masonry boundary walls and a minimum of 0.5 - 1.2 metres from a building.

5.14 Whilst these arguments were rejected based on the full current site, they are applicable to any attempt to compress the trees into the smaller area which would remain after the extension is built. The minimum spacing distances cannot be achieved in the reduced area which will remain after the completion of the extension.

5.15 Yet notwithstanding this, the applicant is not seeking to address the need to damage, remove and restrict the trees, both in the construction works and once the proposed extension is erected.

5.16 None of this is in accordance with the requirements of British Standard BS5837:2012 or the NHBC guidance previously cited by the applicant.

## 6.0 Conclusions

6.1 We consider that the Application is contrary to the Adopted Local Plan and approving it would not be in line with the Council's statutory duties under s59 and s14 of the Listed Building Act. Section 25 of the Town and Country Planning (Scotland) Act states that applications that do not accord with the Adopted Local Plan should not be approved unless material considerations indicate otherwise. There are no material considerations that indicate otherwise and we respectfully invite the Council to refuse both the Planning Application and the LBC Application.

Kindly acknowledge safe receipt.

Yours faithfully

Alastair McKie

Partner

Accredited Specialist in Planning Law

Legal Associate of the Royal Town Planning Institute

Head of Planning and Environment

For and on behalf of Anderson Strathern LLP

Appendix 1

CREWE ROAD SOUTH, 1, 2, AND 3 AVENUE VILLAS WITH BOUNDARY WALL AND  
RAILINGS LB49516

Status: Designated

Summary

Category

C



Date Added

07/10/2003

Local Authority

Edinburgh

Planning Authority

Edinburgh

Burgh

Edinburgh

NGR

NT 23507 74709

Coordinates

323507, 674709

Description

Early 19th century, possibly incorporating earlier fabric. 2-storey 7-bay terrace of 3 houses. Timber panelled doors with 3-pane letterbox fanlights. Random rubble with ashlar dressings; brick relieving arch to E elevation.

12-pane glazing in timber sash and case windows. Graded grey slates. Corniced stacks with tall cylindrical cans.

BOUNDARY WALL AND RAILINGS: tall stone-coped rubble wall (bowed to SE) surrounds property; spear-headed cast iron railings on ashlar-coped rubble wall separate houses.

Statement of Special Interest

Avenue villas were previously the farm house for the Comely Bank estate, which belonged to Sir William Fettes. The OS map of 1853 shows that the farm has become a nursery garden, and the farmhouse, already divided in 3, is surrounded by glasshouses. Altered at an early date, Avenue villas are an interesting survival, telling the story of the area's rural past, on the periphery of the city. (Our emphasis added).

References

Bibliography

Appears on Robert Kirkwood's map of 1817."

Documents Attached:

Tree Replacement Notice dated 18 November 2016

Scottish Ministers' Decision Notice 5 May 2017

Email from CEC dated 22 July 2019

Google Maps Image

# Comments for Planning Application 22/02322/FUL

## Application Summary

Application Number: 22/02322/FUL

Address: 1 Avenue Villas Edinburgh EH4 2HU

Proposal: Demolish existing rear extension and form new extension to the side and rear to house living, dining and utility facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair.

Case Officer: Local1 Team

## Customer Details

Name: Lord Cockburn Association

Address: Trunk's Close, 55 High Street Edinburgh

## Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Association has examined the latest planning application at the request of members and stakeholders. After reviewing the proposals, we would wish to lodge an objection to the planning application and associated listed building consent application.

The analysis provided by the applicants of the previous proposals (withdrawn) illustrate the essential point that any extension to the side of this property has a material impact on its architectural and historic interest. The loss of a section of original garden wall with an incongruous extension is objectionable in both impact to listed fabric as well as affecting the most public elevation as seen from Crewe Road South. As such, we believe that the proposals are not in accordance with Policy ENV4 - Listed Buildings (Alterations and Extensions).

We also have concerns regarding the proximity of the proposed extension to the root systems of trees that are covered by Tree Protection Orders. Policy ENV12 on Trees states "Development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or on any other tree or woodland worthy of retention unless necessary for good arboricultural reasons. It is likely that damage will be done as result of this proposal.

A more modest redesign of the existing garden room may be possible, which if sensitively integrated with the existing boundary wall but not breaching it might result in a satisfactory scheme.

# Comments for Planning Application 22/02322/FUL

## Application Summary

Application Number: 22/02322/FUL

Address: 1 Avenue Villas Edinburgh EH4 2HU

Proposal: Demolish existing rear extension and form new extension to the side and rear to house living, dining and utility facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair.

Case Officer: Local1 Team

## Customer Details

Name: Miss Anne Hally

Address: 3 Avenue Villas Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Anne Hally & Derek Peacock

3 Avenue Villas

Edinburgh

EH4 2HU

Planning Officer

Planning & Strategy

City Development

The City of Edinburgh Council

Business Centre G2

Waverley Court

4 East Market Street

Edinburgh EH8 8BG

31 May 2022

By email and online portal

Dear Sir,

Planning Application 22/02322/FUL ("Planning Application") to Demolish existing rear and form new extension to the side and rear to house living and dining facilities.

Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair("Proposed Development").

Listing Building Consent Application 22/02323/LBC ("LBC Application")to Demolish existing rear extension and form new extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair.

Anne Hally and Derek Peacock, 3 Avenue Villas, Edinburgh, EH4 2HU OBJECT to both the Planning Application and the LBC Application.

The grounds of our objection are as follows.

Historical context:-

No 1 Avenue Villas has a complex planning history characterised by repeated and unsuccessful attempts by the applicant to obtain planning and listed building consent for unacceptable developments and removal of trees the subject of TPO's. These will be well known to the Council and can be viewed on the Council's planning portal. It appears that, in each case, the applicant, when faced with an impending decision to refuse, has taken the decision to withdraw and resubmit. This is a special location (due to it's historic interest and it's "C" listed status) and we are concerned that this new proposed development is still not taking this into account.

Tree Protection:-

There is extensive planning and enforcement history to the trees within the site and it is a very sensitive issue. Initially there was unauthorised felling of mature trees that were protected by TPO's, this was followed by replanting due to a notice served by the Council, all of which was a very long and drawn out process. Our concern now is for the newly replanted trees which are protected by the TPO and the impact this development may have on them. As you can see from the Google Earth image at the foot of this objection, there was once a thriving canopy of trees which, due to the felling, is now gone and this, in our opinion, is a significant loss to the setting of 1-3 Avenue Villas. The new trees however are just beginning to become established and are at a very vulnerable stage where any potential building works could have a considerable detrimental effect on their growth and health. The Design Statement provided by davidblakie Architects mentions very little about the trees. An Arboriculture Impact Assessment & Tree Survey was due to accompany the application but we have not as yet been able to find any information on the portal which makes it extremely difficult to have any confidence in this application.

Unassessed structural and flooding impacts on 1-3 Avenue Villas:-

We are concerned about both the structural and flooding impacts on 1-3 Avenue Villas owing to the incorporation of a substantial basement level in this proposed development.

In a report by McColl Associates, Consulting Civil and structural Engineers, dated 4th February 2016, reference was made to the property having shallow foundations - no more than 500mm. It is concerning that the scale of these works may destabilise 1-3 Avenue Villas to their significant detriment. There does not appear to have been an assessment from a structural point of view. In the absence of this report and supporting data the only logical course of action is recommend that this proposed development is denied.

#### Flooding:-

We have been aware of recent flooding issues in the area there have been significant flood impacts in both neighbouring Stockbridge and off Crewe Road South and our concern is that digging down to form a basement will increase the flooding risk to the whole area. It can only be assumed that replacing a woodland, which supports water storage, with a basement building, will increase risk.

The Design Statement is unclear and indicates that a Flood Risk & Surface Water Management Plan will accompany the application but, yet again, this material does not seem to be available. Therefore, due to the absence of a the specialised report the Proposed Development must be refused.

#### Conclusion

While we have absolutely no objection to an extension being erected it must be in keeping with the adopted local plan and the Council's statutory duties under s59 and s14 of the listed buildings act.

We have no confidence on the basis of the applicants' prior conduct that he will respect these protected trees in any way. It is worrying that whilst the Design Statement makes reference to an Arboriculture Impact Assessment and Tree Survey (that is stated to accompany the Planning Application and LBC Application) no such assessment and survey has been provided. These are essential matters to be addressed. Due to this, we believe that the Planning Application and LBC Application must not be progressed further until they have been lodged. We reserve the right to comment on these matters if and when they are lodged.

Stability issues are also a relevant planning consideration and the preservation of ground stability is covered under the adopted local plan policy ENV22. This states that planning permission will only be granted for development where: .....b) there will be no significant adverse effects on: on ground stability c) appropriate mitigation to minimise any adverse effects can be provided In the absence of any certainty being provided that the works will not have an adverse effect on ground stability then the Proposed Development is contrary to this policy.

It is also of very considerable concern that there appears to have been no attempt to consider the flooding issues. There is a statement that a Flood Risk and Surface Water Management Plan will accompany this application. This is not on the Council's website. We therefore assume that it has

not been produced.

Based on the issues presented above we strongly believe this planning application should be refused.

Yours sincerely

Anne Hally & Derek Peacock  
3 Avenue Villas  
Edinburgh EH4 2HU

Google Earth Imagery

Street view 2008

Street view 2012

Street view 2015

Street view 2017

Street view 31 May 2022

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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      100601349-001

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: | Cundall                 |  |                             |
| Ref. Number:          |                         | You must enter a Building Name or Number, or both: * |                             |
| First Name: *         | Laura                   | Building Name:                                       | 4th Floor Partnership House |
| Last Name: *          | Mcdermott               | Building Number:                                     |                             |
| Telephone Number: *   | 0191 2134598            | Address 1 (Street): *                                | 4th Floor Partnership House |
| Extension Number:     |                         | Address 2:   | Regent Farm Road            |
| Mobile Number:        |                         | Town/City: *   | Newcastle upon Tyne         |
| Fax Number:           |                         | Country: *   | United Kingdom              |
|                       |                         | Postcode: *  | NE3 3AF                     |
| Email Address: *      | l.mcdermott@cundall.com |  |                             |

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="Jamie"/>    | Building Number:                                     | <input type="text" value="1"/>              |
| Last Name: *         | <input type="text" value="Hancox"/>   | Address 1 (Street): *                                | <input type="text" value="Avenue Villas"/>  |
| 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="United Kingdom"/> |
| Mobile Number:       | <input type="text"/>                  | Postcode: *  | <input type="text" value="EH4 2HU"/>        |
| 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="1 AVENUE VILLAS"/>           |
| Address 2:  | <input type="text" value="INVERLEITH"/>                |
| 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="EH4 2HU"/>                   |

Please identify/describe the location of the site or sites

|          |                                     |         |                                     |
|----------|-------------------------------------|---------|-------------------------------------|
| Northing | <input type="text" value="674707"/> | Easting | <input type="text" value="323507"/> |
|----------|-------------------------------------|---------|-------------------------------------|

## 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)

'Demolition of an existing rear extension to the side and rear to house living, dining and utility facilities and to form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair. At 1 Avenue Villas Edinburgh EH4 2HU'.

## 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 reason for refusal does not specifically say what is unacceptable about the proposal, nor do CEC evidence how the proposal would impact the future of the replacement trees. We have demonstrated (with evidence) that the proposal is not in conflict with Policy ENV12. No thorough quantitative assessment has been carried out by the council, yet they have disregarded all of the evidence we have submitted by refusing the application without evidence to substantiate the refusal.

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)

Local Review body statement - Produced by Cundall Design Statement- Produced by David Blakie Architects Arboricultural report- produced by Hinshelwood Arboricultural Consultants

## Application Details

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

22/02322/FUL

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

29/04/2022

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

01/07/2022

## 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)

The site is enclosed and would require prior notification for access.

## 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: Miss Laura Mcdermott

Declaration Date: 28/09/2022

# 1 Avenue Villas

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**City of Edinburgh Council Local  
Review Body Applicant Statement**

**Prepared on behalf of Mr J Hancox**

Job No: 1036293

Doc Ref: 1036293-PG01-Avenue Villas PS- Rev B

Revision: B

Revision Date: 22 September 2022

|                      |   |                   |
|----------------------|---|-------------------|
| <b>Project title</b> | Project title   | <b>Job Number</b> |
| <b>Report title</b>  | City of Edinburgh Council Local Review Body Applicant Statement | 1036293           |

**Document Revision History**

| Revision Ref | Issue Date        | Purpose of issue / description of revision |
|--------------|-------------------|--|
| A            | 13 September 2022 | Client Draft                               |
| B            | 20 September 2022 | Final Draft                                |
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**Document Validation (latest issue)**

X

Principal author

X

Checked by

X

Verified by

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# 1.0

## Introduction

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## 1.0 Introduction

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### 1.1 Purpose of this report

This Statement is submitted on behalf of Mr J Hancox (hereafter referred to as 'the Applicants') in support of a PLRB appeal against the City of Edinburgh Council, who refused permission under delegate powers for:

*'Demolition of an existing rear extension to the side and rear to house living, dining and utility facilities and to form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair. At 1 Avenue Villas Edinburgh EH4 2HU'.*

The application was refused on Friday 1st July 2022 with the refusal reason being:

*'The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as the location of the extension would impact on the long-term growth of replacement trees'*

The Appellant believes that the Reason for Refusal is unreasonable, not substantiated by planning policy and that the application already allows for full tree protection on the site. The Local review body is therefore respectfully asked to intervene in decision making.

The purpose of this report is to assist members of the Planning Local Review Body (PLRB) in their assessment and determination of the appeal. It presents a compelling case for the proposals and advises how the proposed development will comply with Planning Policy; the Development Plan; planning guidance and other material considerations.

We disagree with the refusal reason for the following reasons, in summary:

- The reason for refusal is weak as it does not specifically say what is unacceptable about the proposal in terms of the arboricultural information which has been provided to assess and mitigate for potential impacts to trees. Nor does the reason for refusal specify how or reference evidence to show how the proposal would impact the future of the replacement trees.
- The proposal is not in conflict with Policy ENV12 because arboricultural assessments of the development impact on the Trees on site have been adequately addressed and deemed no impact of detriment will be caused.
- There is no alternative location within the site to locate the extension and provide the appellant with valuable living accommodation on the ground floor.
- No qualitative assessment has been carried out by the council of the site, the specific site characteristics or that the design of the proposed developed has evolved in line with advice received by the council to take careful account of all constraints and opportunities on site.
- The layout, siting and design of the proposal is otherwise acceptable as is the development in all other respects which is confirmed within the Report of Handling and in the approval of the LBC application.

The application represents the third occasion that the David Blaikie Architects have attempted to compromise with the Councils requirements for this site which is effectively sterilised by this decision. The proposed design will enhance the appearance and setting of the conservation area.

## 2.0 Background Context and Planning History

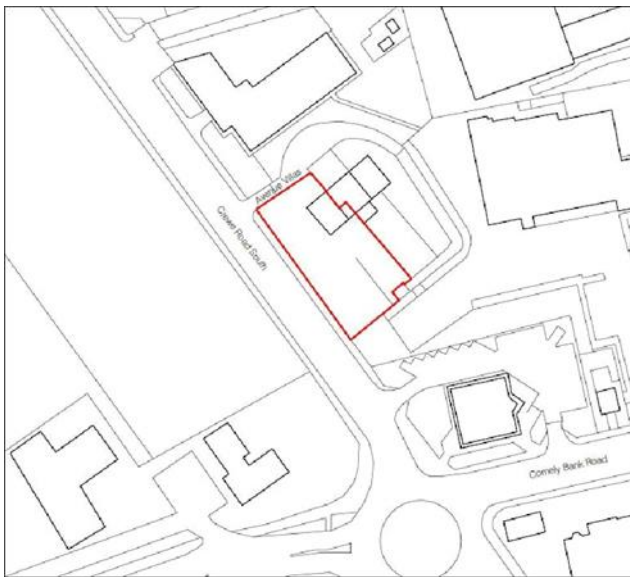
### 2.1 Site Location and Description

The Application Site is located within the built-up area of Edinburgh on the east side of Crewe Road South, opposite Comely Bank Cemetery. The full property address is 1 Avenue Villas, Edinburgh, EH4 2HU.

The Application Site is approximately 0.1 hectare in area and is illustrated by the red line boundary in Figure 2.1 below.

The existing building forms an end block of a terrace of 3 residential properties. The stone built terraced block is 2 storeys with double pitched roof and is Category C listed. The existing boundary walls and railings surrounding the properties are also included within the Category C listing and remain unaffected by the proposals.

Figure 2.1- Site Location Block plan and satellite imagery



The property, as can be seen on figure 2.1, has a large amount of land surrounding it which is in the form of sizeable side and rear garden areas. The majority of the trees in the garden ground to the west of the building itself are the subject of a group Tree Preservation Order (TPO). An individual sycamore towards the south of the garden is also covered by the overarching TPO. There is a high stone wall along the western and southern boundary to the grounds. Whilst not visible from Crewe Road South, due to the stone walls, the sites' grounds are generally in poor condition, being neglected and largely unmanaged, detracting from the internal visual amenity and overall setting of the listed house. The garden ground area formerly comprised numerous buildings and since their demolition, areas of rubble, sub-soil and uneven and made-up ground have been left in situ. An area of more tended and formal garden ground sits to the rear of the property, along the dividing garden wall.

Vehicular and pedestrian access to the property is gained via Avenue Villas, a single lane access track directly off Crewe Road South.

## 2.2 The Proposed Development

The proposed development intends to create contemporary living spaces to comfortably accommodate the property owners' growing family and to take advantage of the underused nature filled section of garden that the existing house currently feels detached from. Permission is required as the proposal exceeds permitted development thresholds (General Permitted Development (Scotland) Order).

The property owners recognise the importance of retaining and celebrating existing historic and natural features of the house and its' grounds whilst aspiring to create a home fit for 21st century living. Proposed development includes a kitchen, living room and dining spaces along with laundry room, study and a dedicated plant room for renewable energy equipment associated with the improvements.

Figure 2.2 below illustrates the proposed floor plans and elevations for the development.

**Figure 2.2: proposed development**



The design of the proposed extension has been revised and developed to take into consideration comments received by the Local Authority on the previous two planning submissions. David Blaikie Architects have fully discussed these with the case officer.

To maintain the existing plot pattern, the sandstone garden wall is proposed to be retained and incorporated into the design. The rear extension, containing the dining areas now matches the footprint and height of the existing extension, while the side extension, containing sitting room and utility spaces references the historic buildings that once adjoined the gable.

The Gross Internal Area (GIA), has reduced from previous proposals and in line with comment received, the design has been simplified to a series of more restrained forms. The proposed basement has been significantly reduced in footprint from the previous proposals with the accommodation consolidated to now include only a small study and plant room.

## 2.3 Planning History

| Application reference | Description   | Outcome               |
|-----------------------|---|-----------------------|
| 22/02322/FUL          | Demolish existing rear extension and form new extension to the side and rear to house living, dining and utility facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair. | Refused on 01/07/2022 |
| 22/02323/LBC          | Demolish existing rear extension and form new extension to the side and rear to house living and dining facilities. Form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair.          | Approved              |
| 21/03858/LBC          | Demolish existing rear extension and form new extension to the side and rear to house living and dining facilities. Form basement to extension with guest bedrooms and plant room. Minor internal remodelling of existing house.                                      | Withdrawn             |
| 21/03857/FUL          | Demolish existing rear extension and form new extension to the side and rear to house living and dining facilities. Form basement to extension with guest bedrooms and plant room. Minor internal remodelling of existing house.                                      | Withdrawn             |
| 20/03559/FUL          | Demolish existing rear extension and form new extension to the side and rear to house living, dining and kitchen facilities as well as some internal alterations to existing dwelling.  | Withdrawn             |
| 20/03476/LBC          | Demolish existing rear extension and form new extension to the side and rear to house living, dining and kitchen facilities as well as some internal alterations to existing dwelling.  | Withdrawn             |
| 16/01245/FUL          | It is proposed to omit condition 3 of the permission 15/00682/TPO and substitute a new condition as outlined in the supporting statement that forms part of this application.   | Withdrawn             |
| 15/00682/TPO          | Application to carry out remedial works as detailed in accordance with tree condition assessment report.  | Granted               |
| 14/05083/LBC          | Alterations to house and form new vehicle access to front garden along with the removal of the structurally unstable garden wall (as amended to locate parking and access to the side)  | Granted               |
| 14/05083/FUL          | Alterations to house and form new vehicle access to front garden along with the removal of the structurally unstable garden wall (as amended to locate access and parking to side)  | Granted               |

|              |  |         |
|--------------|--|---------|
| 12/03234/LBC | Erection of garden room within the grounds of the listed property.   | Granted |
| 12/03234/FUL | Erection of garden room within the grounds of the listed property.   | Granted |
| 06/05063/FUL | Minor alterations to internal layout, as well as the construction of garden rooms to villa no 1 and 2 (as amended) | Granted |
| 06/05063/LBC | Minor alterations to internal layout, as well as the construction of garden rooms to villa no 1 and 2 (as amended) | Granted |

Significantly, it should be noted that Listed Building Consent accompanying this application was granted by the Council. The issue of difference therefore revolves around the protection of a group of very young TPO Trees and whether they are adequately protected by the proposed works.

## 3.0 Assessment of Refusal Reason

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This section of the report sets out the reason for refusal of the application to which this LRB appeal relates and an assessment of the refusal reason. It must be noted that there was only a single reason for refusal of the application and this statement will primarily address the issues pertaining to this refusal reason as it is assumed all other material matters relating to the application, were satisfactorily handled throughout the determination process.

As advised, it should also be taken into account, that the Listed Building Consent application 22/02323/LBC which was submitted in conjunction with the full application was approved on 8th July 2022. Below are extracts from the Report of handling and confirm that the proposals are acceptable with the exception of the perceived impact upon trees.

“The proposal has an acceptable impact on the character of the listed building and is acceptable in regard to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

“The proposal has minimal impact on the historic fabric and building across the blank gable and the section already covered by an extension has no significant impact on the character of the building.”

The Appellant therefore fails to understand the Councils reasoning and the rationale for refusing this application, especially given the expert advice provided by the Appellant in relation to replacement planting.

### 3.1 Refusal Reason

The single reason for refusal of application 22/02322/FUL is as follows:

‘The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as the location of the extension would impact on the long-term growth of replacement trees.

Furthermore, the Report of Handling states:

The trees on the western section of the site are covered by a TPO and this is a major impediment to development. Mature trees on the north section were previously removed and are now replaced by new trees. Whilst the proposal has no impact on the root system of these trees, the purpose of the replanting is to eventually produce trees of the scale which were removed. The proposed extension would impact on the potential growth and future of the replacement trees, undermining the long-term purpose of the TPO.

We disagree with the refusal reason for the following reasons:

- The reason for refusal is weak as it does not specifically say what is unacceptable about the proposal in terms of the arboricultural information which has been provided to assess and mitigate for potential impacts to trees. Nor does the reason for refusal specify how or reference evidence to show how the proposal would impact the future of the replacement trees.
- The proposal is not in conflict with Policy ENV12 because arboricultural assessments of the development impact on the Trees on site have been adequately addressed and deemed no impact of detriment will be caused.
- There is no alternative location within the site to locate the extensions and provide the appellant with valuable living accommodation on the ground floor.
- No quantitative assessment has been carried out by the council of the site, the specific site characteristics or that the design of the proposed developed has evolved in line with advice received by the council to take careful account of all constraints and opportunities on site.
- The layout, siting and design of the proposal is otherwise acceptable as is the development in all other respects which is confirmed within the Report of Handling and in the approval of the LBC application.

### 3.2 Assessment of Local Plan Policy ENV12

Policy ENV12 of the Edinburgh Local development Plan (2016) is as follows:

*Development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or on any other tree or woodland worthy of retention unless necessary for good arboricultural reasons. Where such permission is granted, replacement planting of appropriate species and numbers will be required to offset the loss to amenity.*

This policy recognises the important contribution made by trees to character, biodiversity, amenity and green networks. In assessing proposals affecting trees, the Council will consider their value, taking into account current Scottish Government guidance – presently contained in its Policy on Control of Woodland Removal and UK Forest Standard – and their status such as Tree Preservation Order, heritage tree, Ancient Woodland and Millennium Woodland, along with information from tree surveys. Where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders.

The council have not demonstrated or evidenced how the proposal is likely to have a 'damaging impact on a tree protected by a Tree Preservation Order.' The policy does not set out how this will be determined, nor does it reference any specific guidance that would be used to make this determination. In the absence of any such evidence provided by the council, as part of the application submission, a suitably qualified arboriculturist was appointed to undertake a survey of trees on the site and to provide an arboricultural method statement in line with government guidance.

The Tree survey report concludes the following:

*"The site can be developed as proposed whilst both retaining the important tree cover, improving its overall quality and enhancing its long-term sustainability".*

The work carried out by the arboriculturist, demonstrates that all trees can be retained on the site, taking into account the proposed layout whilst enhancing the long-term sustainability of the tree cover on site and it is therefore considered that the proposal does accord with policy ENV12. The Appellant is unclear why the Council is challenging this conclusion.

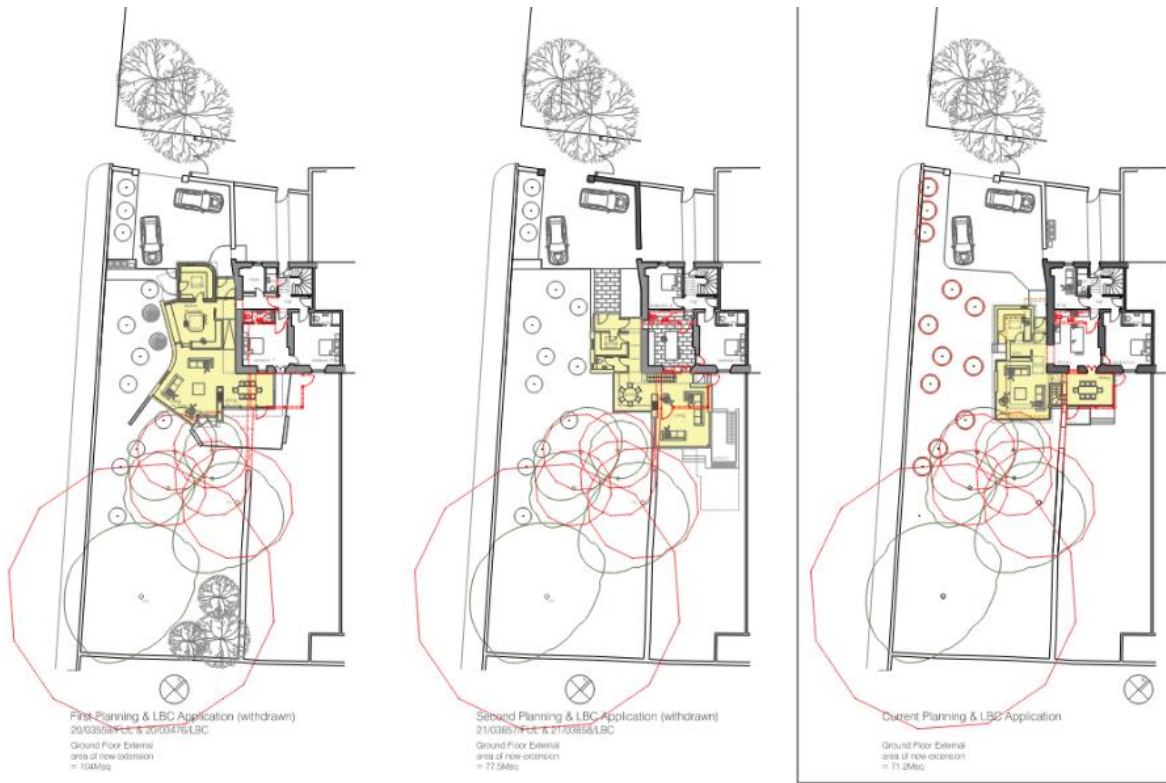
The refusal reason relates specifically to the long term growth of replacement trees. It is our understanding that several protected trees have been removed in the past due to conflict with existing buildings on site and these trees were replaced.

The replacement trees planted, that will be adjacent to the development envelope and adjacent to the boundary wall are birch and rowans. There is one lime tree that is found further away on the southwest corner of the proposal. Birch and rowan are not large specimen trees even when mature and are seen as a good tree for smaller gardens and spaces or difficult sites as they, especially birch are seen as a pioneering species. They do not produce a large canopy cover, so shading is rarely an issue. There are many new builds that have used birch in very close proximity to the apron of the build with great success and establishment and because the trees are still young (less than 3 years old) they have much better resilience than opposed to mature trees and they will not come to any harm now or in the future due to these combined qualities.

Figure 3.2 below illustrates the proposed layout of 3 planning applications that have been submitted with the last image showing the current application. The proposed development has evolved from the first application and has taken careful consideration of advice and guidance received throughout the process. The current proposal has been carefully designed to avoid existing trees on site, enabling them to be retained and protected to ensure their longevity. The sitting room has been thoughtfully designed to cantilever over a set-back basecourse to further distance foundations from tree roots, enabling long-term sustainability of the current tree cover on site.



**Figure 3.2: Planning application history**



The Report of Handling has not taken into account the proposed design and the considerations it upholds in terms of tree protection and has not carefully assessed the mitigation measures in determining any impact upon trees.

**3.3 British Standard 5837**

The British Standard "Trees in Relation to Design, Demolition and Construction to Construction" (BS 5837) (2012), details the steps that should be taken to ensure that trees are appropriately and successfully retained when a development takes place.

This means that where there are trees either on a potential development site or within close proximity to the site, the district council will consider them when making decisions on planning applications for that site. Development proposals should, where appropriate follow the processes and recommendations laid out in BS5837 (2012).

We can confirm that the Tree Survey report carried out, has been undertaken in line with BS5837 (2012) and the development conforms to the guidance and parameters set out within the standard.

BS5837:2012 states that the default position for structures should be outwith the Root Protection Area (RPA) of trees to be retained. The Tree survey confirm that this will be the case for the proposed development. The Tree survey, accompanying report and arboricultural Impact Assessment (AIA) confirm that all trees will be retained and outwith the RPA and Zones of Influence (ZOI), therefore according with BS5837:2012.

## 4.0 Other Material planning matters

---

### 4.1 Consideration of further Development Plan Policies

In addition to Policy ENV12 of the City of Edinburgh Local Plan, a number of other policies and guidance are also relevant to this appeal and are set out below.

#### 4.1.1 Scottish planning policy (SPP) (November 2020)

The purpose of the SPP is to set out national planning policies which reflect Scottish Ministers' priorities for the operation of the planning system and for the development and use of land. The SPP aims to ensure consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- the preparation of development plans;
- the design of development, from initial concept through to delivery; and
- the determination of planning applications and appeals.

Paragraph 36 of the SPP states that the overarching purpose of planning is to create better places. The policy sets out that placemaking should be a collaborative process of which the outcomes should be 'sustainable, well-designed places and **homes which meet people's needs**' it also states that the approach to placemaking should recognise the unique contribution that all parts of Scotland can make and fundamentally, **harnessing the distinct characteristics and strengths of each place to improve the overall quality of life for people.**

Considering the above, the proposed development aims to make a significant improvement to the property which fundamentally will result in a home which meets the needs of the owners. It is considered that that the proposal does harness the distinct and valuable characteristics and strengths of the property which will result in an overall quality of life for the owners.

In addition, paragraph 28 of the SPP states that the planning system "*should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term.*" It has been demonstrated that the proposed development is economically, environmentally and socially sustainable and that it has balanced the costs and benefits of the proposal. This is demonstrated by the various submissions of applications involving several variations of the extension layout that has carefully taken account of constraints and opportunities on site, whilst addressing comments received by consultees and planning officers on previous applications. Whilst the applicant has demonstrated that the proposal balances the costs and benefits of a proposal over the longer-term, we don't not consider that that the Local Authority has suitably balanced all of the material considerations in determining the application.

Furthermore, paragraph 29 of the SPP states that planning decisions should support good design and to protect the amenity of new and existing development. The proposal has been carefully designed to a high standard taking into account existing historical and environmental features on site, whilst also giving due consideration to the amenity of residents and future residents of the dwelling.

#### 4.1.2 Edinburgh Design Guidance (2020)

This document is part of a suite of non-statutory planning guidance which interpret the policies set out in the Local Development Plan. It is important that, where applicable, these are read in conjunction with one another. For example, when designing a new building in a conservation area, reference should be made to this guidance and the Guidance on Listed Buildings and Conservation Areas. Page 13 of the Design Guidance states that "*Development should retain trees (and especially mature trees) which contribute to the character of the streetscape, backdrop and setting.*" It has been demonstrated that all trees are able to be retained and protected on the site. In addition, with particular reference to

appraising sites, the guidance states that *“For a proposal to respond positively to its context, it is essential that it is designed with a good understanding of its site and the surrounding area”*. A comprehensive appraisal has been carried out throughout the design process and the design has evolved in line with comments received from consultees and planning officers. It is therefore considered that the proposed development accords with the Design Guidance.

## 4.2 Rebuttal to objections received

An objection was lodged by Alastair McKie of Anderson Strathearn on behalf of a number of residents surrounding 1 Avenue Villas and we would like to take this opportunity to address some of the points put forward.

With reference to paragraph 1.5 of the objection, this relates fundamentally to the previous applications submitted (References 21/03857/FUL and 21/03858/LBC). This advice concerns an email exchange from Council Planning officer Diana Garret and relates entirely to those applications aforementioned and not the current application subject to this LRB appeal.

Below is an extract from the objection document:

*“1.5. We consider that the advice of the Council Planning Officer, Diana Garrett in her email to the applicant’s agent dated 3 December on applications 21/03857/FUL and 21/03858/LBC is a relevant and important planning basis for assessing the Planning Application and the LBC Application. We set out the terms of her email with our clients’ comments in red beneath commenting on the extent that the Planning Application and the LBC Application heed this sound advice.”*

As set out above, the objection to the application to which this LRB appeal relates, is based upon advice received by the planning officer for previous applications and the objection has been structured in a way which the objectors make their own assessment of how the current applications take account of that advice. It is pertinent to mention, therefore, that planning applications should be determined on their own merits and not by advice received for a completely different proposal.

Irrespective of this, our client has carefully and sympathetically designed the proposed development to take account of the comments received on the prior 2 applications to achieve an outcome that is acceptable and which considers the important historic and natural features which exist, and considering that the only refusal reason given, related to trees, it is considered that the current planning application satisfied advice received by planning officers in relation to design, layout and scale and its’ impact upon the listed building and its setting. Furthermore, it was acknowledged in the report of handling for this application on page 4 “The works have no significant impact on the character of the listed building and are acceptable in regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

Within paragraph 1.5, with reference to the client’s response, concern is raised in regard to the perceived impact of ‘merging plots’ and the wrapping around of the extension around the existing home. Issues surrounding plots were confirmed to be ‘Non-material’ on page 3 of the ‘Report of Handling’ for the associated Listed Building Consent application (22/02323/LBC), which was approved and therefore not considered to be of relevance to the outcome of this application. Notwithstanding this, it should be considered that this matter has been suitably satisfied, as concerns surrounding the proposed layout, are not included within the reason for refusal provided.

The objection states that an Arboriculture Impact Assessment and Tree survey, in addition to an assessment of flood risk, were not provided. As the Report of Handling states, these documents were submitted in support of the application and a comprehensive assessment of trees and flood risk have been carried out.

Paragraph 1.6 sets out a particular objection to the proposal on the grounds of it “unacceptably impacting on trees which have been replanted” The submitted tree survey and arboricultural work, demonstrates that this is not the case as a proper assessment has been carried out.

## 5.0 Conclusion

---

The proposed development, which is the subject of the Local review Body submission, comprises the demolition of an existing rear extension to the side and rear of the house, the creation of new living, dining and utility facilities and the formation of abasement which will include a study and plant room in addition to minor internal remodelling and an Apex roof light at 1 Avenue Villas, Edinburgh.

The proposed extension to the building will make a positive contribution to the character and setting of the building and will enable the occupants to adapt the existing home to their changing needs.

The officer has failed to fully assess and acknowledge the various information, surveys and drawings related to the trees in refusing this application. Extensive survey and assessment work was undertaken and presented to the officer and the to demonstrate avoidance of damage to the trees, yet little, if any of it is discussed in the report of handling with any justification as to why the development cannot be approved.

We consider that the proposed development is supported by the development plan, including LDP policies Env4, Env9 Env12 and Env21 in addition to LDP Design policy Des12.

The proposal is in compliance with Edinburgh Design Guide; Trees on Development Sites Guidance and British Standards and we respectfully request that the Local Review Body grants planning permission for the proposed development.

**Cundall Johnston & Partners LLP**

4th Floor Partnership House Regent Farm Road  
Gosforth Newcastle upon Tyne NE3 3AF  
Tel:+44 (0)191 213 1515

Asia Australia Europe MENA UK and Ireland  
[www.cundall.com](http://www.cundall.com)





# Hinshelwood Arboricultural Consultants

Urban Tree Specialists



## **Survey of Trees at 1 Avenue Villas. Edinburgh**

**15 June 2022**

Hinshelwood Arboricultural Consultants  
7 Forth Reach, Dalgety Bay, Dunfermline.  
Fife. KY11 9FF

**CONTROL SHEET**

|                          |                           |
|--------------------------|---------------------------|
| <b>Project Title:</b>    | 1 Avenue Villas           |
| <b>Agent for Client:</b> | David Blakie Architects   |
| <b>Council:</b>          | City of Edinburgh Council |
| <b>Survey Date:</b>      | 17 May 2022               |
| <b>Prepared by:</b>      | Graham Hinshelwood        |
| <b>Date of Issue:</b>    | 15 June 2022              |
| <b>Status:</b>           | Final                     |
| <b>Version No:</b>       | 1                         |

## DISCLAIMER

**Survey Limitations:** Unless otherwise stated all trees are surveyed from ground level using non-invasive techniques, in sufficient detail to gather data for and inform the design of the current project only. The disclosure of hidden crown and stem defects, in particular where they may be above a reachable height or where trees are ivy clad or located in areas of restrictive ground vegetation, cannot therefore be expected. Detailed tree safety appraisals are only carried out under specific written instructions. Comments upon evident tree safety relate to the condition of said tree at the time of the survey only. Unless otherwise stated all trees should be re-inspected annually in order to appraise their on-going mechanical integrity and physiological condition. It should, however, be recognised that tree condition is subject to change, for example due to the effects of disease, decay, high winds, development works, etc. Changes in land use or site conditions (e.g. development that increases access frequency) and the occurrence of severe weather incidents are also significant considerations with regard to tree structural integrity, and trees should therefore be re-assessed in the context of such changes and/or incidents and inspected at intervals relative to identified and varying site conditions and associated risks.

Where trees are located wholly or partially on neighbouring private third-party land then said land is not accessed and our inspection is therefore restricted to what can be seen from within the site. Stem diameters and other measurements of trees located on such land are estimated. Any subsequent comments and judgments made in respect of such trees are based on these restrictions and are our preliminary opinion only. Recommendations for works to neighbouring third-party trees are only made where a potential risk to persons and/or property has been identified during our survey or, if applicable, where permissible works are required to implement a proposed development. Where significant structural defects of third-party trees are identified and associated management works are considered essential to negate any risk of harm and/or damage then we will inform the relevant Council of the matter. Where a more detailed assessment is considered necessary then appropriate recommendations are set out in the Tree Survey Schedule. Where tree stem locations are not included on the plan(s) provided then they are plotted by the arboriculturist at the time of the survey using, where appropriate and/or practicable, a combination of measurement triangulation and GPS co-ordination. Where this is not possible then locations are estimated. Restrictions in these respects are detailed in the report.

This document is intended as a guide to identify key tree related constraints to site development only, and the potential influence of trees upon existing or proposed buildings or other structures resulting from the effects of their roots abstracting water from shrinkable load-bearing soils is not considered herein. The tree survey information in its current form should not therefore be considered sufficient to determine appropriate foundation depths for new buildings. Accordingly, an updated survey, with reference to the current NHBC Standards Chapter 4.2 - Building Near Trees, must therefore be prepared for the specific purpose of informing suitable foundation depths subsequent to planning approval being granted. The advice of a structural engineer must also be sought with regard to appropriate foundation depths for new buildings.

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## 1.0 INTRODUCTION

### Terms of Reference

Hinshelwood Arboricultural Consultants were instructed to:

- a) Survey, either as individuals or by group, all trees having reasonable potential to be adversely affected by or to affect the development of the site under consideration.
- b) Prepare a tabulated Tree Survey Schedule based on guidance specified BS5837:2012 - Trees in Relation to Design, Demolition and Construction – Recommendations.
- c) Evaluate the potential tree related impacts and design conflicts of the proposals.
- d) Advise on removal, retention and management options for the trees in the current context and in the context of the proposed development.
- e) Advise on suitable tree protection measures required during development.
- f) Annotate the existing site proposal plan to produce a Tree Constraints Plan and a Tree Impact Plan identifying tree retention categories, crown spreads, Root Protection Areas, projected tree related impacts, approximate temporary protective fencing locations, new tree planting suggestions, and other pertinent details; and
- g) Produce an Arboricultural Impact Assessment report outlining the main tree related issues and potential tree related impacts in relation to the proposed development and indicating suitable mitigation provisions and retained tree protection measures.

### Scope and Purpose of Report

- 1.1 By detailing foreseeable tree related issues this report is intended to assist the Local Planning Authority (LPA) in their review of the proposed development and, as such, should be supplied to them in support of the planning application to which it pertains.
- 1.2 The report provides an initial analysis of the impacts that the proposed development is projected to potentially have on trees located both within the site and immediately adjacent to its boundaries. It also offers guidance on suitable retained tree management and mitigation for projected losses, along with appropriate tree protection measures in the context of the proposed development in accordance with current guidance.  
Site Visit, Data Collection and Tree Plans
- 1.3 Further to instruction I confirm that I visited the site on 25 May 2022 and carried out a survey of trees. My survey was carried out in accordance with the preceding disclaimer, and all tree data collected on site is set out in the attached tabulated Tree Survey Schedule (TSS) at Appendix One which, for ease of interpretation, should be read alongside the associated BS5837:2012 Table 1 (as appended).
- 1.4 During my survey review I identified six individual trees (prefixed 'T') and have numbered them accordingly on the Tree Constraints Plan (TCP) and Tree Impact Plan (TIP), as appended. The plans are based on a topographical survey based on existing site plans that were provided in electronic format by the client's agent, David Blakie Architects and for the purpose of this report, the plans' details are presumed to be accurate.

- 1.5 The TCP details the existing site with the readily definable tree constraints, whilst the TIP also has an overlay of the development proposals along with associated tree related impacts and suggestions for mitigation tree planting.

## 2.0 STATUTORY PROTECTION IN RESPECT OF TREES AND ASSOCIATED WILDLIFE

### Tree Preservation Orders and Conservation Area Designations

- 2.1 Town and Country Planning (Scotland) Act (the Act) and associated Regulations empower Local Planning Authorities (LPAs) to protect trees in the interests of amenity by making Tree Preservation Orders (TPOs). The Act also affords protection for trees of over 75mm diameter that stand within the curtilage of a Conservation Area (CA).
- 2.2 Subject to certain exemptions, an application must be made to the LPA in question to carry out works upon or to remove trees that are subject to a TPO, whilst six weeks' notice of intention must be given to carry out works upon or to remove trees within a CA that are not protected by a TPO.
- 2.3 I have not been informed if the site stands within a CA, or if any of the trees are the subject of a TPO. As such, it is therefore essential to contact the Planning Department of the Local Authority prior to scheduling or carrying out any tree works that are not specifically related to the implementation of a detailed (i.e. full) planning consent granted under the Act.

### Protected Species

- 2.4 Nesting birds are afforded statutory protection under the Wildlife & Countryside Act (1981) (as amended) and their potential presence should therefore be considered when clipping hedges, removing climbing plants and pruning and removing trees. The breeding period for woodlands runs from March to August inclusive. Hedges provide valuable nesting sites for many birds and clipping should therefore be avoided during March to July. Trees, hedges and ivy should be inspected for nests prior to pruning or removal and any work likely to destroy or disturb active nests should be avoided until the young have fledged.
- 2.5 All bat species are protected under Schedule 5 of the Wildlife & Countryside Act (1981) (as amended) and under Schedule 2 of the Conservation of Habitats and Species Regulations 2010 (as amended). In this respect it should be noted that it is possible that unidentified bat habitat features may be located high up in tree crowns and all personnel subsequently carrying out tree works at the site should therefore be vigilant and mindful of the possibility that roosting bats may be present in trees with such features. If any bat roosts are identified then it is essential that works are halted immediately and that a suitably qualified and experienced ecologist investigates and advises on appropriate action(s) prior to works continuing.

### 3.0 THE SITE AND THE SURROUNDINGS

**3.1** The application site is between Crewe Road South to the south west and Avenue Villas numbers 1-3, grade C listed buildings, to the north east; To the north west is a stone telephone exchange building. To the south east is a branch of the Bank of Scotland. The gardens to Avenue Villas contain mature trees towards the bottom of the gardens. Vehicle access is taken from Crewe Road South

**3.2** The site was formally the Comely Bank Estate, with Avenue Villas forming the farm house, and the remainder of the site used for farm buildings. The site is currently garden ground in the ownership of 1 Avenue Villas. A garden wall divides the two sites. The site is bound by listed walls, running along the north eastern, south eastern and south western sides. There are mature trees on the site located towards the bottom of the garden. There is evidence that the site previously had buildings on it. (see Figs. 1 & 2, below). Topography within the site is on grade, with gentle falls in ground levels from the north to the south.



### 4.0 THE TREE POPULATION

**4.1** As noted previously, six were surveyed for the purpose of this appraisal. The surveyed trees are a mix of sycamore, beech and birch. All of the trees included in this appraisal are located within the site redline boundary.

**4.2** The surveyed trees were all found to be mature in age. Tree sizes range from medium to large, with heights of up to 15 metres, maximum diametrical crown spreads of up to 14 metres and stem diameters of up to 1600 millimetres. Detailed tree dimensions and other pertinent, information such as structural defects and physiological deficiencies, are included in the Tree Survey Schedule (TSS) at Appendix One.

**4.3** In respect of the TSS it should be noted that tree quality is categorised within the existing context without taking any site development proposals into account. However, recommendations for works included in the TSS take both current site usage into consideration and the proposed site development where there is definable development related issues with regard to specific trees.

**4.4** The TSS includes a column ('Cat. Grade') listing the trees' respective retention values, where they are rated either 'A,' 'B,' 'C' or 'U,' as per BS5837:2012 Table 1 (Appendix One). 'A' category trees are those considered to be of 'high quality' and, accordingly, the most suitable for retention, whilst 'B' category trees are those considered to be of 'moderate quality.' As detailed in Table A (below), one tree was categorised as moderate quality ('B'), five trees were categorised as low quality ('C') and no trees categorised as ('U') trees that should be removed for sound management reasons regardless of site proposals.

**Table A: BS5837-2012 Retention Categories of the Surveyed Trees**

|  | Ret. Cats. | Tree Numbers                           | Totals         |
|--|------------|--|----------------|
| <b>Those of a moderate or high quality that should be afforded appropriate consideration in the context of development</b> | A          | -                                      | -              |
|  | B          | T5760 "Sycamore (Acer pseudoplatanus)" | 1 tree         |
| <b>Those of a low quality that should not be considered a material constraint to development</b>                           | C          | T5755 "Birch (Betula sp.)"             | 5 trees        |
|  |            | T5756 "Birch (Betula sp.)"             |                |
|  |            | T5757 "Birch (Betula sp.)"             |                |
|  |            | T5758 "Birch (Betula sp.)"             |                |
|  |            | T5759 "Beech (Fagus sp.)"              |                |
| <b>Those that should be removed for sound management reasons regardless of site proposals</b>                              | U          | -                                      | -              |
| <b>TOTALS</b>  |            |  | <b>6 trees</b> |

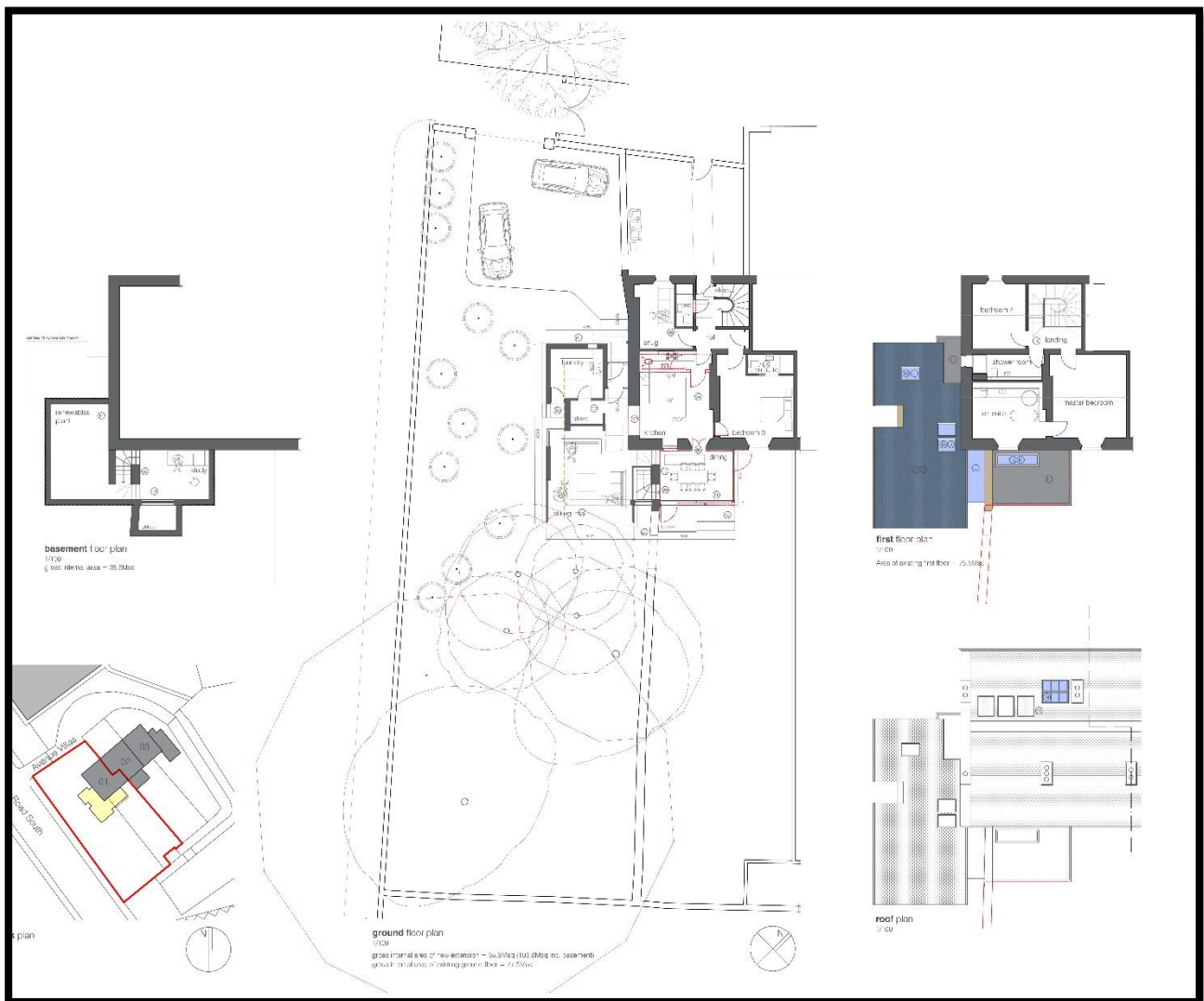
**4.5** The area under consideration has historically had hard surfaces and ancillary buildings along with regular management of utilities over a long period of time and, as such, all of the surveyed trees, have had the ground within their RPAs areas extensively managed on a regular basis (see Figs. 3 & 4, below). It is therefore reasonable to conclude that the practices will have affected the morphology and extents of the trees' roots.

**4.6**



## 5.0 THE DEVELOPMENT PROPOSAL AND ITS PROJECTED ARBORICULTURAL IMPACTS

5.1 The proposals include building this wall up higher for the extent of the extension to form a solid dividing element between the side and rear extensions. The rear extension, containing dining areas, matches the footprint and height of the existing extension while the side extension, containing sitting and utility areas. Further two elements are further defined as distinct from each other by a proposed band of 'frameless' glass to wall and roof adjoining the altered garden wall., (see TIP). Accordingly, I have been provided with a proposal plan to that effect, as prepared by David Blakie Architects. In order to appraise the projected impacts that the development would potentially have on the trees, the tree constraints details were overlaid onto the site proposal plan, as detailed on the TIP.



### Projected Arboricultural Losses Relating to the Proposal

5.2 As detailed in Table B and on the TIP, implementation of the proposed development as it stands is projected not to require in order to form the proposal. Please see paragraphs 6.1 and 6.2 with regard to the retention of trees during development at the site under consideration.

|   | Ret. Cats. | Removals necessary to implement development | Removals suggested for non-development related reasons | Total number of tree removals |
|---|------------|---|--|-------------------------------|
| Those of a high quality that should be afforded appropriate consideration in the context of development     | A          | -   | -  | -                             |
| Those of a moderate quality that should be afforded appropriate consideration in the context of development | B          | -   | -  | -                             |
| Those of a low quality that should be afforded appropriate consideration in the context of development      | C          | -   | -  | -                             |
| Those that should be removed for sound management reasons regardless of site plans                          | U          | -   | -  | -                             |
| <b>Totals</b>   |            | -   | -  | = 0 trees in total            |

### Mitigation Site Landscaping

5.3 As provisionally indicated on the site proposal plan site landscaping, including new tree and hedge planting, is proposed as part of the development. Considering the site's location in a suburban area I would recommend that the landscaping should include the provision of a range of locally native tree species planted as individuals and as small groups throughout the site. Overall, such new tree and hedge planting is projected to deliver a substantial long-term visual amenity in the local landscape and to enhance the ecological value of the site.

5.4 Accordingly, detailed tree planting proposals can be included as part of a detailed landscape plan for the site, which can be conditioned to a planning approval.

## **6.0 RECOMMENDATIONS FOR SUCCESSFUL TREE RETENTION IN THE CONTEXT OF DEVELOPMENT**

### **Root Protection Areas and Construction Exclusion Zones**

- 6.1** Adequate protection of the Root Protection Areas (RPAs) of retained trees during construction is essential if their long-term viability is to be assured. RPAs, which are calculated through a method provided in BS5837:2012, are ground areas that should be protected by temporary protective fencing as Construction Exclusion Zones (CEZs) throughout the development process, thereby keeping the trees' root zones free from disturbance. Consequently, the RPA distances, as detailed in the TSS (see 6.2, below), and on the TCP and TIP give an idea of the on-site below-ground constraints in respect of tree roots and assist in planning for appropriate tree retention in relation to feasible development. In certain situations, such as at the site under consideration, there is a limited degree of flexibility in the CEZ positioning, as discussed in paragraph 6.2.
- 6.2** The TSS includes two columns listing the RPAs of the individually surveyed trees and, where applicable, the largest of the trees in any surveyed groups as overall areas in square metres and as radial distances. The radial RPAs are indicated as magenta-coloured circles on the TCP and TIP, which indicate the locations and extents of the applicable CEZs.
- 6.3** With regard to CEZs the design, materials and construction of the fencing should be appropriate for the intensity and type of site construction works, should conform to at least section 6.2 of BS5837:2012 and should be secured by the imposition of a suitably worded planning condition. In this particular situation the extant boundary structure will align to the CEZ and safeguard the RPA.
- 6.4** The installation of underground utilities in close proximity to trees can cause serious damage to their roots. As such, it is essential that utilities be routed outside RPAs unless there is no other available option, and specifics regarding these routes should be included as part of a detailed planning application. Where RPAs cannot be avoided then guidelines set out in the National Joint Utilities Group publication 'Volume 4: NJUG Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees (Issue 2) – Operatives Handbook' should be followed (e.g. trenches of a very limited width to be hand dug or the use of directional drilling).

### **Arboricultural Method Statement**

- 6.5** Government guidance recommends that, where considered expedient by the LPA, an Arboricultural Method Statement (AMS) be prepared detailing special mitigation construction. The AMS should describe and detail the procedures, working methods and protective measures to be used in relation to retained trees in order to ensure that they are protected during the construction process. Production of and adherence to an AMS can be conditioned as part of a planning approval.



## 7.0 OTHER RECOMMENDATIONS

### Non-Development Related Tree Works and Recommendations

- 7.1 Any general management pruning works for retained trees that are stated to be non-development related, as detailed in the TSS, are recommended in accordance with prudent arboricultural management and should therefore be carried out regardless of any site development proposals and potential changes in land usage. All tree works should be carried out in accordance with BS3998:2010 - Tree Work – Recommendations.

### Tree Work Related Consents

- 7.2 No tree pruning or removal works should commence on site until necessary consents have been obtained from the LPA as part of a planning approval or in respect of any statutory tree protection (e.g. TPOs) that may exist.

### Arboricultural Contractors

- 7.3 All tree works should be conducted by suitably qualified and experienced arboricultural contractors carrying appropriate public liability insurance cover and be implemented to the minimum current CE and UK industry standards and in accordance with industry codes of practice. Only certificated personnel should, in accordance with The Control of Pesticides Regulations, apply any pesticides.

### Contractors and Subsequently Identified Tree Defects

Tree contractors should be made aware that, should any significant tree defects become apparent during operations that would not have been immediately obvious to the surveyor, then such defects should be notified immediately to the client and subsequently confirmed to the consultant within five working days.

### New Tree Planting

- 7.4 All tree planting and associated new tree management at the site should be conducted in accordance with BS8545:2014 Trees: from nursery to independence in the landscape – Recommendations.

### Retained Tree Management

- 7.5 Any tree risk management appraisals and subsequent recommendations made in this report were based on observations and site circumstances at the time of my survey. Trees are dynamic living organisms whose structure is constantly changing and even those in good condition can succumb to damage and/or stress.
- 7.6 In this respect I would note that, under the Occupiers' Liability Act (1957 & 1984), site occupants have a duty of care to take reasonable steps to prevent or minimise the risk of personal injury and/or damage to property from any tree located within the curtilage of the land they occupy. It is accepted that these steps should normally include commissioning a qualified and experienced arboriculturist to survey their trees in order to identify any risk of harm to persons or damage to property that they may present and, where unacceptable risks are identified, taking suitable remedial action to negate those risks.

## 8.0 SUMMARY AND CONCLUSIONS

- 8.1** The subject site is a suburban villa located between Crewe Road South to the south west and Avenue Villas numbers 1-3. Four birch trees, one beech and one sycamore tree were surveyed in respect of a proposed extension to form a solid dividing element between the side and rear extensions. The rear extension, containing dining areas, matches the footprint and height of the existing extension while the side extension, containing sitting and utility areas.
- 8.2** An arboricultural survey has been carried out and this report prepared to support a full planning application to construct the proposal This report provides information in compliance with British Standard BS 5837:2012, Trees in relation to design, demolition and construction and considers the effect the proposed development has on the local character from a tree perspective. The report's purpose is to allow the local planning authority and to follow the LPAs own guidelines to survey trees within 12 m or with a diameter over 75mm to assess the tree information as part of the planning submission.
- 8.3** All of the trees are located within the site's redline boundary.
- 8.4** One tree was allocated a moderate retention value (B) and five were allocated a low retention value (C). No trees are of a size and age whereby they can be classed as 'veteran'
- 8.5** Trees T5755 and T5756 will require minor excavation into the outer area of the RPA. It is estimated that this area, including working area, will be 10 m<sup>2</sup> and will accommodate 8% of the RPA this is below the guidelines as recommended within the BS 5837 of 20% and will form no future detrimental effects on heath or interactions with the tree. See 8.7 below.
- 8.6** An evaluation of the proposed development in the context of the existing site has indicated that it will be not necessary to remove any trees in order to accommodate the proposal. Tree T5755 and T5756 will be retained in the context of the proposals and protected in accordance with current Government guidance.

| BS 5837 category, tree number & species                  | RPA incursion, precautions & specialised methodology required  |
|--|--|
| A (high quality)   |  |
| NONE   |  |
| B (moderate quality)                                     |  |
| NONE   |  |
| C (low quality)  |  |
| T5755 "Birch (Betula sp.)"<br>T5756 "Birch (Betula sp.)" | <p>May require minor excavation and soil moving within the RPA. Conventional construction methods have the potential to damage tree roots and soil structure. Works must be designed to minimise damage and may entail hand excavation to work around significant roots, bridging significant roots, the use of porous materials etc.</p> <ul style="list-style-type: none"> <li>•Soil structure to be preserved throughout – mats and ground protection to be used at all stages.</li> <li>•All works within RPA to be carried out under arboricultural supervision.</li> </ul> |

|  |   |
|--|---|
| <b>Heads of terms</b>  | Outline of appropriate protective measures. Greater detail post-consent will be required in response to a planning condition  |
| Areas to be protected  | The draft tree protection plan shows all areas where protective measures are required. Tree protection is shown as barriers and/or ground protection defining the Tree Protection Zone (TPZ) Where necessary, areas outside the TPZ but still within the RPA are indicated. Any works within these areas will require arboricultural supervision and likely to require specialist techniques.   |
| Tree works   | Tree pruning and tree removal close to trees to be retained must be carried out by bona fide tree surgeons undertaken in accordance with BS 3998:2010 Recommendations for tree works, or industry best practice.  |
| Protective barriers  | Tree protection barriers must be fit for the purpose of excluding site personnel and machinery. The default specification detailed within Section 6 of BS 5837 is to be used unless a different specification has been agreed with the LPA.   |
| Ground protection  | Where the full extent of the RPA cannot be protected with barriers alone, ground protection is to be used This could, for example, be for access by pedestrians or machinery across RPAs and ground protection will be fit for the purpose of preventing compaction of the soil structure and damage to roots.  |
| Site set-up, clearance, grading of soil and changes in ground levels | Tree protection MUST be in place before site set-up or clearance is undertaken. If necessary, localised vegetation clearance to install the protection is to be undertaken using hand tools only (including chainsaws, brushcutters etc.) but without the use of tracked or wheeled plant and machinery. Where site hoarding, signs etc. are within RPAs, it will be necessary to show that account has been taken of retained trees in respect to positioning and installation methodology, such as avoiding important roots and lining post holes to avoid the caustic effect of wet concrete on tree roots. Details of proposed soil level changes, whether lowering or raising and mounding and removal of spoil will be required. Soil level changes should not occur within RPAs, however even when outside RPAs significant soil level changes can alter soil hydrology and have other consequences for retained trees.  |
| Site investigation and remediation works                             | Soil and archaeological investigations, contaminated soil removal, Japanese knotweed control and other works not strictly part of the development often require extensive excavation. This has the potential to damage trees if within RPAs and therefore any proposals will need to be reviewed as part of the detailed AMS  |
| Demolition and removal of existing structures and hard surfaces      | Specialist methods will be required to minimise impact on trees, roots and soil structure. Buildings within or adjacent to RPAs must be demolished by pulling inwards, away from the tree. Removal of foundations within RPAs must be undertaken from within the footprint of the building, away from the tree, with excavation on the tree side of the foundation kept to the strict minimum required to effect removal. This operation should be supervised by the appointed arboriculturist. If trenches left by removal of foundations are not to be reused as part of the development, they must be backfilled with topsoil suitable for root growth, where within RPAs. The use of conventional tracked and wheeled machinery causes damage to soil structure from compaction and damage to roots from excavation and must not be used within the RPA. All areas of hard surfacing requiring removal within an RPA will be broken up using a handheld pneumatic drill or mounted hydraulic breaker attached to a digger located outside the RPA. The broken rubble will then be removed by hand. The only exception to this is where the hard surface is of such a size as not to be reachable from outside the RPA. In this situation, a rubber tracked mini digger will be used. The maximum working height of the machine must be less than the lowest branch of any overhanging trees. Removal of fences, sheds, garden structures, low walls etc., must be undertaken by hand where within RPAs. |

|                               |  |
|-------------------------------|--|
| New structures within RPAs    | During the design stage, every effort must be made to keep all new structures and services outside RPAs. Any excavations within RPAs will require supervision by the project arboriculturist. Foundation design that minimises the impact on soil structure and roots is acceptable. It may also be necessary to direct rainfall beneath the slab depending on the percentage of the RPA affected and existing ground conditions.  |
| New hard surfaces within RPAs | Any proposal for new surfacing within RPAs must be able to demonstrate a minimal impact on soil structure and roots and this includes the ability for movement of water and air in and out of the soil. The use of no-dig (a maximum of 50mm of vegetation debris can be removed), cellular confinement systems using porous sub-base and finished surface materials can be acceptable in some circumstances. This has implications for finished levels. Various companies supply CCS and the following link is given by way of example.<br><br><a href="http://www.geosyn.co.uk/cellweb">www.geosyn.co.uk/cellweb</a> .   |
| New and existing services     | The location and direction of new underground services should be designed to allow services to be routed away from RPAs of retained trees. When existing services within RPAs require upgrading or it is unavoidable for new services to be installed in RPAs, conventional excavation techniques are usually unacceptable. Trenchless installation should be the preferred option but if that is not feasible, any excavation is likely to have to be carried out by hand or using a compressed air lance under arboricultural supervision. The methodology used must comply with NJUG Volume 4: Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees. Overhead services such as lighting, electricity, telecoms etc., should be routed outside the present and future canopy spread of retained trees. This is especially important with CCTV cameras to avoid the need for regular pruning in the future. |
| Removal of protection         | Barriers and other protection must remain in place until all construction activity is complete and there is no realistic risk of damage to soil surfaces.  |
| Landscaping                   | Landscape operations have the potential to damage trees if not carried out appropriately; in addition, the removal of protective barriers to carry out landscape operations may allow other contractors into previously protected areas. The method statement will need to detail methods to protect RPAs, installation of hard surfaces, fences, topsoil, planting and any other operations within RPAs.  |
| Other risks to trees          | Piling rigs, cranes and other high and wide plant and machinery have the potential to damage trees and site operations must be planned to take account of retained trees in advance of any potential conflict. Proposed locations and routes on and off the site should be supplied to the project arboriculturist. Accidental spillage of any materials which could cause damage to a tree even if outside of an RPA, including dust. Fires must be avoided where heat could affect foliage or branches.  |

**8.7** Although implementation of the development will not necessitate the removal of any trees, new tree and shrub planting is suggested as part of the landscaping for the proposal, which is projected to deliver a substantial long-term visual amenity in the local landscape and to significantly enhance the ecological value of the site.

**8.8** Accordingly, the provision of and adherence to a suitably detailed landscape proposal plan should be conditioned to a planning permission.

**8.9** In consideration of the above findings I therefore conclude that, from the details provided to date, the site in question can be developed as proposed whilst both retaining the important tree cover, improving its overall quality, and enhancing its long-term sustainability

**8.10** However, in order to ensure successful existing tree preservation, it is essential that the retained trees are protected in strict accordance with current Government guidance and the recommendations included herein.

## Nominative References

The following documents are indispensable in the application of the recommendations in this report:

- R.G. Strouts, T.G. Winter (1994). Diagnosis of Ill-Health in Trees. DoE
- D. Lonsdale (1999). Principles of Tree Hazard Assessment and Management. ODPM
- C. Mattheck, K. Bethge, K. Weber (1994). The Body Language of Trees. DoE
- C. Mattheck (2007). Updated Field Guide for Visual Tree Assessment. Forschungszentrum Karlsruhe GmbH
- F.W.M.R. Schwarze, J. Engels, C. Mattheck (1999). Fungal Strategies of Wood Decay in Trees. Springer
- Common Sense Risk Management of Trees (2011). National Tree Safety Group / Forestry Commission
- Tree Surveys: A Guide to Good Practice – Guidance Note 7 (2015). The Arboricultural Association
- British Standard BS3998: 2010 Tree Work – Recommendations. BSI



| Ref.     | Species                        | Full Structure | Measurements   | Spread                       | General Observations   | Retention Category | RPA                             | Comments   | Measurements2   | Recommendations   |
|----------|--------------------------------|----------------|--|------------------------------|--|--------------------|---------------------------------|--|---|---|
| Page 144 | Birch<br>( <i>Betula sp.</i> ) | Tree           | Height (m): 10<br>Stem Diam (mm): 280<br>Spread (m): 2.5N, 1.5E, 1S, 2W<br>Crown Clearance (m): 6<br>Lowest Branch (m): 3(W)<br>Life Stage: Mature<br>Rem. Contrib.: 10+ Years | N:2.5<br>E:1.5<br>S:1<br>W:2 | Fair overall<br>Physiological and<br>Structural condition.<br>Unbalanced<br>suppressed Crown | C2                 | Radius: 3.4m.<br>Area: 36 sq m. | The surfacing and levels in the RPA should not be altered as long as the tree is being retained. | Other Reference:<br>Distance1:<br>Distance2:<br>Custom Number 3:<br>Physiological Cond: Fair<br>Structural Cond: Fair<br>Bat Habitat: Low | Pre construction:<br>No action required.<br><br>During construction:<br>Protect trees with protective barriers - as shown on plans.<br>Manual Excavation for inspection of roots<br><br>Post construction:<br>No action required. |



|           |                                |      |  |                              |   |    |                                 |  |   |  |
|-----------|--------------------------------|------|--|------------------------------|---|----|---------------------------------|--|---|--|
| T5756     | Birch<br>( <i>Betula sp.</i> ) | Tree | Height (m): 10<br>Stem Diam (mm): 300<br>Spread (m): 1.5N, 1.5E, 2S, 2W<br>Crown Clearance (m): 3<br>Lowest Branch (m): 3(W)<br>Life Stage: Mature<br>Rem. Contrib.: 10+ Years | N:1.5<br>E:1.5<br>S:2<br>W:2 | Fair overall<br>Physiological and<br>Structural condition.<br><br>Unbalanced<br>suppressed Crown<br><br>Prolific ivy. | C2 | Radius: 3.6m.<br>Area: 41 sq m. | The surfacing and levels in the RPA should not be altered as long as the tree is being retained. | Other Reference:<br>Distance1:<br>Distance2:<br>Custom Number 3:<br>Physiological Cond: Fair<br>Structural Cond: Fair<br>Bat Habitat: Low | Pre construction:<br>No action required.<br><br>Sever ivy at base.<br><br>During construction:<br>Protect trees with protective barriers - as shown on plans<br>produce forward method statement<br><br>Manual Excavation for inspection of roots<br><br>Post construction:<br>No action required. |
| Page 1451 | Birch<br>( <i>Betula sp.</i> ) | Tree | Height (m): 8<br>Spread (m): 1.5N, 1.5E, 3S, 4W<br>Crown Clearance (m): 6<br>Lowest Branch (m): 1(W)<br>Life Stage: Mature<br>Rem. Contrib.: 10+ Years                         | N:1.5<br>E:1.5<br>S:3<br>W:4 | Fair overall<br>Physiological and<br>Structural condition.<br><br>Unbalanced<br>suppressed Crown<br>Prolific ivy.     | C2 | Radius: 4.4m.<br>Area: 61 sq m. | The surfacing and levels in the RPA should not be altered as long as the tree is being retained. | Other Reference:<br>Distance1:<br>Distance2:<br>Custom Number 3:<br>Physiological Cond: Fair<br>Structural Cond: Fair<br>Bat Habitat: Low | Pre construction:<br>No action required.<br>Sever ivy at base.<br><br>During construction:<br>Protect trees with protective barriers - as shown on plans.<br>Manual Excavation for inspection of roots<br><br>Post construction:<br>No action required.  |

|       |  |      |  |                              |  |    |                                   |  |  |   |
|-------|--|------|--|------------------------------|--|----|-----------------------------------|--|--|---|
| T5758 | Birch<br>( <i>Betula sp.</i> )             | Tree | Height (m): 8<br>Spread (m): 1.5N, 1.5E, 3S, 4W<br>Crown Clearance (m): 3<br>Lowest Branch (m): 1(S)<br>Life Stage: Mature<br>Rem. Contrib.: 10+ Years                     | N:1.5<br>E:1.5<br>S:3<br>W:4 | Poor overall<br>Physiological and<br>Structural condition.<br><br>Unbalanced<br>suppressed Crown<br><br>Prolific ivy.  | C2 | Radius: 5.0m.<br>Area: 79 sq m.   | The surfacing and<br>levels in the RPA<br>should not be altered as<br>long as the tree is being<br>retained.   | Other Reference:<br>Distance1:<br>Distance2:<br>Custom Number 3:<br>Physiological Cond: Poor<br>Structural Cond: Physical<br>Defect<br>Bat Habitat: Low    | Pre construction:<br>Sever ivy at base.<br><br>Dead wood (minor less than<br>25mm).<br><br>During construction:<br>Protect trees with protective<br>barriers - as shown on<br>plans.<br><br>Manual Excavation for<br>inspection of roots<br><br>Post construction:<br>No action required. |
| T5759 | Beech<br>( <i>Fagus sp.</i> )              | Tree | Height (m): 10<br>Stem Diam (mm): 500<br>Spread (m): 3N, 5E, 6S, 5W<br>Crown Clearance (m): 5<br>Lowest Branch (m): 4(S)<br>Life Stage: Mature<br>Rem. Contrib.: 10+ Years | N:3<br>E:5<br>S:6<br>W:5     | Fair overall<br>Physiological and<br>Structural condition.<br>Prolific ivy.  | C2 | Radius: 6.0m.<br>Area: 113 sq m.  | This tree will not have<br>to be removed to<br>facilitate a proposed<br>future development.<br>This tree does not form<br>a constraint to the<br>redevelopment of the<br>site. | Other Reference:<br>Distance1:<br>Distance2:<br>Custom Number 3:<br>Physiological Cond: Fair<br>Structural Cond: Fair<br>Bat Habitat: Medium               | Pre construction:<br>No action required.<br>Sever ivy at base.<br><br>During construction:<br>No action required.   |
| T5760 | Sycamore<br>( <i>Acer pseudoplatanus</i> ) | Tree | Height (m): 15<br>Spread (m): 7N, 4E, 5S, 7W<br>Crown Clearance (m): 4<br>Lowest Branch (m): 4(W)<br>Life Stage: Mature<br>Rem. Contrib.: 10+ Years                        | N:7<br>E:4<br>S:5<br>W:7     | Fair overall<br>Physiological and<br>Structural condition.<br>Low branches (5.2)<br>obstruct vehicle<br>access.<br>Stem/limb decay.<br>Bark congestion.<br>Dead wood.<br>Prolific ivy. | B2 | Radius: 15.0m.<br>Area: 220 sq m. |  | Other Reference:<br>Distance1:<br>Distance2:<br>Custom Number 3:<br>Physiological Cond: Fair<br>Structural Cond: Physical<br>Defect<br>Bat Habitat: Medium | Pre construction:<br>Crown lift to 5.2 metres for<br>vehicle access.<br>Dead wood (major greater<br>than 25mm).<br>Sever ivy at base.<br><br>During construction:<br>No action required.<br><br>Post construction:<br>No action required.   |

Location 1 Avenue Villas



BS5837:2012 Table 1 – Cascade Chart for Tree Quality Assessment

| Cascade Chart for Tree Quality Assessment  |   |  |  |                        |
|--|---|--|--|------------------------|
| TREES UNSUITABLE FOR RETENTION   |   |  |  |                        |
| Category and Definition  | Criteria  |  |  | Identification on Plan |
| <p><b>Category U</b><br/>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> | <ul style="list-style-type: none"> <li>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 (eg, where, for whatever reason, the loss of companion shelter cannot be mitigated by pruning).</li> <li>Trees that are dead or are showing signs of significant, immediate, and irreversible overall decline.</li> <li>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.</li> </ul> <p><i>NOTE: Category U trees can have existing or potential conservation value which it might be desirable to preserve; see 4.5.7.</i></p> |  |  |                        |
| TREES TO BE CONSIDERED FOR RETENTION   |   |  |  |                        |
| Category and Definition  | Criteria  |  |  | Identification on Plan |
|  | 1. Mainly arboricultural qualities  | 2. Mainly landscape qualities  | 3. Mainly cultural values, including conservation  |                        |
| <p><b>Category A</b><br/>Trees of high quality with an estimated remaining life expectancy of at least 40 years.</p>   | Trees that are particularly good examples of their species, especially if rare or unusual; or those that are essential components of groups or formal or semi-formal arboricultural features (eg, the dominant and/or principal trees within an avenue).  | Trees, groups or woodlands of particular visual importance as arboricultural and/or landscape features.  | Trees, groups or woodlands of significant conservation, historical, commemorative or other value (e, veteran trees or wood-pasture). |                        |
| <p><b>Category B</b><br/>Trees of moderate quality with an estimated remaining life expectancy of at least 20 years.</p>   | Trees that might be included in category A, but are downgraded because of impaired condition (eg, presence of significant though remediable defects, including unsympathetic past management and 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.   | 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. | Trees with material conservation or other cultural value.  |                        |
| <p><b>Category C</b><br/>Trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150mm.</p>               | Unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories.  | Trees present in groups or woodlands, but without this conferring on them significantly greater collective landscape value, and/or trees offering low or only temporary/transient landscape benefits.  | Trees with no material conservation or other cultural value.   |                        |

Photographs

T5755



T5755



T5756



T5756



T5757



T5757



T5758



T5758



T5759



T5759



T5760



T5760



general



general



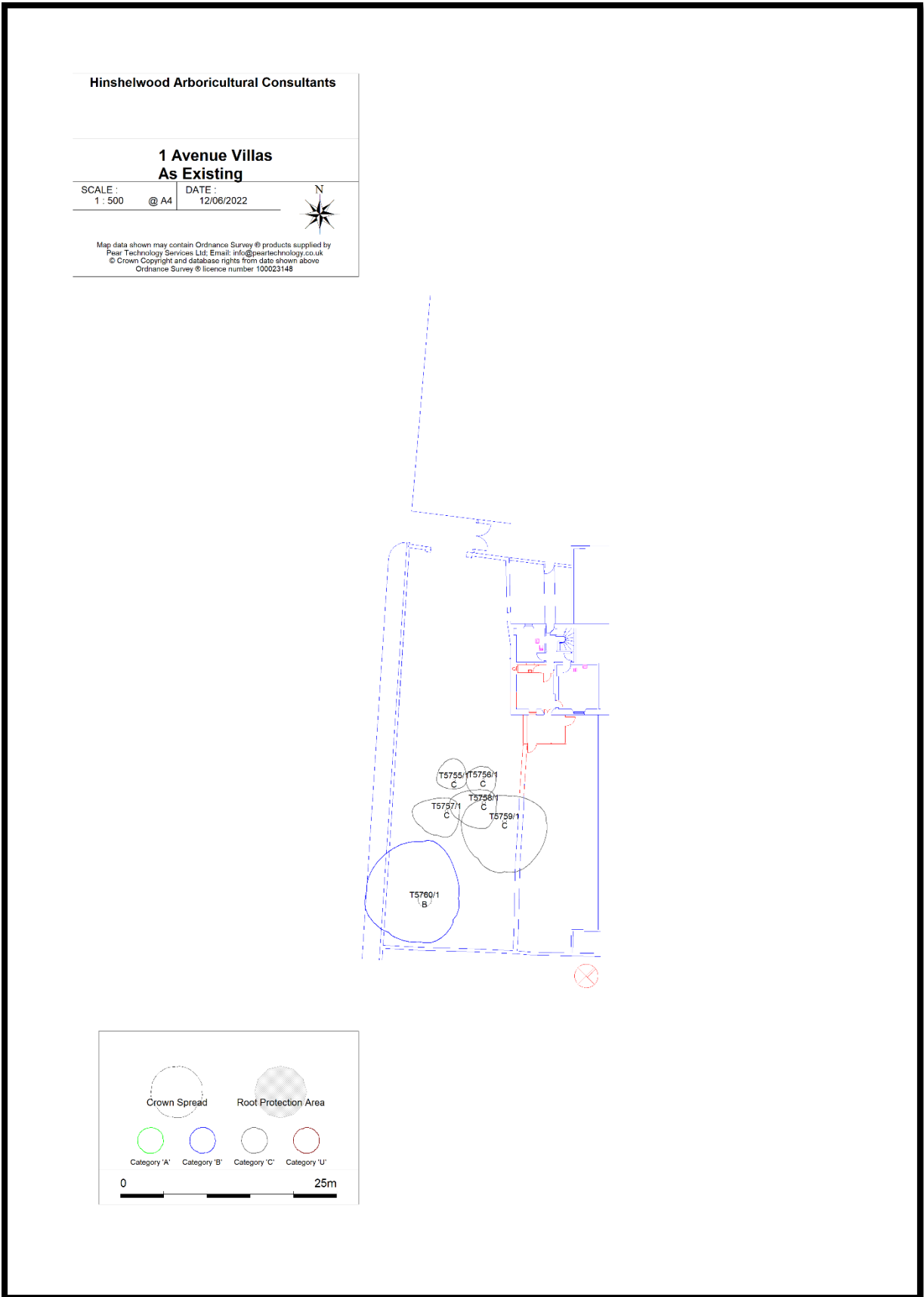
general

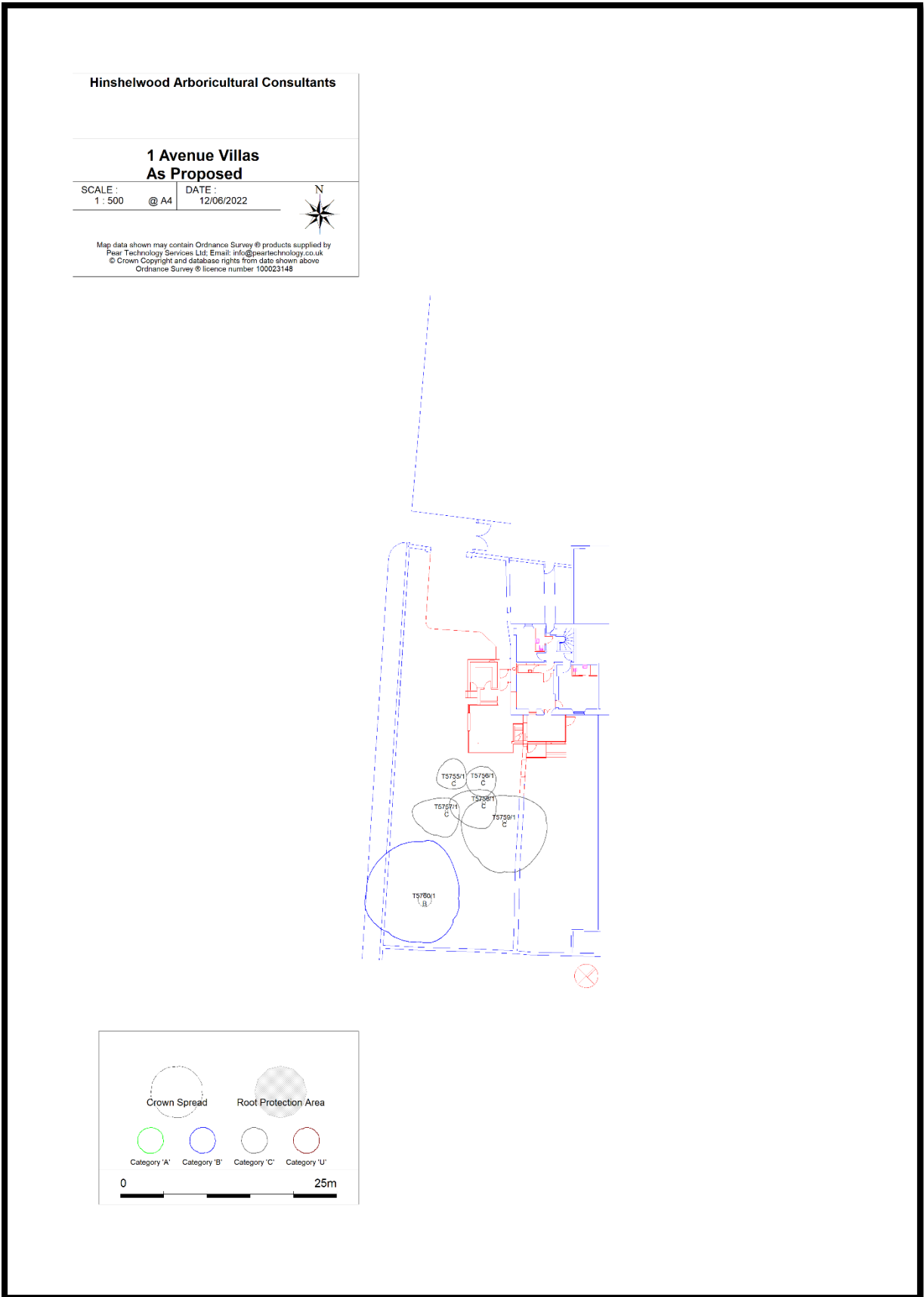


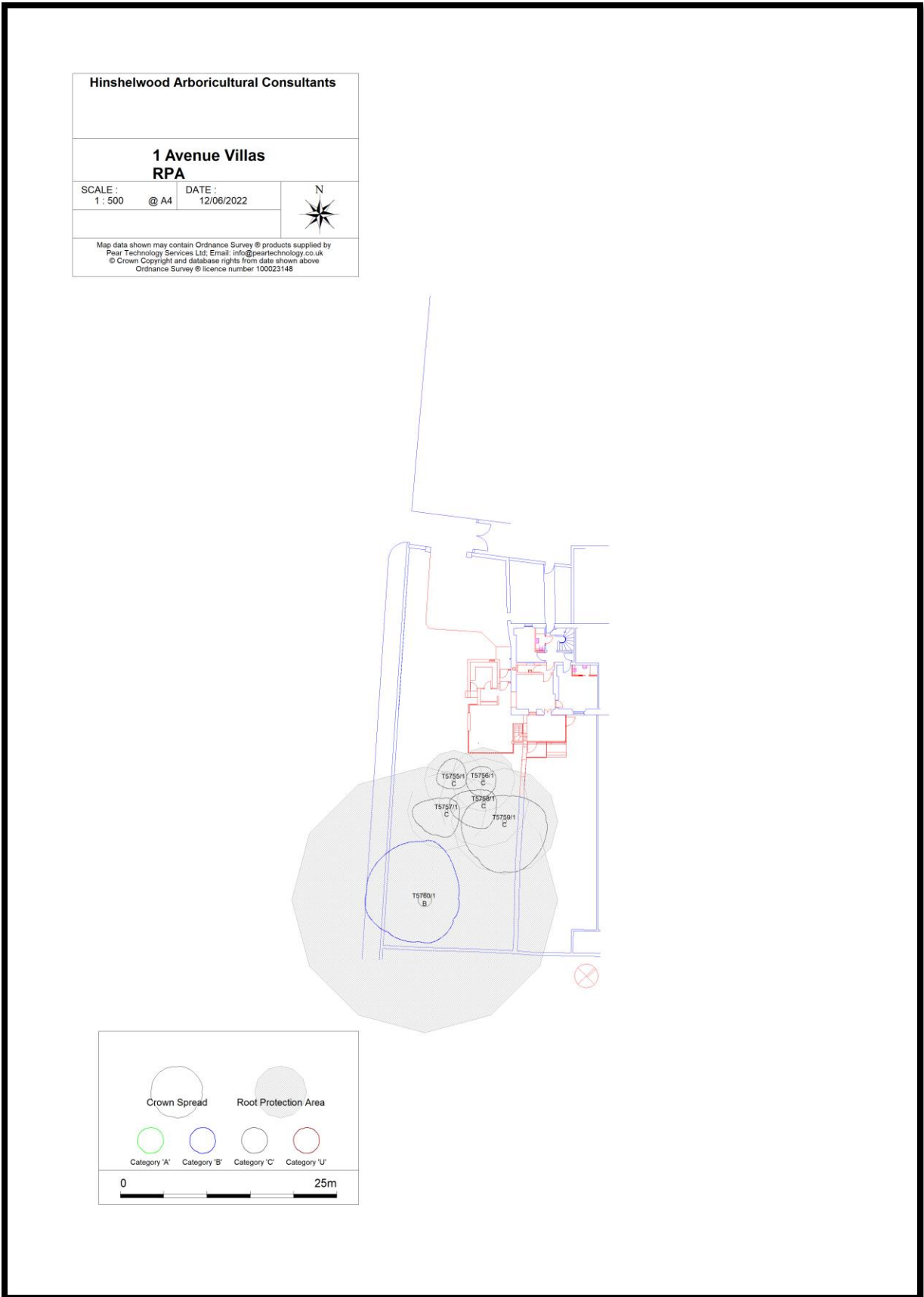
general











**Proposed Extension to 1 Avenue Villas, Edinburgh, EH4 2HU**  
April 2022

## Design statement

### Background

The existing Category C listed building is the westmost house of a terrace of 3 houses that appear to be the subdivision and possible enlargement of an original farmhouse which can no longer be identified visually. The entry in the Listed Building Register highlights that the interest of the building is as a remnant of the area's rural past, not of its architectural quality. This is reflected in its C listed category. The application site is not in a conservation area.



Image 01 – Existing gable with outline of historic attached buildings highlighted (Image 02 – Existing gable as over from Crewe Road South (July 2021)

The historic maps from 1853 through to 1933 clearly indicate a series of evolving buildings around a yard in the area of land which is currently the westerly section of garden ground, with buildings attached to 4/5ths of the gable wall until 1914 at which point the entire gable wall was built against (below). The profile of these buildings is still clearly evident on the gable (below) with the lower parts of the gable being in lower quality random rubble and the upper parts in finer, random rubble brought to course. The buildings began to disappear in the 20<sup>th</sup> century before finally being demolished around the middle of the century before the widening of Crewe Road South in the 60's to improve road access to the huge swathes of housing being developed on the Pilton and Muirhouse Estates. The remaining garden ground to the west, while under the same ownership, is largely separated from the front and rear gardens by a stone garden wall.

10 Deanhaugh Street Edinburgh EH4 1LY

T – 0131 332 1133 M – 07764 195480 E – [studio@davidblaikiearchitects.com](mailto:studio@davidblaikiearchitects.com)

Partners – DM Blaikie DipArch ARIAS HM Blaikie BA Hons LL.B. Dip LP  
VAT Reg No – 724 2335 59



Image 03 – OS Map 1877

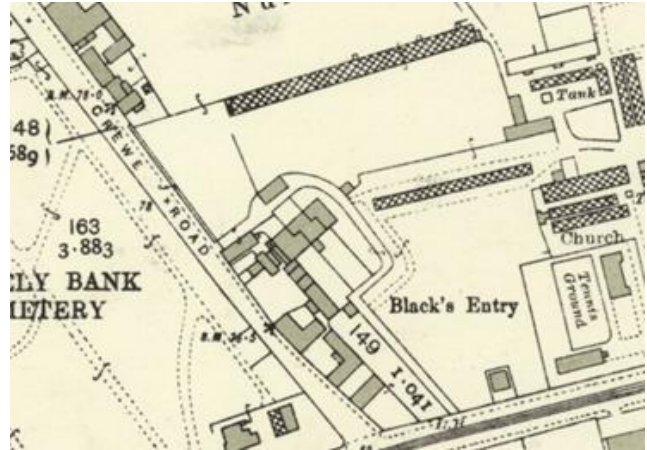


Image 04 – OS Map 1933

Matching, metal clad and highly glazed contemporary, single storey extensions adjoin the rear of our client's and the middle terrace property (1 & 2 Avenue Villas). The property to the opposite end of the terrace (3 Avenue Villas) has recently added a contemporary, single storey side extension projecting to the rear (ref no. 17/01672/FUL & 17/01674/LBC)



Image 05 – Rear corner of gable with garden wall and existing rear extension



Image 06 – Rear elevation with rear extension and matching neighbouring extension

## Brief

Our client's brief is to create new, contemporary living spaces for their growing family that are light filled and take advantage of the underused and currently separate, nature filled section of garden that the existing house currently feels detached from. They seek to retain and celebrate the existing historic features of the house whilst creating a home fit for 21<sup>st</sup> century living.

Requested accommodation is to include kitchen, living and dining spaces along with laundry room and study. Our client has requested that the new extension be formed and the existing house upgraded to minimise energy loss and use. As such a dedicated plant room is required for associated renewable equipment.

10 Deanhaugh Street Edinburgh EH4 1LY

T – 0131 332 1133 M – 07764 195480 E – [studio@davidblaikiearchitects.com](mailto:studio@davidblaikiearchitects.com)

Partners – DM Blaikie DipArch ARIAS HM Blaikie BA Hons LL.B. Dip LP

VAT Reg No – 724 2335 59

## Planning Background

### First Previous Planning Application - Withdrawn (ref no. 20/30559/FUL & 20/03476/LBC).

Applications were submitted for a contemporary wrap around extension to gable and rear of the existing house, locating a new, main sitting area on the south corner with new kitchen behind and a dining space replacing the existing contemporary extension to the rear. In forming the suite of living spaces within the new extension and consolidating the existing house as the bedroom wing we formed a new entrance and hallway separating and giving access to these functions.

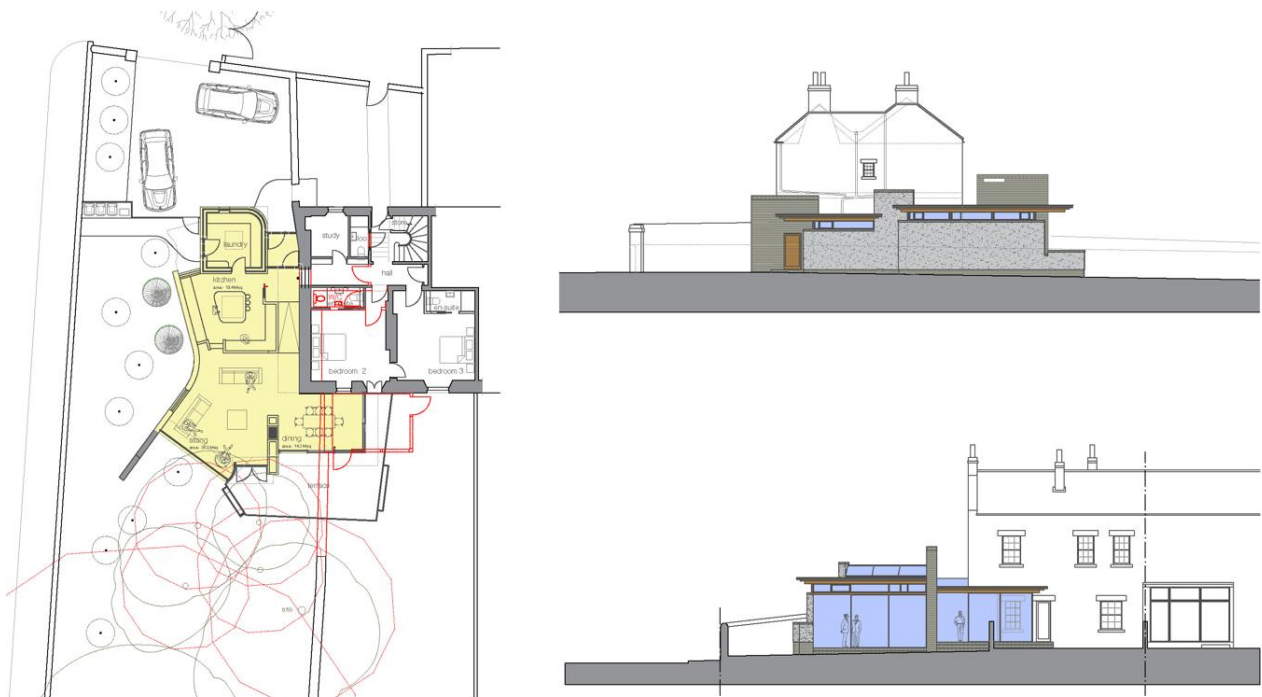


Image 07 – Plans and elevations from first planning application

Materials were chosen, including brick, smooth render and large format glazing, to juxtapose the existing building and create a clear differentiation between the old and new.

The design was carefully conceived to minimise disruption to the existing trees on the site and, after working in conjunction with VLM Landscape, a long term landscape strategy for the site was developed to protect and enhance the abundance of green space in the design. This involved the removal and replanting of two existing trees and more appropriate species of trees being introduced to the garden.

The applications were withdrawn following comments from the Planning department relating to four main areas: scale; attachment to listed structure; materiality and trees:

- *Scale: The footprint of the new extension was near identical to that of the ground floor of the main house. This was adjudged to be too large and not subservient to the existing structure*

10 Deanhaugh Street Edinburgh EH4 1LY

T – 0131 332 1133 M – 07764 195480 E – [studio@davidblaikiearchitects.com](mailto:studio@davidblaikiearchitects.com)

Partners – DM Blaikie DipArch ARIAS HM Blaikie BA Hons LL.B. Dip LP  
VAT Reg No – 724 2335 59

- *Attachment to listed structure: The extension covered the whole of the gable end of the property which was adjudged to be insensitive to the character of the listed building.*
- *Material: The deliberate choice of contemporary materials to contrast with the old was deemed inappropriate for a development adjoining an older building.*
- *Trees: The plan to remove two trees to build the extension was unwelcomed despite the intention to re-plant the trees elsewhere on the plot.*

**Second Previous Planning Application - Withdrawn**  
(ref no. 21/03857/FUL & 21/03858/LBC).

A revised design was produced to advance the themes and architectural qualities of the former proposal whilst seeking to address the concerns raised by the planning department in the previous application.



Image 08 – Plans and elevations from second planning application

To make the extension more subservient to the existing house and enable more of the existing elevations to remain exposed the proposed extension was reduced in size by approximately 25% from an external ground floor area of 104m<sup>2</sup> to 77.5m<sup>2</sup>. A basement storey was proposed below the extension to provide necessary space with reduced impact on the existing house.

The revised design had a 'light-touch' connection to the listed structure using only frameless glass where it attaches, with the connecting structure adjoining no more than 50% of the length of the side and rear elevation of the original structure.

The architecture of the new extension was still intended as a strong contemporary aesthetic however in response to previous comments the proposed materials were changed to be

**10 Deanhaugh Street Edinburgh EH4 1LY**

T – 0131 332 1133 M – 07764 195480 E – [studio@davidblaikiearchitects.com](mailto:studio@davidblaikiearchitects.com)

Partners – DM Blaikie DipArch ARIAS HM Blaikie BA Hons LL.B. Dip LP  
VAT Reg No – 724 2335 59

more contextual to the house specifically replacing the proposed brick to solid masonry elements with natural sandstone.

The plan form of the extension was designed to avoid affecting any of the protected trees allowing them to remain in their current locations.

While the reduction in scale was welcomed by the Planning department, the applications were withdrawn following council feedback with comment including:

- *Presenting a highly visible glass “frontage” to Crewe Road South. The preference is for a more solid frontage – replicating the gable/main road relationship.*
- *Wrapping the extension around the corner of the building. Historic maps suggest the area to the west of the gable was either a separate plot, or at least in separate use (possibly as part of the farm). The garden wall separating the two still exists. Merging the plots with a modern extension interrupts the strong, surviving grain/ plot pattern. The preference would be for the extension to sit entirely within the plot lining Crewe Road South, and be subservient to the main building – i.e. either set back from both corners of the gable, or respecting the footprint of the “former building”*
- *The proposed design of the extension is overly complex. It is too busy and would benefit from being more restrained. It is competing with the historic built form. The proposed new basement has the potential to impact on flooding and drainage. A Surface Water Management Plan (SWMP) will be required to confirm the drainage proposals*
- *The proposal will adversely affect amenity and character of the locality by physical damage to protected trees and not allowing replacement trees enough space to grow without coming into conflict with the proposed building. By bringing the building closer to the trees and Crewe Road South makes the building more prominent thereby undermining the visual the trees and woodland strip make. A full tree survey should be provided to address concerns*

## **Current Application**

The design of the proposed extension has been revised and developed to take into consideration the above comments.

To maintain the existing plot pattern, the sandstone garden wall has been retained and incorporated into the extension design. We propose building this wall up higher for the extent of the extension to form a solid dividing element between the side and rear extensions. The rear extension, containing dining areas, matches the footprint and height of the existing extension while the side extension, containing sitting and utility areas, references the historic buildings that once adjoined the gable. The two elements are further defined as distinct from each other by a proposed band of ‘frameless’ glass to wall and roof adjoining the altered garden wall.

10 Deanhaugh Street Edinburgh EH4 1LY

T – 0131 332 1133 M – 07764 195480 E – [studio@davidblaikiearchitects.com](mailto:studio@davidblaikiearchitects.com)

Partners – DM Blaikie DipArch ARIAS HM Blaikie BA Hons LL.B. Dip LP

VAT Reg No – 724 2335 59



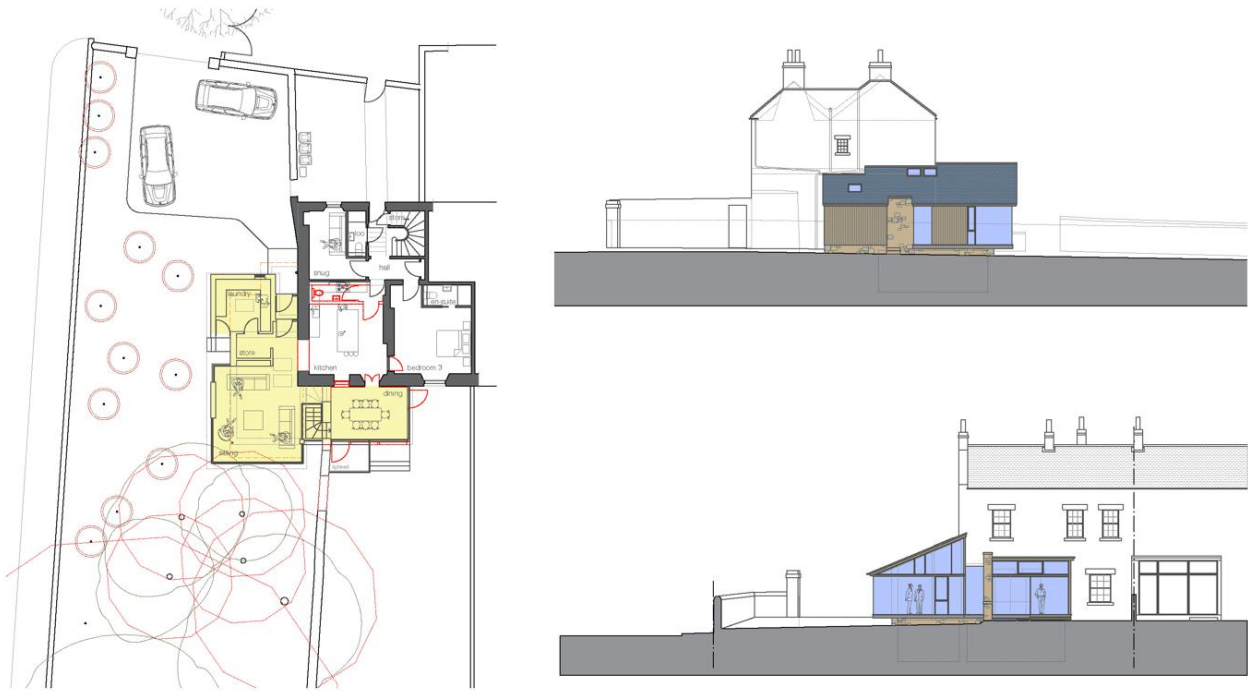


Image 09 – Plans and elevations from second planning application

Externally we propose the garden wall is lowered adjacent to the extension to provide visual connections between extension spaces and the gardens and then lowered to ground level for access between the gardens. The footprint of the wall will be displayed as paving for the extent of the opening with the remainder of the garden wall restored and retained.

Tall vertical elements have been omitted and the overall height of the extension has been reduced to further express the extension as subservient to the existing listed building with it held away from the four sash and case windows to the rear which will remain unaffected.

In line with comments, the design has been simplified to a series of more restrained forms. Glazing to the south west elevation has been reduced providing a more solid 'frontage' to Crewe Road South.

The material palette incorporating sandstone random rubble walls and a natural slate roof will tie in with and complement the materials of the existing building. The masonry elements of the new design will be formed with a traditional quoin arrangement at the corners with squared rubble walling brought to course for the wall faces all to reference the parent structure.

The sandstone walls of the existing house will remain exposed within the extension allowing the original scale and proportions of the house to be read.

The external area of the extension has been reduced from 77.5m<sup>2</sup> for the previous application to 71.2m<sup>2</sup> with the Gross Internal Area (GIA) at ground floor level reducing from 70.7m<sup>2</sup> to 65.4m<sup>2</sup>, reduced from. This compares to the GIA of the existing house which is 77.5m<sup>2</sup> at ground floor level.

10 Deanhaugh Street Edinburgh EH4 1LY

T – 0131 332 1133 M – 07764 195480 E – [studio@davidblaikiearchitects.com](mailto:studio@davidblaikiearchitects.com)

Partners – DM Blaikie DipArch ARIAS HM Blaikie BA Hons LL.B. Dip LP

VAT Reg No – 724 2335 59

The proposed basement has been significantly reduced in footprint (approximate area including exterior wells and retaining structure) from 117m<sup>2</sup> to 52m<sup>2</sup> with the GIA reducing from 73m<sup>2</sup> to 38.5m<sup>2</sup> with accommodation consolidated to now include only a small study and plant room.

As such the combined GIA of the extension including basement has reduced from 143.7m<sup>2</sup> to 103.8m<sup>2</sup>.

The garden ground of this house (922m<sup>2</sup>) is approximately 3 times larger than the garden ground of either of the adjacent houses (325m<sup>2</sup> and 322m<sup>2</sup>) easily giving it scope to accommodate an extension of this size.

The new extension will be formed in materials and technologies with carefully considered low embodied energy characteristics and high levels of insulation to minimise heat loss. A package of fabric improvement measures developed by and published in HES's Sustainable Renovation Guide will be implemented on the existing house along with comprehensive repair and restoration to ensure the future life and viability of the listed structure. Solar voltaic and heat pump technology is proposed for space and water heating along with energy reclamation measures in the ventilation system to minimise energy use. There is a plant room proposed in the basement level to accommodate the associated renewable technology.

A series of sensitive alterations are proposed to the existing house. The current kitchen will be enlarged by incorporating the adjacent wc with new opening formed through the gable to the new sitting room and as well as opening up current window and door openings to the dining extension.

A new cloakroom wc will be formed in part of the ground floor front bedroom which will become a smaller snug space, while an en-suite will be formed in the rear ground floor bedroom. A new apex rooflight is proposed to the ridge of the existing roof to bring natural light into the existing stairwell

## **Trees**

The extension has been designed to avoid existing trees on site with the sitting room element cantilevering over a set-back basecourse to further distance foundations from tree roots. An Arboriculture Impact Assessment and Tree Survey will accompany this application.

## **Flooding and Surface Water**

As requested by Planning a Flood Risk and Surface Water Management Plan will accompany this application.

10 Deanhaugh Street Edinburgh EH4 1LY

T – 0131 332 1133 M – 07764 195480 E – [studio@davidblaikiearchitects.com](mailto:studio@davidblaikiearchitects.com)

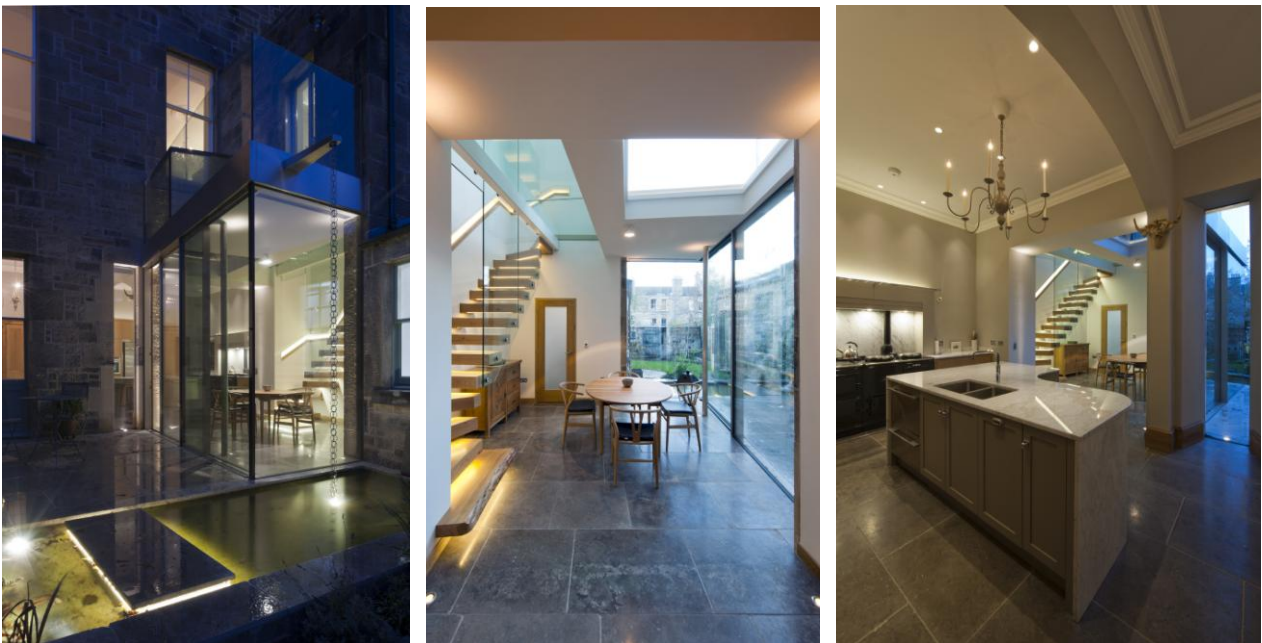
Partners – DM Blaikie DipArch ARIAS HM Blaikie BA Hons LL.B. Dip LP

VAT Reg No – 724 2335 59

## Conclusion

We have previously worked on a number of successful projects involving the altering and extending of listed properties.

Our project for the full refurbishment, sensitive alteration and contemporary extension of B-Listed, 16 East Claremont Street, Edinburgh won a RIAS Award and was nominated for the Andrew Doolan Award for Best Building in Scotland in 2016. Elements of this application successfully featured in that project including the sensitive alteration of existing fabric, the forming of inside/outside spaces through large glazed openings, the use of full height glass with glass to glass connections, the forming of roof lights to capture daylight into the extension and beyond. The images from that project are below and highlight our attention to detail and demand for good quality design, materials and workmanship.



Images 10,11,12 – 16 East Claremont Street, David Blaikie Architects

At Giffordbank Project we added a contemporary extension to the rear of a listed dwelling featuring similar elements to this proposal including a subservient relationship to the existing house, masonry elements to match existing, full height glazing, a stepped roof edge detail and the exposing of existing fabric internally.



Images 13 & 14 – Giffordbank, David Blaikie Architects

This application for 1 Avenue Villas creates the additional accommodation and improved layout that our clients require to allow them to live comfortably within this neighbourhood of Edinburgh. The extension design presents a more low-key, simplified elevational treatment facing the road of a pitched slate roof, stone and timber clad walls and glass to be more sympathetic and contextual to the existing building. As demonstrated by our previous work, the proposals will be delivered using high quality materials and workmanship along with careful detailing to complement and respect the qualities of this C listed building.

We believe the extension will make a positive contribution to the character of the building and ongoing development of the building and area. We look forward to receiving your decision on this application.

# 1 Avenue Villas

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**City of Edinburgh Council Local  
Review Body Rebuttal Statement**

**Prepared on behalf of Mr J Hancox**

Job No: 1036293

Doc Ref: 1036293-PG01-Avenue Villas RS- Rev B

Revision: B

Revision Date: 01 November 2022

|                      |  |                   |
|----------------------|--|-------------------|
| <b>Project title</b> | 1 Avenue Villas  | <b>Job Number</b> |
| <b>Report title</b>  | City of Edinburgh Council Local Review Body Rebuttal Statement | 1036293           |

**Document Revision History**

| Revision Ref | Issue Date       | Purpose of issue / description of revision |
|--------------|------------------|--|
| A            | 26 October 2022  | Client Draft                               |
| B            | 01 November 2022 | Submission to LRB                          |
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**Document Validation (latest issue)**

X

Principal author

X

Checked by

X

Verified by

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# 1.0

## Introduction

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## 1.0 Introduction

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### 1.1 Purpose of this report

This Statement is submitted on behalf of Mr J Hancox (hereafter referred to as 'the Applicant') in support of a Planning Local Review Body (PLRB) appeal against the City of Edinburgh Council, who refused permission under delegate powers for:

*'Demolition of an existing rear extension to the side and rear to house living, dining and utility facilities and to form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair. At 1 Avenue Villas Edinburgh EH4 2HU'.*

The application was refused on Friday 1st July 2022 with the refusal reason being:

*'The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as the location of the extension would impact on the long-term growth of replacement trees'*

The purpose of this statement is to assist members of the PLRB in their assessment and determination of the appeal by addressing representations made against the appeal which were received on 19<sup>th</sup> October 2022. These representations were made by Alistair McKie of Anderson Strathern, on behalf of a group of residents and by the residents of the neighbouring property, 3 Avenue Villas. We would like to address points made within each representation in turn, below.

It should be clear from the evidence provided to the PLRB that this matter relates to a simple neighbour dispute rather than a material planning matter over what should be a simple and straightforward application which could almost be classed as permitted development.

### 1.2 Representations made by Alistair McKie of Anderson Strathern on behalf of local residents.

With particular reference to point 2 which relies entirely on a google map image showing the site prior to some of the trees being removed, and where it is stated that is how the site should look "should the trees be allowed to reach maturity". This is simply not the case and is therefore misleading. The replacement trees were specifically chosen so that they would NOT grow as large as those which were replaced, so it is not expected that the site would look the same as it did prior.

In addition, any previous history concerning the trees on site has been resolved and not considered material to the application being considered here, these issues have been dealt with through the correct channels and regardless of personal grievances, they have been resolved.

With regards to the assertion of a the TPO not being mentioned this is again erroneous. Firstly, BS5837 does not make any differentiations to the statutory protection afforded to trees and to the trees that should be surveyed. The Planning Act does narrate that tree regardless of statutory protection should be a material consideration to any determination of a planning application.

Secondly, the regulations that are fundamental to the making of a tree preservation order make it clear that they should not be used as a tool for the control of development but for the protection of the character and amenity of the area. The term 'amenity' is used universally but not specifically defined in planning legislation and is therefore subjective. It is therefore for authorities to exercise judgment when deciding whether it is within their powers to make an Order.

Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order, they should be able to show that protection would bring a reasonable degree of public benefit in the present or future." As no trees at all

are to be removed as part of this proposal and every effort has been made to mitigate any harm to existing trees, to argue that 'amenity' will be harmed is not a relevant argument. It is not supported by LDP Policy or the Edinburgh Design Guidance.

The arguments with regards to the planning policy Env12 are not in context, it is a matter for the future, the trees that are extant on the site are newly planted and offer little in the way of amenity toward the character of the area.

It is quite unprofessional to have stated that the applicant "disingenuously instructed a tree expert..." Graham Hinshelwood put the TPOs on the trees or at least managed them throughout the time that the old trees were being removed, therefore he should know that the trees being looked at on site were subject to TPO's. The reason that recently planted trees were not identified within the body of the report is that the guidelines as set for carrying out BS5837 surveys as stated within the Edinburgh Design Guidance were followed to the letter when the survey was compiled. That is only trees with a diameter of 75mm or over should be included within the survey. The trees that have been recently planted do not meet these criteria as requested by the LPA so were not include

The scheme as developed by the architect now allows for a generous amenity strip between the boundary wall and the proposed extension. However, this is the sole reason that the scheme was refused in that the council do not deem this area sufficient for the establishment of trees. The space granted will be adequate for the establishment of a shelterbelt of trees to repair the injury and increase the quality of the character and amenity of the streetscape. The correct choice of species will aid in this expectation, and as can be seen by the very recent redevelopment of Raeburn Place even very large veteran trees will survive redevelopment if the works are carefully scheduled.

The fear that all of the trees will be lost due to the pressure of lifestyle is again redundant. The council will have the power to refuse or dismiss any application for tree works at the property so allowing for a sustainable landscape to be created. A planting scheme could be made a condition of any positive determination, for example. In addition, a planning decision cannot be made on this proposal that considers any future speculative works required to the property or its' surroundings, each application must be determined on its own merits.

In addressing comments made with regards to failing to comply with previous notices to replace trees, this is not true as all 13 trees have indeed been replanted and done so by the applicant himself who has a tree planting business and is proficient in such matters.

On a final note, it should be said that the arboricultural work that was undertaken by Mr Julian Morris in response to our applicants' appeal, was done so without a thorough site visit as there was no request made to enter the applicants' property. In addition, despite this additional work, there has still not been any technical work undertaken by the council as a basis for their refusal and their reason for refusal remains un-evidenced. No qualitative assessment has been carried out by the council of the site, the specific site characteristics or that the design of the proposed developed has evolved in line with advice received by the council to take careful account of all constraints and opportunities on site. On this basis, it appears that the council are using the TPO's on site as a tool to prohibit development which contravenes their very purpose.

### 1.3 Representations made by residents of 3 Avenue Villas

- We believe the site is too small for the proposed development. This is a listed building of three bedrooms which is to be turned into a house with 2 sitting rooms, a study, a plant room and a utility area (including a large basement area) as well as the existing 3 bedrooms. Is this size in keeping with the existing building? We believe it is the existing building which provides the scope to increase the size so does this set a precedent that large basement extensions are acceptable?*

Our response:

Matters pertaining to the size and design of the proposal and certainly whether the proposals are 'in keeping' with the listed building have already been considered and subsequently accepted in the approval of the Listed building consent application. In addition, the only refusal reason for this application, relates to trees and any other matters should be considered resolved within the planning process.

In addition, in the report of handling, it was concluded that:

*“The essential character of the group lies mainly in its overall form and frontage (to the north). The proposal has minimal impact on the historic fabric and building across the blank gable and the section already covered by an extension has no significant impact on the character of the building. The works have no significant impact on the character of the listed building and are acceptable in regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.”*

- *In the last submission we were advised that a specialist flood report would be made available. As yet we have not seen any flood report and feel that this is a crucial piece of information given that this area has been known historically to be susceptible to flooding. Where is this report?*

Our response:

The Flood Risk Assessment was submitted as part of the planning application documents.

- *Tree Preservation Order No 157 – when we moved into Avenue Villas there was a mature and thriving canopy of trees which gave coverage and protection enjoyed by 1, 2 and 3 Avenue Villas. You can see the woodland on the Google Maps print out. Many of the trees have subsequently been damaged and now replaced under an enforcement order but our concern is that these trees will not be retained and could be harmed during a construction process of this scale or materially impact their growth. Given that a significant loss to the natural tree group on the site has already been undertaken with the damage to and then removal of some of the previous trees without permission we are concerned that the building works will be very close to the re-planted trees on the plans especially as a vast basement is proposed. It is clear from the Google map image that there is simply not enough room to accommodate the protected trees and the proposed development on the site. We understand that the TPO is intended to protect the trees from damage. Clearly to allow the proposed development to proceed will result in damage to some of the protected trees (if not all).*

Our response:

Due to the size and location, and indeed the type of trees that were replanted, it is unlikely that the proposals would impact upon the long-term growth of the TPO Trees. The Applicant has adapted the proposed design several times in order to avoid any impact on these trees and it is considered that the mitigation measures that have been proposed will be sufficient in ensuring that these trees aren't harmed. The replanted trees are a different species to those originally removed and in fact, aren't designed to grow as big as those which were there previously. It is therefore considered that the site can comfortably accommodate the proposals whilst protecting the longevity of the valuable trees and vegetation on site.

- *Foundations – as the proposed works include large basement adjoining a listed building careful judgement is needed to ensure that construction works do not affect the existing buildings of the neighbouring properties. Could earthworks affect the structure of the existing building and the neighbouring properties? Again, we have seen nothing in the application to provide us with any comfort that structural damage is not a risk.*

Our response:

The proposed works, including the basement would be constructed by a certified contractor who would use technical knowledge and experience to ensure that construction works do not affect the existing listed building or neighbouring properties.

- *The applicant has already failed to comply with a planning condition attached to a previous listed building consent concerning the creation of a new entry. In particular, the failure to comply with planning condition to put a sliding gate in place.*

Our response:

This is a matter ongoing which is separate to this planning application entirely and indeed, no such planning contravention has taken place.

- *In the previous Planning Application, we were told that an Arboriculture Impact Assessment and Tree Survey would be provided whilst I appreciate that it is not uncommon for additional surveys to be uploaded during the consultation process this report did not arrive in time. The first time we received sight of this report was when we were notified that the appeal had been made. Having now read the report, it is clear that it does not consider all the trees which are protected by the TPO*

Our response:

The reason that recently planted trees were not identified within the Arboriculture Impact Assessment submitted as part of the planning application is that the guidelines set out in BS5837 and as stated within the Edinburgh Design Guidance were followed to the letter when the survey was carried out. That is only trees with a diameter of 75mm or above should be included within the survey. The trees that have been recently planted do not meet these criteria as requested by the LPA so were not included.

- *The applicant has previously caused damage to the protected trees and failed to comply with an order to replant them. We don't think it is fair to allow the applicant to benefit from these wrongs in his current application.*

Our response:

No such activities have occurred, the replacement trees were, in fact replanted. This matter again is not material to the planning application put forward.

## 1.4 Conclusion

The proposed development, which is the subject of the Local Review Body submission, comprises the demolition of an existing rear extension to the side and rear of the house, the creation of new living, dining and utility facilities and the formation of abasement which will include a study and plant room in addition to minor internal remodelling and an Apex roof light at 1 Avenue Villas, Edinburgh. Under normal circumstances it is an uncontroversial application.

It is considered that the proposed extension to the building will make a positive contribution to the character and setting of the building and will enable the occupants to adapt the existing home to their changing needs. Listed Building Consent has been granted.

In addressing the representations made in response to our appeal, it is clear that personal grievances with the applicant are the reason for repeated attempts to object to the application and now to the appeal and this was made clear from a recent interaction with the applicant and neighbouring residents. We therefore would like to take this opportunity to repeat that previous planning decisions, prior conduct and personal grievances with the applicant are not material to the application before the PLRB.

We would like to take this opportunity to make abundantly clear that the proposed extension would not have a detrimental impact upon TPO trees on the site. Despite speculative statements and examples provided by Julian Morris,

no actual evidence has been provided that demonstrates that the proposal would have a detrimental impact upon the trees and this is because it simply cannot be demonstrated. The 'perceived' impact in question here is not an impact at present, it's a matter for the future. In Planning Law, material considerations are those which can be considered at the time of the application and any future circumstances cannot be guaranteed or quantitatively measured and therefore cannot be considered within the assessment.

The only reason for refusal in this case, is the perceived impact upon the longevity of TPO trees. In considering that the officer has not even assessed this impact quantitatively, or that no trees are proposed to be removed as part of the proposal or that every effort has been taken to mitigate any future harm to the trees within the proposal, it respectfully requested that the appeal be allowed.

**Cundall Johnston & Partners LLP**

4th Floor Partnership House Regent Farm Road  
Gosforth Newcastle upon Tyne NE3 3AF  
Tel: +44 (0)191 213 1515

Asia Australia Europe MENA UK and Ireland  
[www.cundall.com](http://www.cundall.com)



**From:** Alastair McKie [REDACTED]  
**Sent:** 11 October 2022 16:00  
**To:** Local Review Body  
**Subject:** 22/00149/REVREF-1 Avenue Villas Edinburgh EH4 2HU  
**Attachments:** Answer to Appeal Final 11.10.22(31529485.1).pdf; Paper Apart Final(31530086.1).pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Madam,

**Notice of Review 22/00149/REVREF by Mr Hancox  
Planning Application 22/02322/FUL ("Planning Application")  
Katrina Lumsdaine and Bruce Farquhar, 2 Avenue Villas, Edinburgh ("Clients")  
Application for a Review to the City of Edinburgh Council's Local Review Body**

I refer to your Notice dated 29 September 2022.

Please find attached a response (Answer to Appeal) on behalf of my Clients in relation to this Application for a Review together with a Paper Apart containing relevant documents including an Expert Report on the trees from Julian A Morris B Sc, Dip Surv, Cert Pub Sect Man, Tech Cert Arb, PTI .

Kindly acknowledge safe receipt and please advise of the next steps.

**Alastair McKie**

**Partner**

Accredited by the Law Society of Scotland as a specialist in Planning Law

**Anderson Strathern**

**DD** 0131 625 7257 (Ext. 1257)

**M** 07739 300896

**W** andersonstrathern.co.uk



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By email : localreviewbody@edinburgh.gov.uk

Gina Bellhouse  
Planning Advisor  
Local Review Body  
City of Edinburgh Council

If calling, please ask for: Alastair McKie  
Direct Dial: 0131 625 7257  
Fax: 0131 625 8030  
Email: 

Your Ref: 22/00149/REVREF  
Date: 11 October 2022

Dear Madam,

**Notice of Review 22/00149/REVREF by Mr Hancox**

**Planning Application 22/02322/FUL (“Planning Application”)  
Katrina Lumsdaine and Bruce Farquhar, 2 Avenue Villas, Edinburgh (“Our Clients”)  
Application for a Review to the City of Edinburgh Council’s Local Review Body**

**Executive Summary**

Our Clients are “interested parties” in terms of the above Application and objected to the Planning Application on a number of planning grounds including in relation to adverse impacts on trees protected by Tree Preservation Order No 157 (“TPO”).

We respectfully consider that the determining issue for the Local Review Body (“LRB”) is whether the proposed development is likely to damage trees protected by the TPO including those 13 trees recently replanted following the Tree Replacement Notice served on the Applicant by the Council. These replanted trees are also subject to the TPO and are statutorily protected. There is overwhelming evidence that the proposed development **will** damage the trees protected by the TPO and no convincing evidence to the contrary has been advanced by the Applicant.

Policy Env 12 is a clear-cut development plan policy which provides that where protected trees are likely to be damaged, the development **will** be refused. Therefore, this Application must be refused and we would respectfully ask that the LRB endorse and uphold the Council Officer’s reason for refusal and refuse planning permission accordingly.

This is the only conclusion consistent with the wider planning policy considerations and is in keeping with the finding that the applicant cannot benefit from his own previous wrongdoing in damaging and felling trees without permission.



## Development Plan Policy Context

Given the importance of the development plan policy to the Application, it is helpful to set out the relevant wording. Policy Env 12 provides that:-

*“Development **will not be permitted** if likely to have a damaging impact on a tree protected by a Tree Preservation Order or on any other tree or woodland worthy of retention unless necessary for good arboricultural reasons. Where such permission is granted, replacement planting of appropriate species and numbers will be required to offset the loss to amenity.”*

The explanatory text for this policy is also relevant in understanding its meaning and true purpose:

*“186 that This policy recognises the important contribution made by trees to character, biodiversity, amenity and green networks. In assessing proposals affecting trees, the Council will consider their value, taking into account current Scottish Government guidance – presently contained in its Policy on Control of Woodland Removal and UK Forest Standard – and their status such as Tree Preservation Order, heritage tree, Ancient Woodland and Millennium Woodland, along with information from tree surveys.*

*187 Where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders.”*

The terms of this Policy are clear cut. It has been promoted and adopted by the Council as planning authority in recognition of the contribution that the trees make to the character, biodiversity, amenity and green networks. Prior to unauthorised felling, the trees protected by the TPO were making a significant contribution to the character and amenity of the area. In serving the Tree Replacement Notice the Council were seeking to address the damage done by the Applicant through unauthorised tree felling and restore the character and amenity of the area to the standard it was prior to felling.

Policy ENV 12 clearly applies to trees planted under the Tree Replanting Notice and the Council Officer was correct to assess the impacts of the proposed development on these trees as they grow to maturity.

### **Evidence that the Proposed Development is likely to have a damaging impact on a tree or trees protected by the TPO.**

Policy Env 12 requires an application to be refused where it is likely to damage protected trees.

There is clear evidence that the proposed development is likely to have a damaging impact on the protected trees. The evidence is:

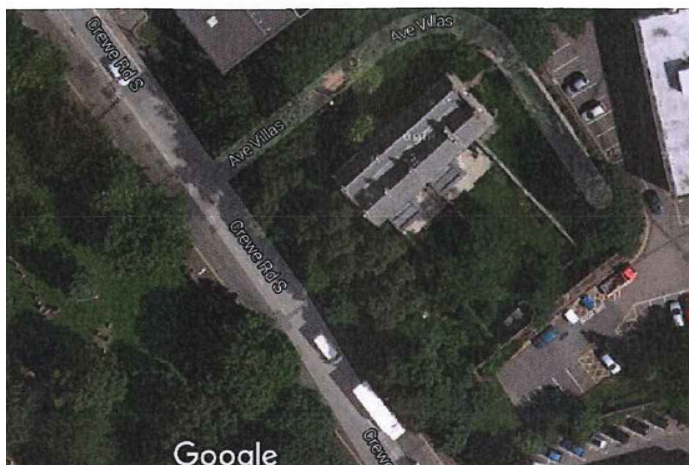
1. Expert Report of Julian Morris of Professional Tree Services<sup>1</sup>

We attach in the paper apart, an expert report by Julian Morris which identifies fundamental flaws in the Applicant's tree Report and concludes that the proposed development will damage the trees protected by the TPO including those trees replanted under the Tree Replanting Notice. We adopt this report in its entirety. We are in full agreement with his conclusion that:

*"In my professional opinion I believe that the Council were fully justified in concluding that the location of the proposed extension would adversely impact on the long-term growth of the replacement trees planted pursuant to the Tree Replacement Notice and would undermine the long-term purpose of the TPO to protect the amenity of the area. In addition, the inadequacies of the tree report mean that the trees have not been correctly assessed or protected."*

2. Common Sense with reference to the image of the woodland when mature.

Below is a picture from Google images taken before the Applicant damaged and felled 13 of the protected trees in the woodland. It also evidences how the site should look again if the trees are allowed to reach maturity.



This clearly evidences that a development of the size proposed cannot sit in the woodland without inevitable damage to the trees protected by the TPO. There is plainly not enough space.

3. The Applicant's own reports to the Council

The Applicant has for many years been applying, unsuccessfully, initially to build a new house and thereafter to build a large extension on the TPO site. In one of the applications referenced in the current application<sup>2</sup>, it was stated by the Applicant's own architect that:

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<sup>1</sup> Dated 10 October 2022

<sup>2</sup> 20/03559/FUL

*“It is acknowledged that most of the recently planted trees will be required to be re-positioned, not only to allow for future growth of the trees above ground but also to mitigate below ground damage to the new extension structure as a result of incremental root and stem growth.”<sup>3</sup>*

Just because the acknowledgement is not repeated in the current application, does not mean that the facts acknowledged are no longer true. This is a candid and fair acknowledgment that **most** of the replanted trees will be damaged both above ground and below ground. Whilst the current application is slightly different in design, the important facts about tree damage and need for growth remain unchanged.

#### 4. The Applicant’s own appeal to the Scottish Ministers

Eleven of the trees subject to the TPO were damaged by the Applicant such that Council required to provide permission to fell them – but specifically required that replacement trees be replanted. When the Applicant failed or refused to replant, he was subject to a Tree Replacement Notice requiring that all 11 trees were replanted, as well as a further 2 trees which he had felled without permission. The Applicant appealed that Tree Replacement Notice to the Scottish Ministers.

The whole basis of that appeal was that the entire site subject to the TPO was too small to accommodate 13 replacement trees without damage to the current listed building. It is absurd now for the Applicant to suggest that the site is large enough to support the 13 trees which were ultimately replanted (some of which required to be replanted by the Council) – as well as the very considerable proposed development.

The Applicant’s own expert arborologist<sup>4</sup> also produced a report stating that BS5837:2012 does “not readily support tree planning on this plot”. They go on to say that:

*“It is unlikely that any tree species that meets the criteria of the NHBC guidance will reach a mature stature that even begins to resemble that afforded by the trees that were removed. Furthermore any new planting are likely to give rise to a similar situation where there is a very real potential for structural damage to the existing adjacent structure leading to requests in the future for tree removal or modification through pruning.”*

It is not tenable now to suggest that these statements of the Applicant’s own expert can be compatible with the conclusion that the large proposed development can be built on the same plot without damage to the protected trees.

#### **The Applicant’s Evidence that the Trees will be Protected**

The Applicant relies on only one piece of evidence that the proposed development will protect the trees subject to the TPO. This is the Hinshellwood report. Yet astonishingly, Hinshellwood expressly states that he was **not aware of the existence of the TPO**. Not knowing of the TPO, unsurprisingly,

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<sup>3</sup> Paragraphs 5.22 and 5.23

<sup>4</sup> Arboretum International report dated 23 February 2016

the report makes no assessment of the impact of the proposed development on all the trees subject to the TPO.

Fundamentally, the tree expert instructed by the Applicant was not made aware that the 13 Trees which were replanted under the Tree Replanting Notice are statutorily protected under the TPO and therefore no assessment has been undertaken.

Little or no weight can therefore be placed on the Hinshellwood report and we invite the LRB to accept the position of the Council Officer and that of Mr Morris both of whom were aware of the TPO and the trees having been replanted under a Tree Replacement Notice – and both of whom concluded that proposed development would be likely to damage those protected trees.

### **Other Planning Policy**

The Applicant in part bases his case on Scottish Planning Policy (“SPP”) and Edinburgh Design Guidance (2020).

The Applicant or his agent appears to have misunderstood SPP and Scottish Ministers’ approach to the policy protection given to important trees. One of the policy principles of SPP states:-

*“Policy Principles*

*“194. The planning system should:*

*“protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value”*

*Edinburgh Design Guidance (2020)-*

*“Woodland 216. Ancient semi-natural woodland is an irreplaceable resource and, along with other woodlands, hedgerows and individual trees, especially veteran trees of high nature conservation and landscape value, should be protected from adverse impacts resulting from development. Tree Preservation Orders can be used to protect individual trees and groups of trees considered important for amenity or their cultural or historic interest.”*

The Application and the proposed development runs counter to this policy and guidance.

Surprisingly the Applicant’s agent refers to this to buttress his arguments in favour of the proposed development. This policy/guidance document adopted by the Council for development management purposes provides particular protection for important trees across many paragraphs. At chapter 3.5 it states

*“Trees and woodlands are important for the quality and character of the landscape, the townscape, biodiversity, cultural heritage, ecosystem services and our sense of well-being. Protection of trees and woodland within new development can give a sense of maturity and raise the overall quality of the setting of buildings whilst contributing to green/blue networks. Where trees are damaged and then decline or where inappropriate design leads to conflict, these positive benefits are lost.”*

Despite the design merits that the Applicant and his agent apparently see in the proposed development it is contrary to Edinburgh Design Guidance (2020) as it does not protect the trees subject to the TPO.

**Should the Applicant now benefit from having previously damaged and felled protected trees without permission?**

The Applicant has previously:-

- Damaged trees subject to the TPO which resulted in eleven previously healthy, mature trees requiring felling and felled two further healthy mature trees which were subject to the TPO without any authority. All the felled trees were in the way of the area on which he wished to build either a new house or a large extension.
- Failed to replant felled trees, even when served with a Tree Replacement Notice compelling that he do so.
- Appealed the Tree Replacement Notice to the Scottish Ministers. The appointed Reporter rejected his appeal;
- Continued to fail to replant trees, resulting in the Council having to arrange directly the required replanting on the TPO site;
- Disingenuously instructed a tree expert to issue a report for the purpose of this Planning Application (being one of a number of different experts over a series of withdrawn or refused applications) without notifying the expert that a TPO was in existence, nor highlighting that the 13 trees had been replanted subject to the Tree Replacement Notice.
- Failed to lodge the tree expert report in the original planning application prior to the last date for Oppositions to the Application – meaning that the opposing parties (including our Clients) had no opportunity to comment on it and indeed the first sight our Clients had of this document was when the Application for a Review was notified.

For the avoidance of doubt, if a tree protected by a TPO and is felled, then a replacement tree is planted in its stead pursuant to a Tree Replacement Notice, the replacement tree is afforded the exact same protection as the original tree. Otherwise TPOs would serve no purpose at all. Thus, in this case, the replacement trees must and do enjoy the exact same protection as the trees which they replaced.

The Applicant has acted in a manner which shows a contempt for the protections which a TPO is intended to provide. Had he not carried out these unlawful acts, the site would still be covered in the mature healthy trees seen in the Google image above. There would be no argument that a development of the size proposed could be built there whilst respecting the TPO. The applicant should not be permitted to rely on his own unlawful damage to and felling of protected trees and duplicitous conduct to claim now that the trees are young and therefore not worthy of protection.

If the LRB were to endorse this approach, it would be tantamount to accepting that any TPO can be circumvented simply by unlawfully damaging and felling trees, then instructing an expert not to consider the trees or the TPO to justify building on a protected site.

## Conclusion

We therefore respectfully invite the LRB to refuse the Application for the Review and refuse planning permission as the planning application is contrary to Local Development Plan Policy ENV 12 Trees.

[REDACTED]

[REDACTED]

[REDACTED] McKie

Accredited Specialist in Planning Law

Legal Associate of the Royal Town Planning Institute

Partner

Anderson Strathern

This is the Paper Apart referred to in the letter dated 11 October 2022 issued by Anderson Strathern.

## **Index**

1. Expert Report of Julian Morris of Professional Tree Services dated 10 October 2022
2. Policy Env 12
3. Tree Preservation Order No 157

**1.**





Anderson Strathern – Alistair McKie  
1 Rutland Court  
Edinburgh  
EH3 8EY



By email ([Alastair.McKie@andersonstrathern.co.uk](mailto:Alastair.McKie@andersonstrathern.co.uk)) and post

10<sup>th</sup> October 2022



Dear Sir, and to whom it may concern



TREES AT AVENUE VILLAS, EDINBURGH

I refer to your request for observations on the likely effect of proposed development of an extension to the property at 1 Avenue Villas on trees within the curtilage of the property.



I set out my qualifications and experience in an undernote to this letter.

The proposed development would comprise a basement and ground floor wrap-around at the south west corner of the building. It was the subject of detailed planning application 22/02322/FUL which I am advised has been refused and is subject to appeal to the City of Edinburgh Council's Local Review Body. The Council's reason for refusal given was that *"The proposal is contrary to the [City of Edinburgh Council] Local Development Plan Policy Env 12 in respect of Trees, as the location of the extension would impact on the long-term growth of replacement trees."*



In my professional opinion I believe that the Council were fully justified in concluding that the location of the proposed extension would adversely impact on the long-term growth of the replacement trees planted pursuant to the Tree Replacement Notice and would undermine the long-term purpose of the TPO to protect the amenity of the area. In addition, the inadequacies of the tree report mean that the trees have not been correctly assessed or protected.



**The appeal**



The Statement of Appeal by Cundall for the applicant contends that *"... the Reason for Refusal is unreasonable, not substantiated by planning policy and that the application already allows for full tree protection on the site."* It adds later that *"The issue of difference therefore revolves around the protection of a group of very young TPO Trees and whether they are adequately protected by the proposed works."* The agent supposes that an



arboricultural report (“the Hinshelwood report”) submitted with the application demonstrates no adverse impact on the trees by the development.

### **The context**

The site includes relatively young trees planted recently as replacements for protected (Tree Preservation Order) trees which I am told had been damaged by the site owner and had then been removed with the permission of the Council on condition that replacements were provided. It follows that the replacement trees are now protected by the Order.

Also as I understand it, the site owner then appealed against the replanting condition on the basis that “*the species and size of trees cannot be delivered due to the significant engineering costs involved to protect both the future trees and existing structures...*” The application was refused.

Because the site owner would not plant the replacement trees, the Council served a Tree Replacement Notice, against which the owner appealed. In dismissing the appeal the Reporter appointed by the Scottish Ministers concluded that “*there is adequate space to accommodate the number of trees specified on the enforcement notice and the choice of species is appropriate to remedy the harm to amenity.*”

I have visited the location in early October 2022 and (without permission to go on the site) I have observed the existing trees from surrounding positions.

My key sources of information are the Tree Preservation Order (2006) (“TPO”) covering the garden area, the committee report gaining approval to confirm the Order, a Design Statement by David Blaikie Architects supporting the application and a tree survey report (the Hinshelwood report) in May 2022 by Hinshelwood Arboricultural Consultants. I have also seen Google Streetview and aerial pictures of the site before and after the removal of trees several years ago. Finally I have a copy of the Report of Handling by the Council officials which recommended refusal of the planning application.

### **The trees**

The TPO lists one individual Sycamore (which is far from the development proposal and is not affected) and a group of 17 birch, 1 beech, 1 sycamore, 1 lime and 1 laburnum. The plan annexed to the TPO shows the group covering all of the west garden area. Aerial photographs and Streetview photographs from several years ago show continuous canopy cover across the whole west garden area.

Of these, the north half have subsequently been removed. Following a Tree Replacement Notice by the Council these have been replaced a few years ago. Although exact sizes and positions are not known, the position of the trees is fairly represented in the planning application plans.

## The Hinshelwood report

The Hinshelwood report states variously that it is a record of the trees present and the constraints they would present to any development, and then that it is an Arboricultural Impact Assessment assessing the effect of the specific design on the trees and recommending protection measures. All these aspects are clearly defined in the relevant British Standard BS5837 which is considered industry best practice and is used throughout the UK to assess the tree aspects of planning application.

The report records only 6 trees that needed to be assessed in terms of proximity to the proposed development. It specifically says that no check was done for Conservation Area or TPO designations. It suggests that it is essential that the Council be contacted about any development-associated tree works not being approved by a planning permission.

I think it reasonable to say that had the consultant known of the TPO he would have made mention of the potential implications, and this might have resulted in the trees being properly recorded, assessed and protected. However, as it stands they have not been. Even so, to comply with BS5837 the survey should have recorded and assessed all trees on the application site and on surrounding land. The Council's current policy is that all trees on and within 15 metres of any planning application site should be recorded and assessed.

The following aspects of the Hinshelwood report are noted –

- a. No TPO check was undertaken
- b. There is no record of the smaller TPO'd replacement trees. Accordingly no protection (against, in particular, damage from construction activity) for these is mentioned.
- c. Several birch are recorded which by virtue of size and age class are presumably some of the originally TPO'd trees.
- d. Of these, 2 are close to the development, numbered 5755 and 5756.
- e. Their mapping position is based on a topographic survey provided by the architect, and I have no reason to suppose that this is wrong.
- f. The two trees are birch and are recorded as Mature and having stem diameters of 280-300mm and heights of 10m. No defects are recorded.
- g. They have been categorised as Category C, with a life expectancy of "10+ years".
- h. Unfortunately "10+" is not a classification that is recognised in BS5837, and so it is not known what life expectancy was assessed. The available choices are <10, 10-20, 20-40 or 40+ years.
- i. Based on my recent observations, in my opinion these trees have an Estimated Remaining Contribution of 20-40 years and a categorisation of Category B. However, as the categorisation as C has not been used to propose or justify removal of the trees, this may be of little consequence.

- j. The development would extend into the root protection area of one tree by a distance of about 0.6m, bringing the building within 0.5m of the current crown spread. No allowance has been made for inevitable construction access around the proposed building for foundations, vehicles, scaffolding etc.
- k. The report estimates an encroachment into the Root Protection Area of 8%. The report erroneously states that BS5837 allows up to 20% encroachment, it certainly does not.
- l. BS5837 is clear that an Arboricultural Impact Assessment should include a Tree Protection Plan clearly showing Construction Exclusion Zones.
- m. The report states that it includes a Tree Protection Plan showing Construction Exclusion Zones, but I see no such plan. If such a plan exists, it presumably would offset the Construction Exclusion Zone a practical distance from the face of the proposed building, meaning further encroachment into the Root protection Areas.

### **The Design Statement**

This mentions trees only insofar as mentioning that the building will be cantilevered over tree roots. However, since this would deprive the roots of any further rainfall, any roots under the cantilever would die. The effect of the development must therefore be assessed with regard to the building perimeter, plus any practical working width and all access routes and contractor's working areas.

### **The replacement trees**

I do not have any information as to their size, but the Council and the appellant's agent noted them to be birch and rowan. The various plans indicate the position of some small trees within the garden and, based on my recent visit, these are the replacement trees.

Various sources exist as to mature tree sizes. For example Hillier Trees, one of the UK's leading tree suppliers, has published figures for mature height of many tree species. Birch height will be 15 to 20m, Rowan will be 10 to 15m.

Spon's guide 1995 (Gruffydd) indicates appropriate spacings of 7 metres, which accords with my own experience of mature birch and rowan spreads of c. 5-6 metres radius.

I have no definitive list of mature stem diameters, but I regularly see mature Birch and Rowan at diameters of 400mm.

### **Future growth**

To assess the future rooting requirements of the trees, an important distinction needs to be made between Root Protection Areas (defined as "the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability") and the larger rooting area which also contains smaller roots gathering water and nutrients for future growth. The Root Protection Area is based on current size, but to assess the future

requirements of a tree to allow it to reach viable maturity it is appropriate to use not just the forecast RPA of the mature stem size but also the full mature rooting area.

In *Trees, Their Natural History* (Thomas 2009) it is stated that "In temperate trees the total spread away from the trunk is usually 2-3 times the radius of the canopy". In *Tree Roots in the Built Environment* (Roberts et al 2006) it is said that "the horizontal extent of tree roots substantially exceeds the perimeter or 'dripline' of the crown."

Taking all these factors into account and applying the assumed mature size dimensions, a freestanding replacement tree can be expected to require a rooting area radius of around 12 metres each. The equivalent circle area would be 450m<sup>2</sup> per tree.

Growing in fairly close proximity they can expect through natural competition to grow to their full height potential. In most cases their crowns can be expected to coalesce, as had been the case with the trees on site prior to 2016. It appears inevitable that the rooting areas will also coalesce and the trees will compete for underground resources. The core Root Protection Area and individual crown area of each tree of 80m<sup>2</sup> is required for viable mature size.

It can be foreseen that at least the 3 nearest trees will extend their core Root Protection Area and much larger rooting area eastwards into the area where the extension is proposed. It can also be expected that the crowns of those trees will occupy the airspace where the extension is proposed.

If the extension was built soon, the immediate impact on the trees would be negligible (subject to adequate physical protection during construction), but within a decade the roots of the trees would reach the extension area. From that time forward the roots would be deflected into the rooting area of other trees. This would reduce the rate of growth of the trees because the trees would be competing for less resources.

The trees would also by this stage be touching the buildings with their branches, and there would be considerable pressure from occupants (for daylighting and views) to reduce or remove them.

## **Conclusions**

Based on the assumptions I have had to make, I find that the Hinshelwood report does not show any tree protection and relies on an erroneous understanding of the British Standard to sanction a significant encroachment into the root protection area of at least one TPOd trees. Allowing for working widths around the proposed buildings, the encroachment would in reality be much greater.

Through the exclusion of rainwater, the architect's proposal to cantilever the building to protect roots will not have the desired effect. It is also foreseeable that the tree crowns will grow to be close to or touching the building, leading to pressure for removal or reduction.

Despite the Cundall statement, no protection is proposed for the TPOd replacement trees.

Through competition for growing resources in the reduced garden area, the extension will inevitably restrict the growth of the TPOd replacement trees and create significant pressure

for their removal or reduction. Both will result in some postponement, reduction or loss of tree amenity for the area. Therefore, to a material degree, the Council's assertion that the purposes of the TPO will be frustrated by allowing the development is in my opinion true.

The materiality of that 'degree' might be equated roughly to the proportion of tree growth resources that would be lost to the footprint of the proposed building (c.70m<sup>2</sup>), relative to the area of the west garden area available for growth of the replacement trees (c.320m<sup>2</sup>). The loss would then be of the order of 21%.

This would manifest itself in one more of the following (i) tree losses due to inadequate growth resources (ii) smaller trees (iii) slower establishment (iv) lower quality trees and tree amenity (v) shorter life expectancy.

The agent's assertions that the trees will be adequately protected is incorrect, since the impact on some trees has been incorrectly assessed and on others not assessed at all. The appellant's argument that the replacement trees will survive the development cannot be equated to them being unaffected in the longer term.

In my professional opinion I believe that the Council were fully justified in concluding that the location of the proposed extension would adversely impact on the long-term growth of the replacement trees planted pursuant to the Tree Replacement Notice and would undermine the long-term purpose of the TPO to protect the amenity of the area. In addition, the inadequacies of the tree report mean that the trees have not been correctly assessed or protected.

Yours faithfully

A black rectangular redaction box covers the signature area. A blue ink scribble is visible above the box, and a blue line extends from the left side of the box.

Julian Morris

#### Undernote – qualifications and experience

I am a professionally qualified arboriculturist holding a Bachelor of Science Degree, the Arboricultural Association Technicians Certificate, the LANTRA Professional Tree Inspectors Certificate, current Quantified Tree Risk Assessment (QTRA) registration, Certificate of Public Sector Administration and a Diploma in Surveying. I am also qualified and experienced tree surgeon with a good working knowledge of trees, tree work and the procedures and costs involved therein.

In addition I have developed considerable expertise and experience in the assessment of the daylighting implications of trees and hedges on ground and buildings in accordance with BS8206-2 and BS EN 13037, including the application of BRE Site Layout Planning for Daylight and Sunlight to situations, particularly development sites and High Hedge (Scotland) Act cases and appeals.

Julian A Morris B Sc, Dip Surv, Cert Pub Sect Man, Tech Cert Arb, PTI  
Professional Tree Services

A wide range of recent and current clients include for several Scottish local authorities and Housing Associations, public bodies, national and local housebuilders, architects, planning consultants, developers, churches and private individuals. I undertake about 100 surveys and reports every year for public and private clients on trees in relation to development. As a former land surveyor and chartered surveyor (MRICS) I have a wealth of experience in land and building surveys, property law, valuation of properties including trees, and practical and theoretical aspects of property development work. Publications include on tree daylighting and tree valuation. I act as an expert and forensic witness.

As an Associate member of the Institute of Chartered Foresters I am bound by its Code of Conduct. I am a member of the Arboricultural Association I am bound by its Code of Professional Conduct.

### **RECENT MAIN CLIENT LIST (2019-2022)**

Avant homes, Barratt Homes, Bellway, Balfour Beatty Homes, Westpoint, Miller (East), Miller (West), Dawn Homes, Persimmon Homes, South Lanarkshire Council, Falkirk Council, City of Edinburgh Council, Dundee City Council, Loch Lomond and Trossachs National Park, Argyll and Bute Council, Perth & Kinross Council, Southside Housing Association, McTaggart Construction, Abbey Construction, Advance Construction, Harrison Developments, Geddes Consulting, Gavia Environmental, Brindley Associates, Alan Motion Tree Consulting, Langton Tree Specialists, Donald Rodger Associates, EMA Architects, Smith Scott Mullan, DTA Architects, Fouin and Bell, Scottish Wildlife Trust, Polmont Green Action Trust, Crown Estates, Drummond Estates, Woolgar Hunter, Scottish Enterprise, West Lothian Council, Barton Willmore, Ross & Liddell, James Gibb, Lorimer & Stevenson, Robertson Living, Swan Group, Vanguard Health Care, Bidwells, Rankin Fraser, Story Contracting, Wood Leisure, ECDA Architects, Thomas & Adamson, Vanguard Health Care, C-URB Property Maintenance, Edinburgh Construction, Link Housing Association, Taylor Wimpey, Stantec, Kier Construction, Renfrewshire Council, Ironside Farrar

2.



## Part Apart

### ***“Protection of Trees Policy Env 12 - Trees***

*Development will not be permitted if likely to have a damaging impact on a tree or trees protected by a Tree Preservation Order or other trees worthy of retention on or around a proposed development site, unless necessary for good arboricultural reasons. Where such consent is granted, replacement planting will be required to offset the loss to amenity.*

*The Council has placed Tree Preservation Orders on a large number of trees where they make a positive contribution to the character of the urban or rural environment, particularly where trees are threatened by development proposals.”*

3.

Edinburgh, 27 March 2007

This and the following seventeen typewritten pages certified a true copy of The City of Edinburgh Tree Preservation Order No.1 2006 (Avenue Villas, Edinburgh) and the three Schedules thereof

157  
[REDACTED]  
Solicitor, Edinburgh

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

### THE CITY OF EDINBURGH TREE PRESERVATION ORDER No.1. 2006 (AVENUE VILLAS, EDINBURGH)

The City of Edinburgh Council, in this Order referred to as "the planning authority", in exercise of the powers conferred on them by sections 160 and 163 of the Town and Country Planning (Scotland) Act 1997 (hereinafter referred to as "the Act") and of all other powers enabling them in that behalf and subject to the provisions of the Forestry Act 1967, hereby make the following Order:-

#### CITATION, COMMENCEMENT AND INTERPRETATION.

1. (1) This Order may be cited as The City of Edinburgh Tree Preservation Order No.1. 2006 (Avenue Villas, Edinburgh) and shall come into effect on the date specified in Article 15 to this Order.
- (2) The Interpretation Act 1978 shall apply for the Interpretation of this Order as it applies for the interpretation of an Act of Parliament.

#### PROHIBITION AGAINST FELLING, ETC. WITHOUT CONSENT.

2. Subject to the provisions of this Order and the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the planning authority, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting or wilful damage or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland specified therein, the position of which trees, groups of trees and woodlands to which this Order relates is defined in the manner indicated in the said First Schedule on the map annexed and signed as relative hereto, which map shall for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule.

## APPLICATION FOR CONSENT

3. An application for consent made to the planning authority under Article 2 of this Order shall be in writing and shall specify -
  - (i) the tree or trees to which the application relates;
  - (ii) the reasons for making the application;
  - (iii) the operations for the carrying out of which consent is required;and shall where necessary for the identification of such tree or trees be accompanied by a map or plan of a size or on a scale sufficient for the purpose.
4. If it is desired to fell any of the trees included in this Order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made - not to the planning authority for consent under this Order but to the Conservator of Forests for a licence under Section 15 (5) of that Act.
5. (1) Where an application for consent is made to the planning authority under this Order the planning authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof) as the planning authority may think fit, or may refuse consent: Provided that where the application relates to any woodland specified in the First Schedule to this Order the planning authority shall grant consent so far as it accords with the principles of good forestry, except where, in the opinion of the planning authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area and shall not impose conditions on such consent requiring replacement or replanting.

- (2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of such applications, the decisions of the planning authority thereon, any compensation awarded in consequence of such decisions and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.
6. Where the planning authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied:
- (a) that the refusal or condition is in the interests of good forestry; or
  - (b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.
7. (1) Where consent is granted under this Order to fell any part of a woodland other than consent for silvicultural thinning then unless
- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with permission to develop land under Part III of the Act, or
  - (b) the planning authority, with the approval of Scottish Ministers, dispense with replanting the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where a direction is given and the part is felled the owner shall, subject to the provisions of this Order and Section 166 of the Act, replant the said land in accordance with the direction.
- (2) Any direction given under paragraph (1) of this Article may include requirements as to

- (a) species;
  - (b) number of trees per acre;
  - (c) the erection and maintenance of fencing necessary for the protection of the replanting;
  - (d) the preparation of ground, draining, removal of brushwood, lop and top; and
  - (e) protective measures against fire;
- (3) If any question arises between the planning authority and the said owner of the land as to whether any such direction is reasonable having regard to the particular circumstances of the case or to any other material considerations, the question shall, on the application of either party, be determined by Scottish Ministers, whose decision shall be final.

#### ADAPTATION AND MODIFICATION OF ACT.

8. The provisions set out in the Third Schedule to this Order, being provisions of the Act adapted and modified for the purposes of this Order, shall apply in relation hereto.

#### COMPENSATION

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the planning authority within the time and in the manner prescribed by this Order, be entitled to recover from the planning authority compensation in respect of such loss or damage.

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any tree or trees the subject of a certificate in accordance with Article 6 of this Order.

10. In assessing compensation payable under the last preceding paragraph account shall be taken of:-
  - (a) Any compensation or contribution which has been paid whether to the claimant or any other person in respect of the same trees or woodland areas under the terms of this or any other Tree Preservation Order under Section 160 of the Act, or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) (Scotland) Act 1943 or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodland contained in an operative scheme under the Town and Country Planning (Scotland) Act 1932; and
  - (b) Any injurious affection to any land of the owner which would result from the felling of the trees or woodlands the subject of the claim.
11.
  - (1) A claim for compensation under this Order shall be made by serving on the planning authority a notice in writing stating the grounds of the claim and the amount claimed.
  - (2) The time within which any such claim shall be made as aforesaid shall be a period of six months from the date of the decision of the planning authority or of Scottish Ministers as the case may be, or where an appeal has been made to Scottish Ministers against the decision of the planning authority, from the date of the decision of Scottish Ministers on the appeal.
12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 165(2) and (3) of the Act.


OFFENCES AND PENALTIES, ETC.

13. Under the provisions of Section 171 of the Act any person who in contravention of this Order cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20,000; or on conviction on indictment to an unlimited fine. Other contraventions of this Order carry with them on summary conviction a fine not exceeding level 4 on the standard scale.
14. (1) If a tree other than one which is part of a woodland is removed, uprooted or destroyed in contravention of this Order, or is removed, uprooted or destroyed or dies at a time when its felling is authorised only by virtue of the provisions of Section 160 (6) (a) of the Act relating to uprooting or felling where urgently necessary in the interests of safety, it shall be the duty of the owner of the land, unless on his application the planning authority dispense with this requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can.
- (2) In relation to any tree planted pursuant to paragraph (1) above, this Order shall apply as it applied to the original tree.
- (3) If it appears to the planning authority that the provision in paragraph (1) above has not been complied with in the case of any tree or trees, they may, at any time within two years from the date on which failure to comply with this provision came to their knowledge, serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified, and the provisions of Section 168 of the Act shall apply in any such case.



PROVISIONAL TREE PRESERVATION ORDERS.

15. The provisions of Section 163 (2) of the Act (which makes provision for a tree preservation order to take effect immediately without previous confirmation by the planning authority) shall apply to this Order and the Order shall take effect on the Sixth day of October Two Thousand and Six: IN WITNESS WHEREOF these presents typewritten on this and the six preceding pages together with the three schedules and map annexed hereto are subscribed for and on behalf of the said The City of Edinburgh Council by Craig Brodie Adamson, one of the proper officers of the said The City of Edinburgh Council at Edinburgh on the Third day of October Two Thousand and Six witnessed by Emma Dewar, of City Chambers, High Street, Edinburgh.

 WITNESS

  
  
Proper Officer

FIRST SCHEDULE

Trees specified individually (coloured green on the map)

| <u>No. on Map</u> | <u>Description</u> | <u>Situation</u>   |
|-------------------|--------------------|--|
| T1                | Sycamore           | Located in the grounds of 1, 2 and 3 Avenue Villas, Edinburgh, being the subjects registered in the Land Register of Scotland under Title Number MID92091. |

Trees Specified by Reference to an Area (within a continuous black line on the map).

None.

Group of Trees (within a broken black line on the said map)

| <u>No. on Map</u> | <u>Description</u>   | <u>Situation</u>   |
|-------------------|--|--|
| G1                | Group consisting of seventeen birch, one beech, one sycamore, one lime and one laburnum. | Located in the grounds of 1, 2 and 3 Avenue Villas, Edinburgh, being the subjects registered in the Land Register of Scotland under Title Number MID92091. |

Woodlands (within a continuous red line on the map)

None

This is the First Schedule of The City of Edinburgh Tree Preservation Order No.1. 2006 (Avenue Villas, Edinburgh).

  
[Redacted Signature]  
Proper Officer

## SECOND SCHEDULE

This Order shall not apply so as to require the consent of the planning authority to -

- (1) the cutting down of any tree on land which is subject to a forestry dedication agreement where:-
  - (a) any positive agreements on the part of the owner of the land contained in the same deed as the forestry dedication agreement and at the time of the cutting down binding on the then owner of the land are fulfilled;
  - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under Section 4 of the Forestry Act 1967.
- (3) the uprooting, felling or lopping of any tree if such uprooting, felling or lopping is urgently necessary in the interests of safety, or is necessary for the prevention or abatement of a nuisance, so long as notice in writing of the proposed operations is given to the planning authority as soon as may be after the necessity for the operation arises, or if such uprooting, felling or lopping is carried out in compliance with any obligation imposed by or under any Act of Parliament. \*(NOTE: Section 167 (1) of the Act requires, unless on the application of the owner the planning authority dispense with the requirement, that any tree removed or destroyed under Section 160 (6) (a) of the Act shall be replaced by another tree of appropriate size and species. In order to enable the planning authority to decide whether or not to dispense with the requirement, notice of the proposed action should be given to the planning authority which except in the case of emergency should be of not less than 5 days.)

- (4) the uprooting, felling or lopping of a tree:-
- (a) in pursuance of the powers conferred on the Post Office by virtue of Section 5 of the Telegraph (Construction) Act 1908 and Section 21 of the Post Office Act 1969, or by or at the request of the Post Office where the land on which the tree is situated is operational land as defined by the Post Office Operational Land Regulations 1973 and either works on such land cannot otherwise be carried out or the uprooting, felling or lopping is for the purpose of securing safety in the operation of the undertaking;
  - (b) by or at the request of (i) a statutory undertaker or holder of a licence under Section 6 (1) of the Electricity Act 1989 where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the uprooting, felling or lopping is for the purpose of securing safety in the operation of the undertaking: (ii) a licence holder within the meaning of Part I of the Electricity Act 1989 where such a tree obstructs the construction by the licence holder of any electric line within the meaning of Part I of the said Act of 1989, or interferes or would interfere with the maintenance or working of any such line: (iii) the Secretary of State for Defence, the Secretary of State for Trade or the Civil Aviation Authority where in the opinion of such Secretary of State or Authority the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;

- (c) where immediately required for the purpose of carrying out development authorised by a planning permission granted on an application made under Part III of the Act, or deemed to have been granted for any of the purposes of that part.

This is the Second Schedule of The City of Edinburgh Tree Preservation Order No.1. 2006  
(Avenue Villas, Edinburgh).

  
  
Proper Officer

### THIRD SCHEDULE

(1) Provisions of the Act as adopted and modified to apply to this Order

#### PROVISIONS AS TO EFFECT OF CONSENT UNDER THE ORDER:-

44. (1) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the planning authority on the granting of such consent, shall (except in so far as the consent otherwise provides), enure for the benefit of the land and of all persons for the time-being interested therein.

#### REFERENCE OF APPLICATIONS TO SCOTTISH MINISTERS

46. (1) Scottish Ministers may give directions to the planning authority requiring applications for consent under the Order to be referred to them instead of being dealt with by the planning authority.
46. (2)(b) A direction under this Section may relate either to a particular application or to applications of a class specified in the direction.
46. (3) Any application in respect of which a direction under this Section has effect shall be referred to Scottish Ministers accordingly.
46. (4) Where an application for consent under the Order is referred to Scottish Ministers under this section, the provisions of Articles 5 and 6 of the Order shall apply as they apply to an application for such consent which falls to be determined by the planning authority
46. (5) Before determining an application referred to them under this Section Scottish Ministers shall, if either the applicant or the planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by Scottish Ministers for the purpose.

- (6) The decision of Scottish Ministers on any application referred to them under this Section shall be final.

APPEALS AGAINST REFUSAL OF CONSENT OR CONDITIONAL CONSENT:-

47. (1) Where an application is made to the planning authority for consent under the Order and that consent is refused by that planning authority, or is granted by them subject to conditions or where any certificate or direction is given by the planning authority, the applicant if he is aggrieved by their decision or by any such certificate or direction may by notice under this section appeal to Scottish Ministers.
47. (4) Any notice under this Section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as Scottish Ministers may allow.
48. (1) Where an appeal is brought under this Section from a decision, certificate or direction of the planning authority, Scottish Ministers, subject to the following provisions of this Section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the planning authority, whether the appeal relates to that part thereof or not or may cancel any certificate or cancel or vary any direction and may deal with the application as if it had been made to them in the first instance.
48. (3) Provided that where Scottish Ministers propose to reverse or vary any part of the decision of the planning authority to which the appeal does not relate, they shall give notice of their intention to the planning authority and to the applicant and shall afford to them an opportunity to make representations thereto.

48. (2) Before determining an appeal under this Section, Scottish Ministers shall, if either the applicant or the planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by Scottish Ministers for the purpose.
48. (6) The decision of Scottish Ministers on any appeal under this Section shall be final.

APPEAL IN DEFAULT OF DECISION ON APPLICATION FOR CONSENT:-

- 47 (2). Where an application for consent under the Order is made to the planning authority, then unless within two months from the date of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the planning authority, the planning authority either:-
- (a) give notice to the applicant of their decision on the application; or
  - (b) give notice to him that the application has been referred to Scottish Ministers in accordance with directions given under Section 46 above; the provisions of the last foregoing Section shall apply in relation to the application as if the consent to which it relates had been refused by the planning authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

POWER TO REVOKE OR MODIFY CONSENT UNDER THE ORDER:-

65. (1)(2) If it appears to the planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify any consent granted on an application made under Article 3 of the Order, they may (by



order) subject to the following provisions of this Section revoke or modify the consent to such extent as (having regard to those matters) they consider expedient.

66. (1) Except as provided in Section 67 of the Act, an order under this Section shall not take effect unless it is confirmed by Scottish Ministers; and Scottish Ministers may confirm any such order submitted to them either without modification or subject to such modifications as they consider expedient.
66. (2)-(5) Where the planning authority submit an order to Scottish Ministers for their confirmation under this Section they shall furnish Scottish Ministers with a statement of their reason for making the order and shall serve notice, together with a copy of the aforesaid statement on the owners, lessees and occupiers of the land affected and on any other person who in their opinion will be affected by the order; and if within such period as may be specified in that notice (being not less than twenty-eight days from the service thereof) any person on whom the notice is served so requires Scottish Ministers, before confirming the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by Scottish Ministers for the purpose.
65. (3)(4) The power conferred by this Section to revoke or modify consent may be exercised at any time before the operations for which consent has been given have been completed: Provided that revocation or modification of consent shall not affect so much of these operations as has been carried out before the date on which the order was confirmed as aforesaid.

UNOPPOSED REVOCATION OR MODIFICATION OF CONSENT:-

67. (1)(2) The following provisions shall have effect when the planning authority have made an order under Section 42 above revoking or modifying any consent granted on an application made under a Tree Preservation Order but have not submitted the Order to Scottish Ministers for confirmation by them, and

- (a) the owner, lessee and occupier of the land and all persons who in the planning authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order; and
- (b) it appears to the planning authority that no claim for compensation is likely to arise under Section 76 of the Act on account of the order.

67. (2)(4)(5) The planning authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify:-

- (a) the period (being not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to Scottish Ministers that they wish for an opportunity of appearing before, and being heard by, a person appointed by Scottish Ministers for the purpose; and
- (b) the period (not being less than fourteen days from the expiration of the period referred to in paragraph (a) of this subsection) at the expiration of which, if no such notice is given to Scottish Ministers, the order may take effect by virtue of this Section and without being confirmed by Scottish Ministers.

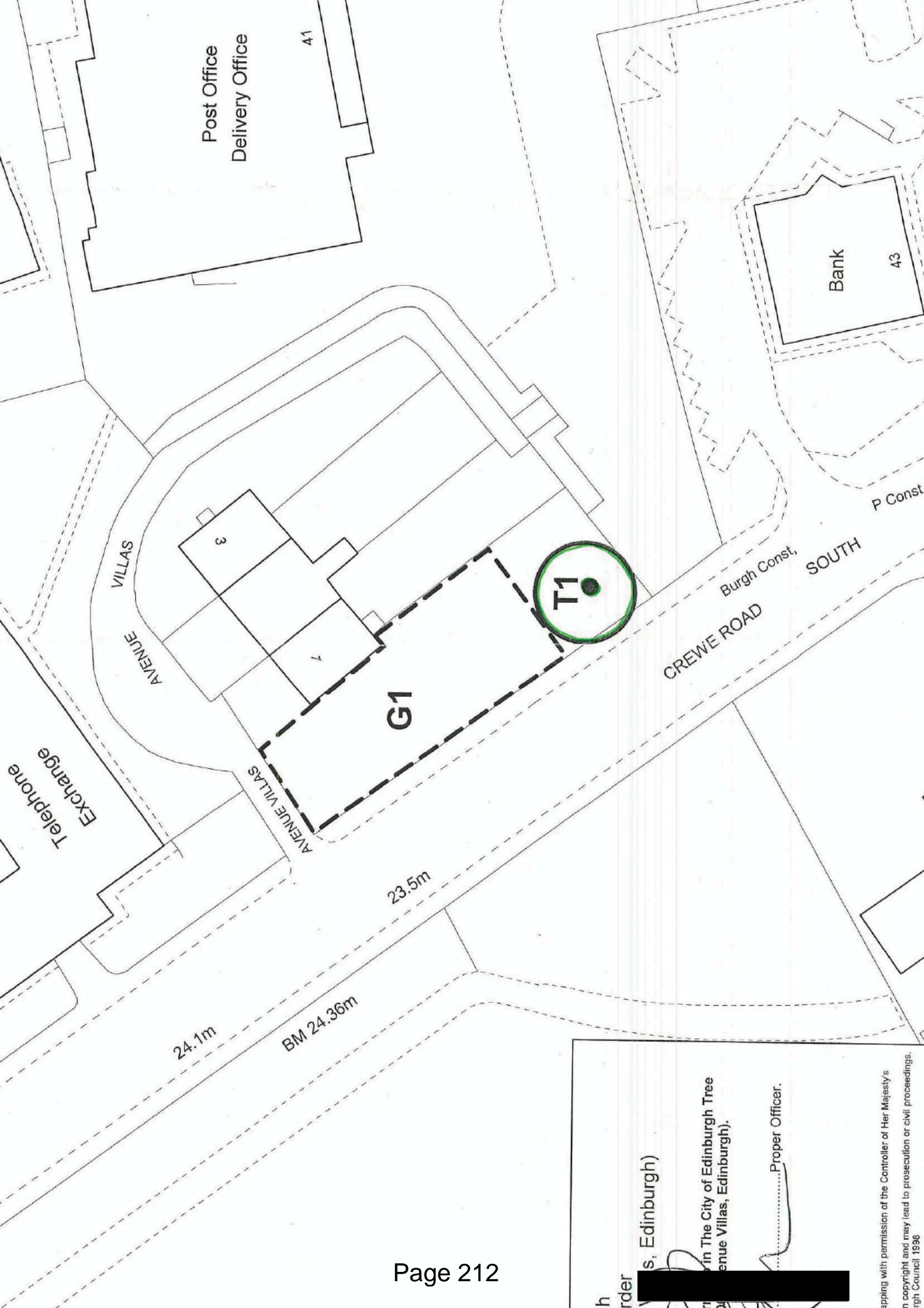
67. (3) The planning authority shall also serve notice to the same effect on the persons mentioned in subsection (a) above, and the notice shall include a statement to the effect that no compensation is payable under Section 76 of the Act in respect of an

order under Section 65 of the Act which takes effect by virtue of this Section and without being confirmed by Scottish Ministers.

67. (6) The planning authority shall send a copy of any advertisement published under subsection (2) above to Scottish Ministers not more than three days after the publication.
67. (7) If within the period referred to in subsection (a) above no person claiming to be affected by the order has given notice to Scottish Ministers as aforesaid, and Scottish Ministers have not directed that the order be submitted to them for confirmation, the order shall, at the expiration of the period referred to in subsection (b) above, take effect by virtue of this Section and without being confirmed by Scottish Ministers as required by Section 66(1) above.
67. (8) This Section does not apply to an order revoking or modifying a consent granted or deemed to have been granted by Scottish Ministers under Parts III or VI of the Act.

COMPENSATION WHERE CONSENT REVOKED OR MODIFIED:-

76. (1) Where consent is revoked or modified by an order under Section 65 above then if, on a claim made by the planning authority in writing within the period of six months from the date of the confirmation of the order by Scottish Ministers, it is shown that any person interested in the land:-
- (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or
- (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,
- the planning authority shall pay to that person compensation in respect of that expenditure, loss or damage.



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In The City of Edinburgh Tree  
venue Villas, Edinburgh).

.....Proper Officer.

apping with permission of the Controller of Her Majesty's  
n copyright and may lead to prosecution or civil proceedings.  
gh Council 1998

Anne Hally & Derek Peacock  
3 Avenue Villas  
Edinburgh  
EH4 2HU

By email :- [REDACTED] and post

**10/10/2022**

Dear Sir

Planning Application 22/02322/FUL (“Planning Application”)  
Application for a Review to the City of Edinburgh Council’s Local Review Body.

### **Summary**

We believe this attempt by the appellant’s planning application is failing to deliver the required level of compliance needed for an extension on a listed building along with the negative impact on a woodland subject to Tree Preservation Order No 157. As such the proposed development should be refused.

### **Reasons:-**

The applicant has for many years been applying, unsuccessfully, to initially build a stand alone house and more recently an extension which has changed in size and style to various degrees depending on the feedback from the Planning Department. We worry that a number of things have been overlooked and would like to draw them to your attention.

- We believe the site is too small for the proposed development. This is a listed building of three bedrooms which is to be turned into a house with 2 sitting rooms, a study, a plant room and a utility area (including a large basement area) as well as the existing 3 bedrooms. Is this size in keeping with the existing building? We believe it is the existing building which provides the scope to increase the size so does this set a precedent that large basement extensions are acceptable?
- In the last submission we were advised that a specialist flood report would be made available. As yet we have not seen any flood report and feel that this is a crucial piece of information given that this area has been known historically to be susceptible to flooding. Where is this report?
- Tree Preservation Order No 157 – when we moved into Avenue Villas there was a mature and thriving canopy of trees which gave coverage and protection enjoyed by 1, 2 and 3 Avenue Villas. You can see the woodland on the Google Maps print out. Many of the trees have subsequently been damaged and now replaced under an enforcement order but our concern is that these trees will not be retained and could

be harmed during a construction process of this scale or materially impact their growth. Given that a significant loss to the natural tree group on the site has already been undertaken with the damage to and then removal of some of the previous trees without permission we are concerned that the building works will be very close to the re-planted trees on the plans especially as a vast basement is proposed. It is clear from the Google map image that there is simply not enough room to accommodate the protected trees and the proposed development on the site. We understand that the TPO is intended to protect the trees from damage. Clearly to allow the proposed development to proceed will result in damage to some of the protected trees (if not all).

- Foundations – as the proposed works include large basement adjoining a listed building careful judgement is needed to ensure that construction works do not affect the existing buildings of the neighbouring properties. Could earthworks affect the structure of the existing building and the neighbouring properties? Again, we have seen nothing in the application to provide us with any comfort that structural damage is not a risk.
- The applicant has already failed to comply with a planning condition attached to a previous listed building consent concerning the creation of a new entry. In particular, the failure to comply with planning condition to put a sliding gate in place.
- In the previous Planning Application, we were told that an Arboriculture Impact Assessment and Tree Survey would be provided whilst I appreciate that it is not uncommon for additional surveys to be uploaded during the consultation process this report did not arrive in time. The first time we received sight of this report was when we were notified that the appeal had been made. Having now read the report, it is clear that it does not consider all the trees which are protected by the TPO
- The applicant has previously caused damage to the protected trees and failed to comply with an order to replant them. We don't think it is fair to allow the applicant to benefit from these wrongs in his current application.

For all of the above reasons, we consider that the original refusal of the proposed development should be upheld.

Yours faithfully

***Anne Hally & Derek Peacock***

Marc Meharry.  
22 Prestongrange Terrace  
Prestonpans  
EH32 9DG

Mr Gourley  
28 Lanark Road West  
Currie  
EH14 5JY

**Decision date: 4 August 2022**

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

Side extension to form new bedrooms /en-suites, front entrance extension plus new and replacement roof dormers and roof lights.  
At 28 Lanark Road West Currie EH14 5JY

**Application No:** 22/02038/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 14 April 2022, 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:-**

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 Annmaree Marwick directly at [annmaree.marwick@edinburgh.gov.uk](mailto:annmaree.marwick@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  
28 Lanark Road West, Currie, EH14 5JY**

**Proposal: Side extension to form new bedrooms /en-suites, front entrance extension plus new and replacement roof dormers and roof lights.**

**Item – Local Delegated Decision  
Application Number – 22/02038/FUL  
Ward – B02 - Pentland Hills**

## **Recommendation**

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

## **Summary**

## **SECTION A – Application Background**

### **Site Description**

The proposal relates to a detached one and a half storey dwellinghouse with a hipped roof. The property has an existing single storey extension on the rear elevation. The application site is located on the northern side of Lanark Road West and the surrounding area is largely residential.

### **Description Of The Proposal**

The proposal seeks to convert the upper floor to create additional living space whilst creating a gable roof form. The proposal includes a box dormer to the rear which wraps round to form a two storey extension on the side elevation. An additional small two storey extension is proposed to the middle of the front elevation .

### **Previous Application**

The previous application was refused (21/03239/FUL) and included a two storey side extension, front extension and dormer including a balcony. The refusal was upheld at the Local Review Body.

### **Relevant Site History**

No relevant site history.

## Other Relevant Site History

### Consultation Engagement

No consultations.

### Publicity and Public Engagement

**Date of Neighbour Notification:** 4 May 2022

**Date of Advertisement:** Not Applicable

**Date of Site Notice:** Not Applicable

**Number of Contributors:** 3

## Section B - Assessment

### Determining Issues

This report will consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

### Assessment

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

#### a) The proposals comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Design policies Des 12.

LDP Policy Des 12 seeks to ensure that alterations and extensions are compatible in design, form, and positioning with the character of the existing building and that of the surrounding neighbourhood character. In addition, the non-statutory Guidance for

Householders confirms that extensions should not overwhelm or dominate the original form or appearance of the house or detract from the character of the area.

The street on which the site is located on is predominantly occupied by one and a half storey dwellings with hipped roofs and an established building line. Moving to the east of the site the building form starts to vary and the prevailing character becomes diluted.

Nonetheless, this dwelling is of the same built form of the properties to the east and therefore any development should be in keeping with the established character. The proposal seeks to introduce an extension to the front which would alter the principal elevation and in turn have a detrimental impact on the well established building line on the street, albeit this is smaller than the previous scheme. This is contrary to LDP Policy Des 12 and the non-statutory Guidance for Householders.

The non-statutory Guidance for Householders states that the pitch and form of an extension roof should match that of the existing roof. The proposal seeks to extend the upper floor with the addition of a box dormer to the rear which would wrap around to the side extension and as such would change the roof form. The immediately surrounding properties on the street all have hipped roofs. When viewed as a whole the three elements of the proposal would significantly alter the appearance of the house and it would have an adverse impact on the character of the surrounding area. The proposal is therefore contrary to LDP Policy Des 12 and the non-statutory Guidance for Householders.

The applicant was drawn to the aforementioned concerns but was unwilling to alter the proposed scheme.

Overall, the proposed scale, form and design is not in-keeping with the characteristics of the surrounding area. The proposed development would disrupt the prevailing roof form and established building line in the surrounding area by virtue of its scale, form and design resulting in an incongruous addition to the traditional property.

#### 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

Three objections were received and the content of which is summarised below:

- the frontage is not in-keeping with the surrounding properties - addressed in section a) above;
- proposed roof form not in-keeping with area - addressed in section a) above.

- disruption during construction - this is a non-material consideration
- an existing garden room on site should be included - each application is determined as submitted

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

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

**Conclusion in relation to identified material considerations**

The proposals do not raise any issues in relation to other material considerations identified.

**Overall conclusion**

The proposed extension is contrary to Edinburgh Local Development Plan Policy Des 12 on extensions and alterations as its scale, form and position would appear incongruous in this context and adversely impact on the character and appearance of the existing building and neighbourhood character.

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

The recommendation is subject to the following;

**Reasons**

1. The proposed extension is contrary to Edinburgh Local Development Plan Policy Des 12 on extensions and alterations as its scale, form and position would appear incongruous in this context and adversely impact on the character and appearance of the existing building and neighbourhood character.

## **Background Reading/External References**

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

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

**Date Registered: 14 April 2022**

## **Drawing Numbers/Scheme**

01-07

Scheme 1

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

Contact: Annmaree Marwick, Planning officer  
E-mail: [annmaree.marwick@edinburgh.gov.uk](mailto:annmaree.marwick@edinburgh.gov.uk)

Appendix 1

## **Consultations**

No consultations undertaken.

# Comments for Planning Application 22/02038/FUL

## Application Summary

Application Number: 22/02038/FUL

Address: 28 Lanark Road West Currie EH14 5JY

Proposal: Side extension to form new bedrooms /en-suites, front entrance extension plus new and replacement roof dormers and roof lights.

Case Officer: Householder Team

## Customer Details

Name: Mr Archie Clark

Address: 33 Lanark Road West Currie Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Dear Sir

The Town and Country Planning (Scotland) Acts

22/02038/FUL - Side extension to form new bedrooms/en-suites, front entrance extension plus new and replacement roof dormers and roof lights at 28 Lanark Road West, Currie EH14 5JY.

I wish to object to the above application, which is similar to 21/03239/FUL that was refused in July 2021. The grounds for my objection are as below.

- 1) The plans are difficult to interpret - particularly the front and end elevations. Perspective sketches supplemented by cross sections would help explain what is intended.
- 2) Amenity - the majority of the houses on the north side of Lanark Road West in this area have sloping tiled roofs to the north, south, east and west. The application proposes to replace the characteristic tiled gable pitches with powder coated vertical gables of unspecified colour. That would be an inappropriate change to the character of the street.
- 3) The oddly unbalanced two-storey portal frame in glass and powder coated panels around and above the front entrance is not characteristic of the other houses in this street. These materials may be acceptable for use on the rear of the dwelling but not for the front. In any case, this pretentious 'grand archway' incorporating the front door looks contrived, with a west-facing window, made the more so as there appears to be a slab roof over the lounge bay window. It is difficult to understand the reason for selecting alien materials that would only be visible from the upper deck of a passing bus above the tall boundary wall and hedge. Taking the houses in the vicinity as a group, it would change the character of this part of the street, which would be



unwelcome.

4) The purpose of the "terrace" with its full height glazing is unclear. A conventional sash window with a cill similar to those at the rear would be more in keeping with the character of the house and allow the front roof tiling to continue through to the window above the porch.

For the above reasons, I request that this application be refused.

I should be grateful if you would advise me of any further drawings submitted for this property before the application is considered.

In compliance with data protection legislation, please do not place this letter on the portal till the application has been decided.

# Comments for Planning Application 22/02038/FUL

## Application Summary

Application Number: 22/02038/FUL

Address: 28 Lanark Road West Currie EH14 5JY

Proposal: Side extension to form new bedrooms /en-suites, front entrance extension plus new and replacement roof dormers and roof lights.

Case Officer: Householder Team

## Customer Details

Name: Mrs Eleanor Trotter

Address: 30 Lanark Road West Currie

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: There does not appear to be a significant difference from previously submitted plans 21/03239/FUL which were rejected last year.

New proposals would still be totally out of character of the area.

This house is located in a stretch of approximately 40 bungalows, either semi or detached, from Muirwood Road to Bryce Road (apart from single block of four houses at Muirwood Road end). All are visibly traditional from Lanark Road West and the proposed structure would absolutely change this.

# Comments for Planning Application 22/02038/FUL

## Application Summary

Application Number: 22/02038/FUL

Address: 28 Lanark Road West Currie EH14 5JY

Proposal: Side extension to form new bedrooms /en-suites, front entrance extension plus new and replacement roof dormers and roof lights.

Case Officer: Householder Team

## Customer Details

Name: Mr James Webber

Address: 56 Thomson Drive Currie Midlothian

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The scale of this plan is disproportionate to the current dwelling and will massively increase the footprint of the dwelling

There is also NO inclusion of the "Garden Room" which this applicant erected without planning permission on a like for like basis - which upon investigation by CEC Planning enforcement was deemed to require planning. Officers advised me, via the local cllr, that any future application made by the householder would have to INCLUDE the garden room.

Their previous application was rejected due to the scale and design and this is a resubmission. I would have hoped to see the imposing garden room (which is more akin to a small dwelling) be included on this application. The plans are equally imposing in size and are not in keeping with ANY of the other neighbouring properties

Further, previous construction and extension has been carried out by the householder themselves. This has meant the disruption to the neighbours was prolonged and always at weekends. There was no recognition by the individual householder of the requirement to only work during certain times at the weekend.

The sheer scale of this development could mean, if carried out by the householder alone as has been the case historically, extremely prolonged disruption and working outside permissible times leading to stress and anxiety due to the antisocial behaviour

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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 100428226-003

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: | <input type="text"/>                  |  |  |
| Ref. Number:          | <input type="text"/>                  | You must enter a Building Name or Number, or both: * |  |
| First Name: *         | <input type="text" value="Marc"/>     | Building Name:                                       | <input type="text"/>                               |
| Last Name: *          | <input type="text" value="Meharry"/>  | Building Number:                                     | <input type="text" value="22"/>                    |
| Telephone Number: *   | <input type="text" value="REDACTED"/> | Address 1 (Street): *                                | <input type="text" value="Prestongrange Terrace"/> |
| Extension Number:     | <input type="text"/>                  | Address 2:   | <input type="text"/>                               |
| Mobile Number:        | <input type="text"/>                  | Town/City: *   | <input type="text" value="Prestonpans"/>           |
| Fax Number:           | <input type="text"/>                  | Country: *   | <input type="text" value="United Kingdom"/>        |
|                       |                                       | Postcode: *  | <input type="text" value="EH32 9DG"/>              |
| Email Address: *      | <input type="text" value="REDACTED"/> |  |  |

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="STEVEN"/>                                   | Building Number:                                     | <input type="text" value="28"/>               |
| Last Name: *         | <input type="text" value="GOURLEY"/>                                  | Address 1 (Street): *                                | <input type="text" value="LANARK ROAD WEST"/> |
| Company/Organisation | <input type="text"/>  | Address 2:   | <input type="text" value="CURRIE"/>           |
| 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" value="██████████"/>                               | Postcode: *  | <input type="text" value="EH14 5JY"/>         |
| 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="28 LANARK ROAD WEST"/>       |
| Address 2:  | <input type="text" value="EDINBURGH"/>                 |
| Address 3:  | <input type="text"/>                                   |
| Address 4:  | <input type="text"/>                                   |
| Address 5:  | <input type="text"/>                                   |
| Town/City/Settlement:   | <input type="text" value="CURRIE"/>                    |
| Post Code:  | <input type="text" value="EH14 5JY"/>                  |

Please identify/describe the location of the site or sites

|          |                                     |         |                                     |
|----------|-------------------------------------|---------|-------------------------------------|
| Northing | <input type="text" value="668256"/> | Easting | <input type="text" value="319160"/> |
|----------|-------------------------------------|---------|-------------------------------------|

## 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)

Proposed new dormers with terrace, and entrance vestibule

## 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 enclosed appeal statement.

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)

Enclosed is Notice of Review Appeal Statement .

## Application Details

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

22/02038/FUL

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

14/04/2022

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

04/08/2022

## 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 Marc Meharry

Declaration Date: 26/10/2022

28 Lanark Road West Edinburgh Currie EH14 5JY.

The Planning application for the above proposals, ref 22/02038/FUL, was refused by City of Edinburgh Council on the 4<sup>TH</sup> August 2022 for the following reasons:

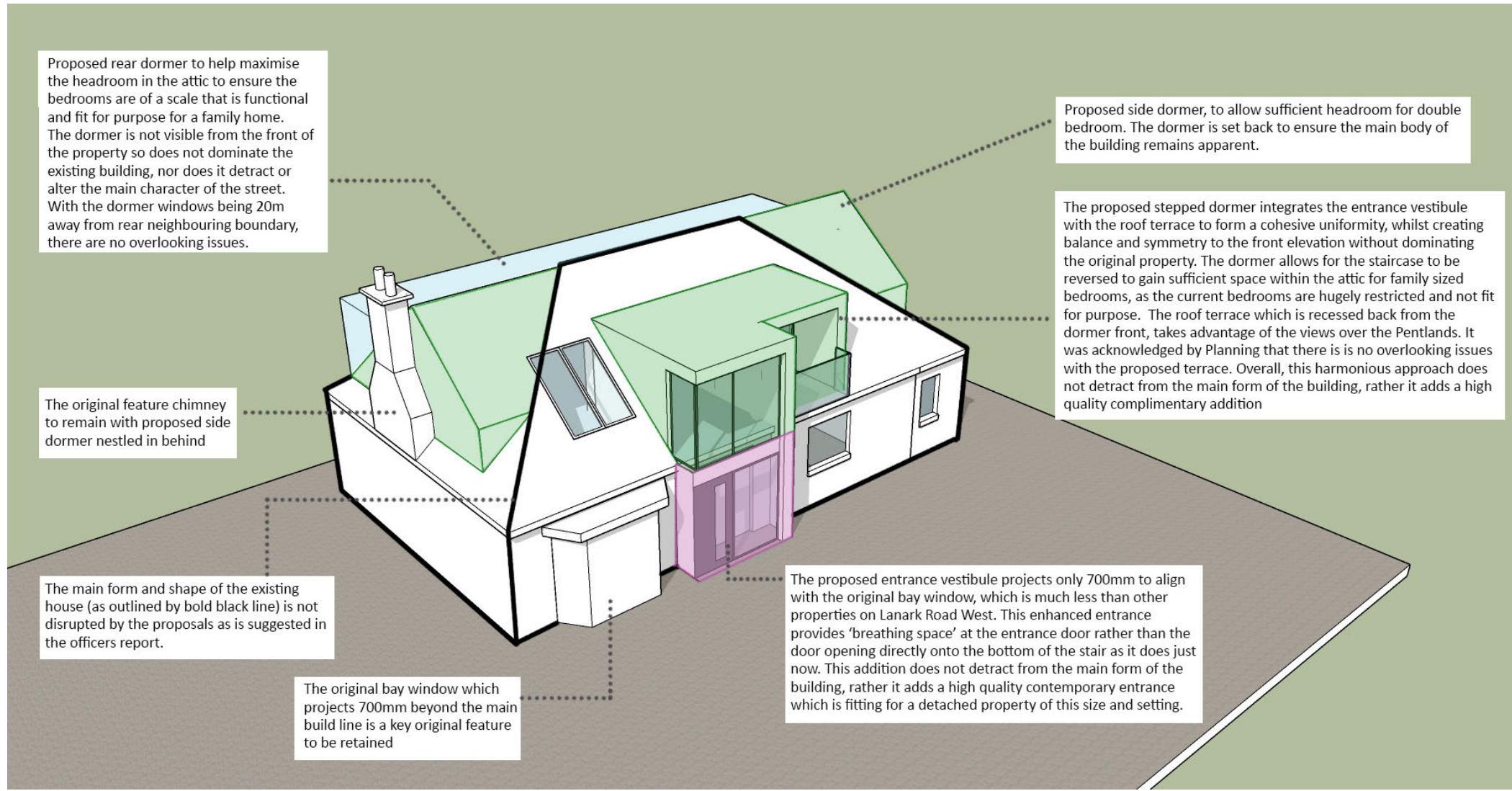
**Reasons for Refusal:-**

- 1) *The proposed extension is contrary to Edinburgh Local Development Plan Policy Des 12 on extensions and alterations as its scale, form and position would appear incongruous in this context and adversely impact on the character and appearance of the existing building and neighbourhood character.*

**Planning History**

This application is the second application submitted to CEC following previous refusal which was upheld by the LRB in December 2021.

## SCHEMATIC 3D MODEL OF PROPOSALS



## ANALYSIS OF THE PROPOSALS

### Proposed Entrance Vestibule

The proposal is to form a new entrance vestibule by extending only 700mm into the front garden to align with the original lounge bay window.

### Planning Officer's comments for refusing:

*The proposal seeks to introduce an extension to the front which would alter the principal elevation and in turn have a detrimental impact on the well-established building line on the street, albeit this is smaller than the previous scheme. This is contrary to LDP Policy Des 12 and the non-statutory Guidance for Householders.*

From the previous scheme the depth of the entrance vestibule has been reduced to project only 700mm outwards which aligns with the original bay window. We feel the proposals are sympathetic to the established street building line by projecting far less than other projections on the existing properties along Lanark Road West, which are in the form of front porches, hipped projections, dormers to the front and side. Examples of this are shown below. Therefore the entrance vestibule does not have a detrimental impact on the well-established building line of the street, nor does it undermine the original form of the hipped roof property.



The non-statutory Guidance for Householders states;  
*'Bungalow extensions should be designed in a way that retains the character of the original property and is subservient in appearance.*

*Extensions must not imbalance the principal elevation of the property'.*

The proposals maintain the form and character of the original property but proposes to complement and enhance the overall aesthetics with symmetrical enhancements which balance the front elevation.



### **Proposed Roof Form**

By maintaining the hipped roof, we feel the proposals respect the existing roof form to ensure the original bungalow remains as the main body of the building, and whilst the proposed side extension shifts the hip line, the hipped form remains abundantly clear. This is demonstrated with the schematic 3D model on page.2

The proposed stepped front dormer which integrates with the entrance vestibule to provide a cohesive uniformity, are of a scale and form that is a common theme on other properties along the stretch of Lanark Road West. The same is said for the proposed side dormers with the west facing dormer being nestled in behind the original chimney. We therefore feel that dormer proposals are in keeping and do not negatively impact on the street character as is suggested by the Planning officer.

Whilst the rear dormer has been maximised to ensure the attic bedrooms are appropriate size suitable for a detached family home, it is not visible from the street therefore cannot possibly have an adverse impact on the street character.

### **Contextual Analysis**

It was acknowledged by the Planning officer of the original application and by the LRB, that the character and build form does vary along the street, and this particular property happens to be situated directly at the pivot point between the two varied vistas. To the East there are much varied house typologies, and to the West it's a more structured form of hipped roof properties. It could be argued that if the proposals for this property were hugely significant, that it would still not overall adversely impact on the street character as the property would simply be more in keeping with the properties to East than the properties to the West. Nonetheless, the reduced proposals are sympathetic to the street character of the hipped roof to the West, but I think it's important that it is still considered where this property is situated, right in the middle between two very different street characters.

### **No Planning Engagement**

Following the refusal of the first application which was upheld by the LRB, we requested a discussion with the Planning department to see what they would feel is acceptable to try and ensure this second application was satisfactory to everyone. Unfortunately, we were told that this is not an option, see email below.

RE: 21/03239/FUL 28 Lanark Road West



Nicola Orr <Nicola.Orr@edinburgh.gov.uk>

To Marc Meharry

Reply Reply All Forward

Tue 15/02/2022 15:56

You forwarded this message on 18/02/2022 09:48.

Hi Marc

Technically we don't provide pre-application advice for householders. Our working practice is to provide advice when an application is withdrawn but not when we went through the refusal process and the work that requires in the report and the LRB process. The discussions we had before the application was refused would still stand and the advice I gave you then.

Regards

Nicola

**From:** Marc Meharry  
**Sent:** 11 January 2022 16:36  
**To:** Nicola Orr <Nicola.Orr@edinburgh.gov.uk>  
**Subject:** RE: 21/03239/FUL 28 Lanark Road West

Hi Nicola

Hope you are well.

With regards to the above and the recent LRB decision to uphold decision notice, I have discussed the options with the applicants and they wondered if it would be possible to have a quick pre-application discussion with yourself to see what you think could be acceptable? I would in advance of any meeting share some ideas for discussion.

If this sounds okay, I could send out a teams invite.

Kind Regards

Furthermore, it was suggested in the Planning Officers report that *'the applicant was unwilling was drawn to the aforementioned concerns but was unwilling to alter the proposed scheme'*

This was not the case. An email, extract below, was received from the Planning officer 10 weeks after the application was submitted, advising that the proposals could not be supported, and that the application should be withdrawn.

This was the only dialogue with the Planning department, and it did not suggest that there was an option to discuss the scheme to come to a collective resolution, something which would have been welcomed.

22/02038/FUL - Lanark Road West



Annmaree Marwick <Annmaree.Marwick@edinburgh.gov.uk>  
To Marc Meharry

↩ Reply
↩ Reply All
➔ Forward
📧
⋮

Mon 27/06/2022 10:55

*You replied to this message on 11/07/2022 08:58.*

Hi Marc,

With regards to the above planning application, unfortunately I can not support the proposal in its current form. I believe the property can be extended, however any extensions would need to be sympathetic to the bungalow style on the house. The elements of the current proposal which I can not support:

- The large box dormer on the rear, this should be reduced in size and should not alter the roof form dramatically;
- The two storey element on the front should be removed and again any extension here should respect the bungalow style of the property.

At this stage I would advise to withdraw the application and resubmit a revised scheme on the basis of the above.

Kind regards

Annmaree

\*\*\*\*\*

Page 239

### Conclusion

In summary we feel that the house is currently not suitable for an enlarging family like ours, and we don't want to have to move as we love this property. We would rather alter our home sympathetically, so it becomes fit for purpose and is sustainable long term for the growth of our family, which is something this property truly deserves.

The proposals do not extend beyond the established build line so we can't understand why this is a consideration. The proposals extent only 700mm to align with the original bay window, which is far less than other properties on the street.

We agree that the existing street character of Lanark Road West should be maintained, but we feel that this reduced scheme does not detract from that as the additions are sympathetic scale, form and design to allow the original bungalow to remain the 'primary' building.

There is additional frustration when other applications are approved such as 236 Milton Road East which does not give an impression of being sympathetic to the original roof form or the street building line and has gained a dominant appearance on the street which is outwith the street character which is predominately hipped roof bungalows. Both key points which we believe our scheme has been respectful to, creating balanced, architecturally attractive enhancements whilst not dominating the original property or character of the street and surrounding area.

We hope that the LRB will share our opinion and overturn the Planning departments decision.

Photograph from Milton Road East:

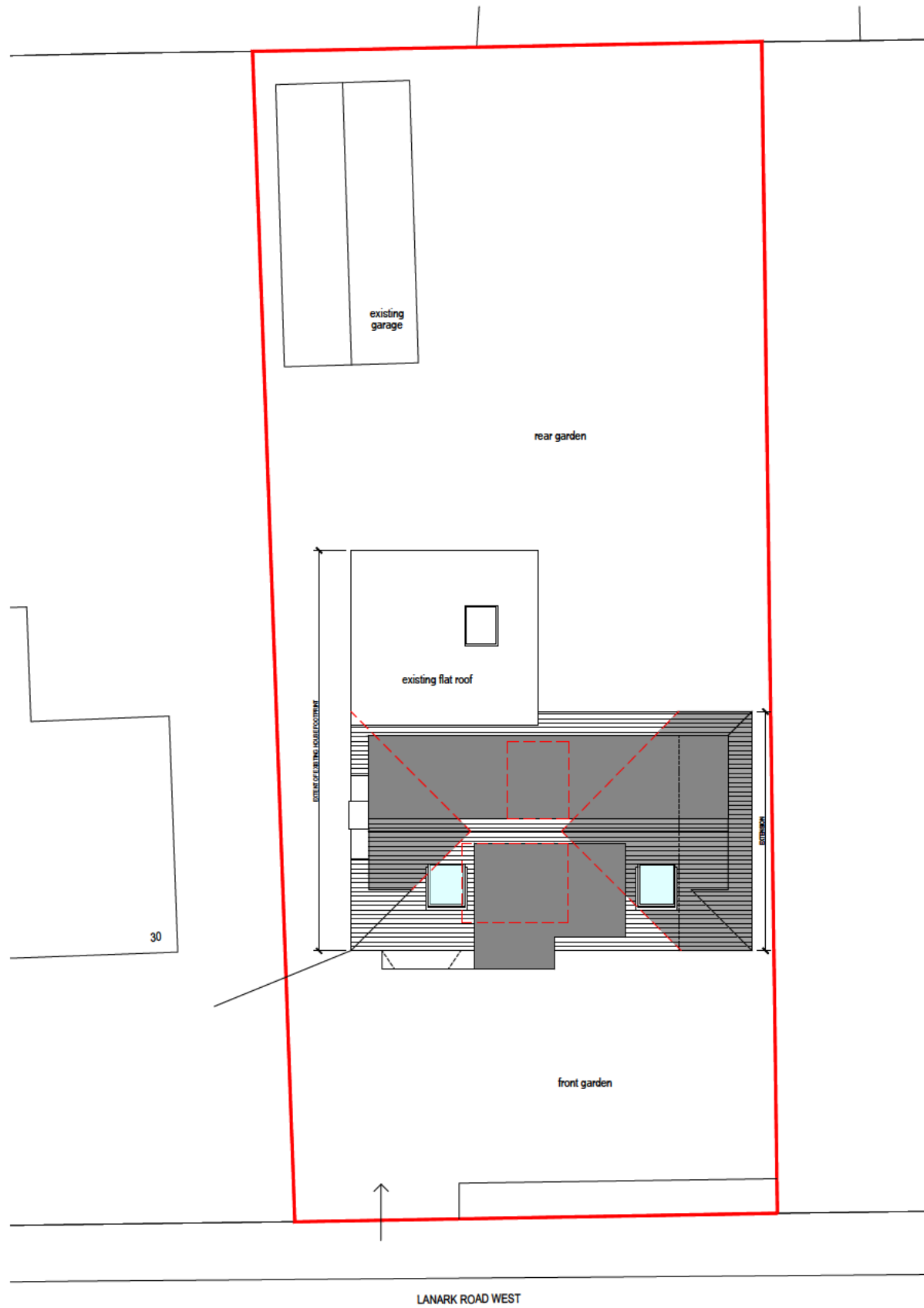
238 Milton Rd E  
Edinburgh, Scotland  
Google  
Street View - Aug 2022

A 2020 Planning Application granted to replace the hipped roof with a mansard style roof which does not reflect any other of the established roof forms and would appear out of character with the street.

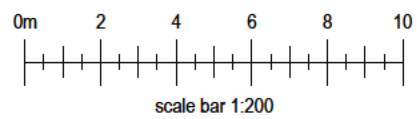


End

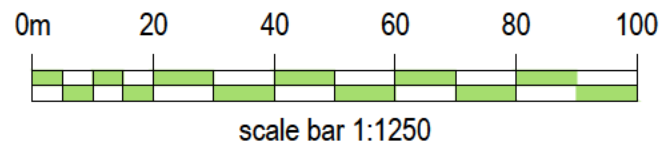




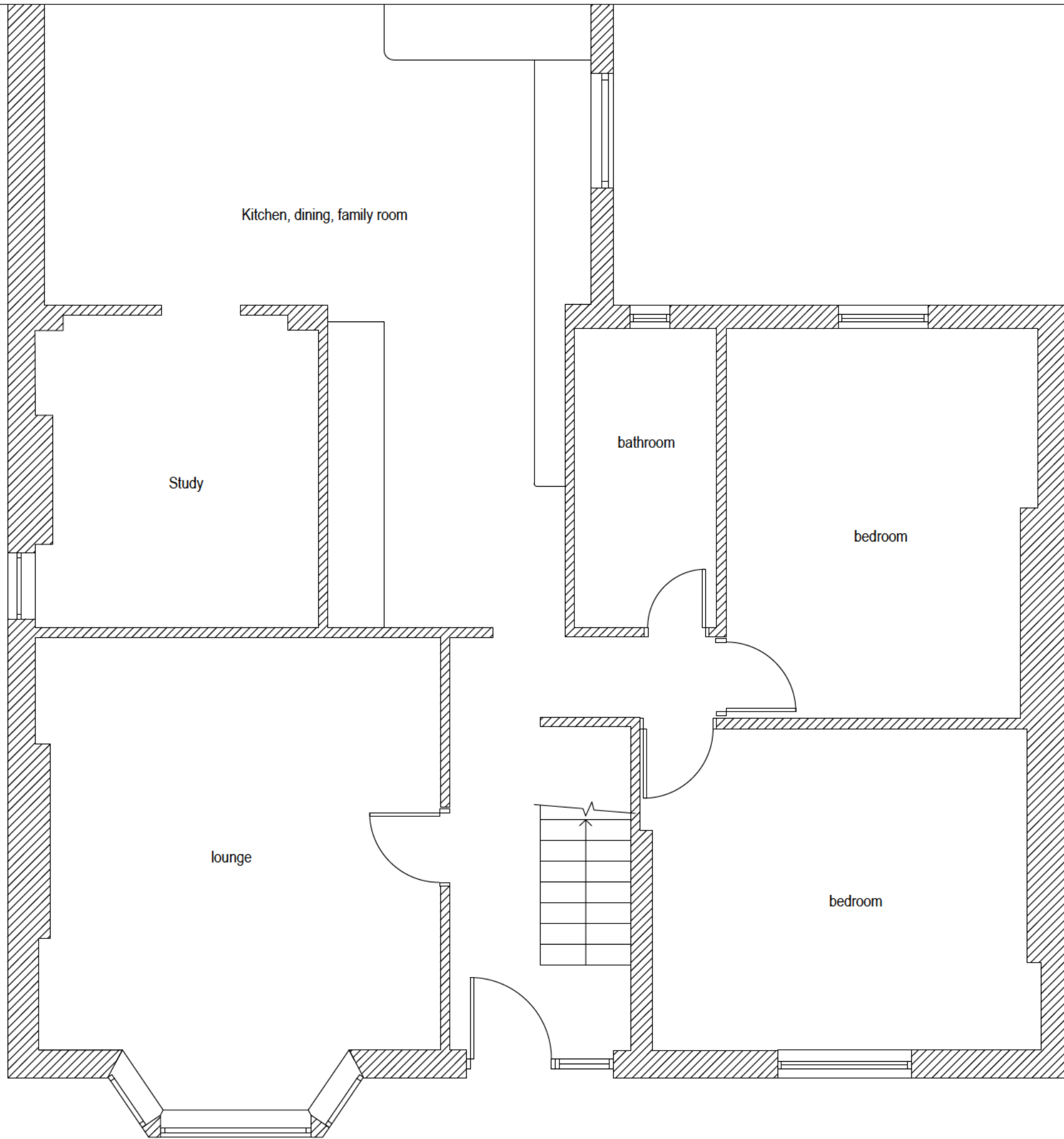
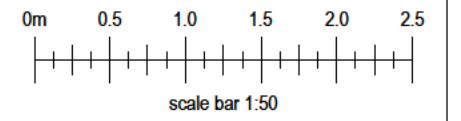
Site Plan 1:200  
 — Boundary



Location 1:1250  
 — Boundary

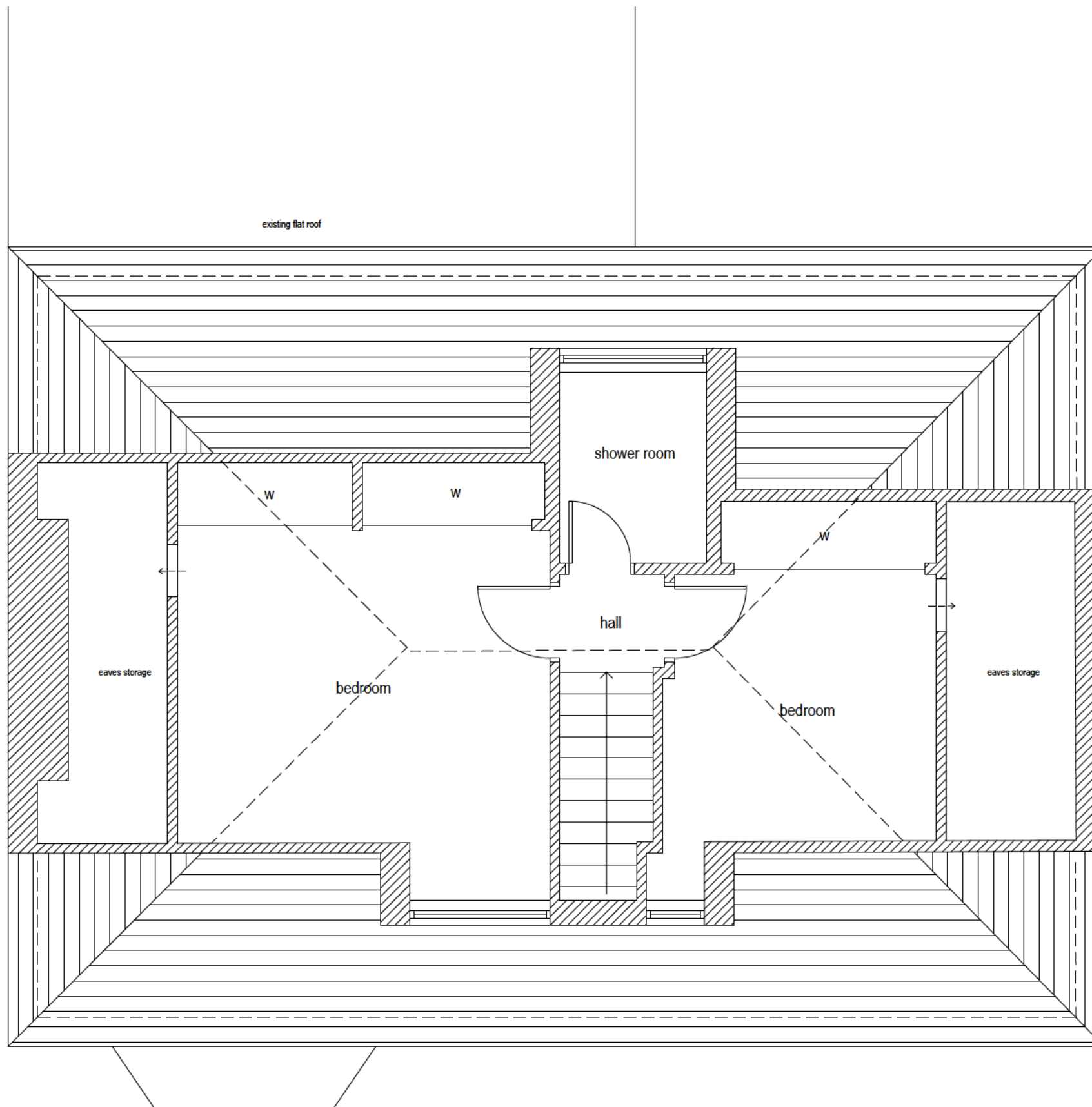
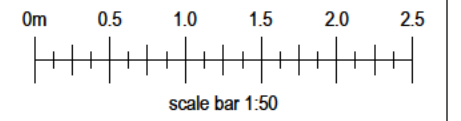


| Rev   | Date                               | Remarks  |
|---|------------------------------------|----------|
| Project<br>28 Lanark Road West, Edinburgh<br>Extension and internal alterations |                                    |          |
| Client<br>Steven and Carol Gourlay  |                                    |          |
| Drawing<br>Location and Site Plans  |                                    |          |
| Drawing No<br>199.1-01  | Scale 1:1250 / 200<br>Date June 21 | Rev<br>/ |



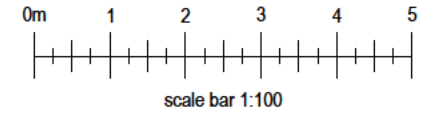
Existing Ground Floor Plan  
1:50

| Rev   | Date                       | Remarks  |
|---|----------------------------|----------|
|   |                            |          |
| Project<br>28 Lanark Road West, Edinburgh<br>Extension and internal alterations |                            |          |
| Client<br>Steven and Carol Gourlay  |                            |          |
| Drawing<br>Existing Ground Floor Plan   |                            |          |
| Drawing No<br>199-02  | Scale 1:50<br>Date June 21 | Rev<br>/ |



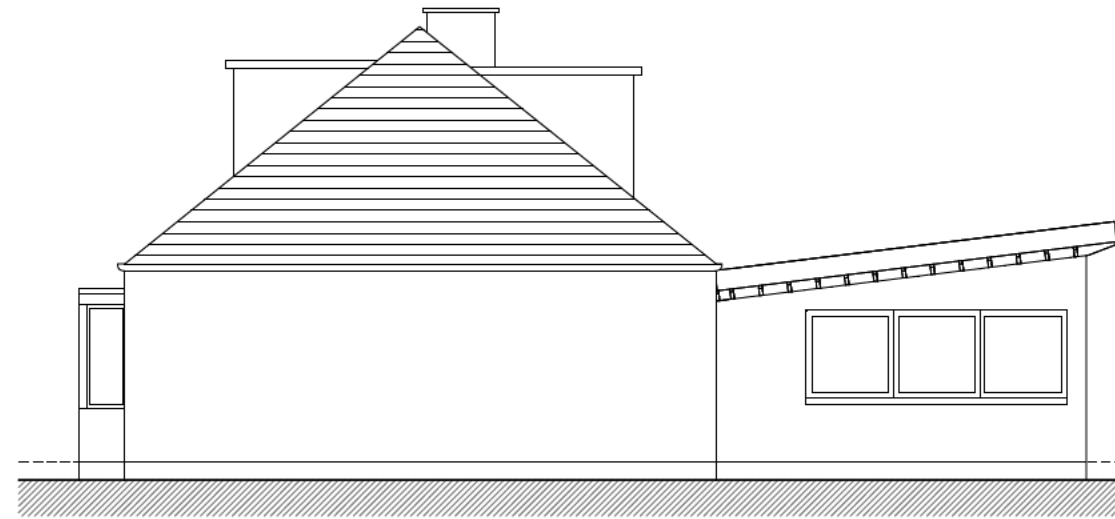
Existing First Floor Plan  
1:50

| Rev   | Date                       | Remarks  |
|---|----------------------------|----------|
| Project<br>28 Lanark Road West, Edinburgh<br>Extension and internal alterations |                            |          |
| Client<br>Steven and Carol Gourlay  |                            |          |
| Drawing<br>Existing First Floor Plan  |                            |          |
| Drawing No<br>199-03  | Scale 1:50<br>Date June 21 | Rev<br>/ |



Front Elevation (South/ East)

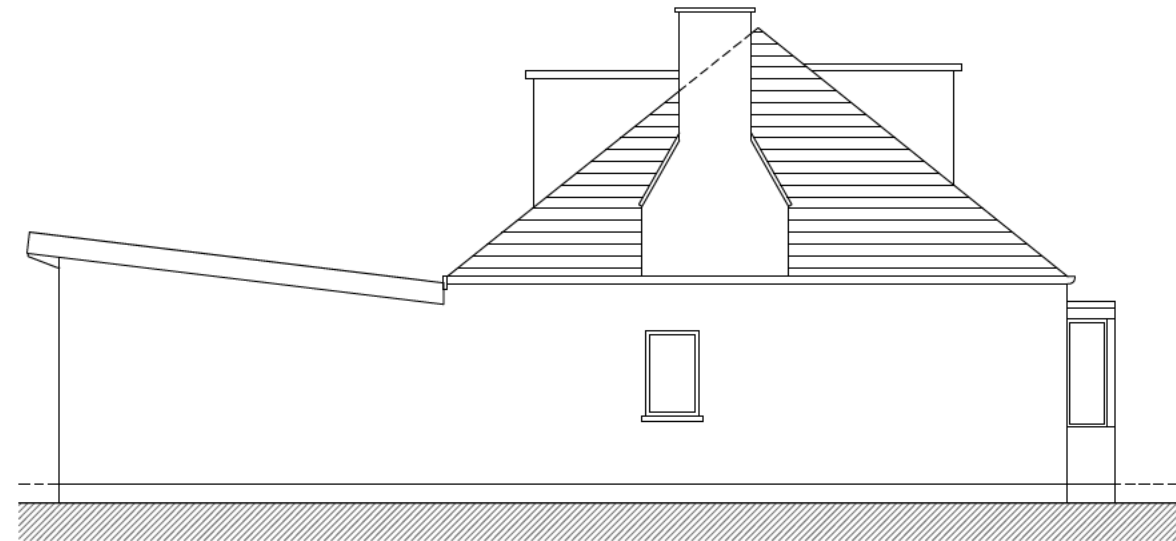
Existing Elevations  
1: 100



Side Elevation (North/ East)



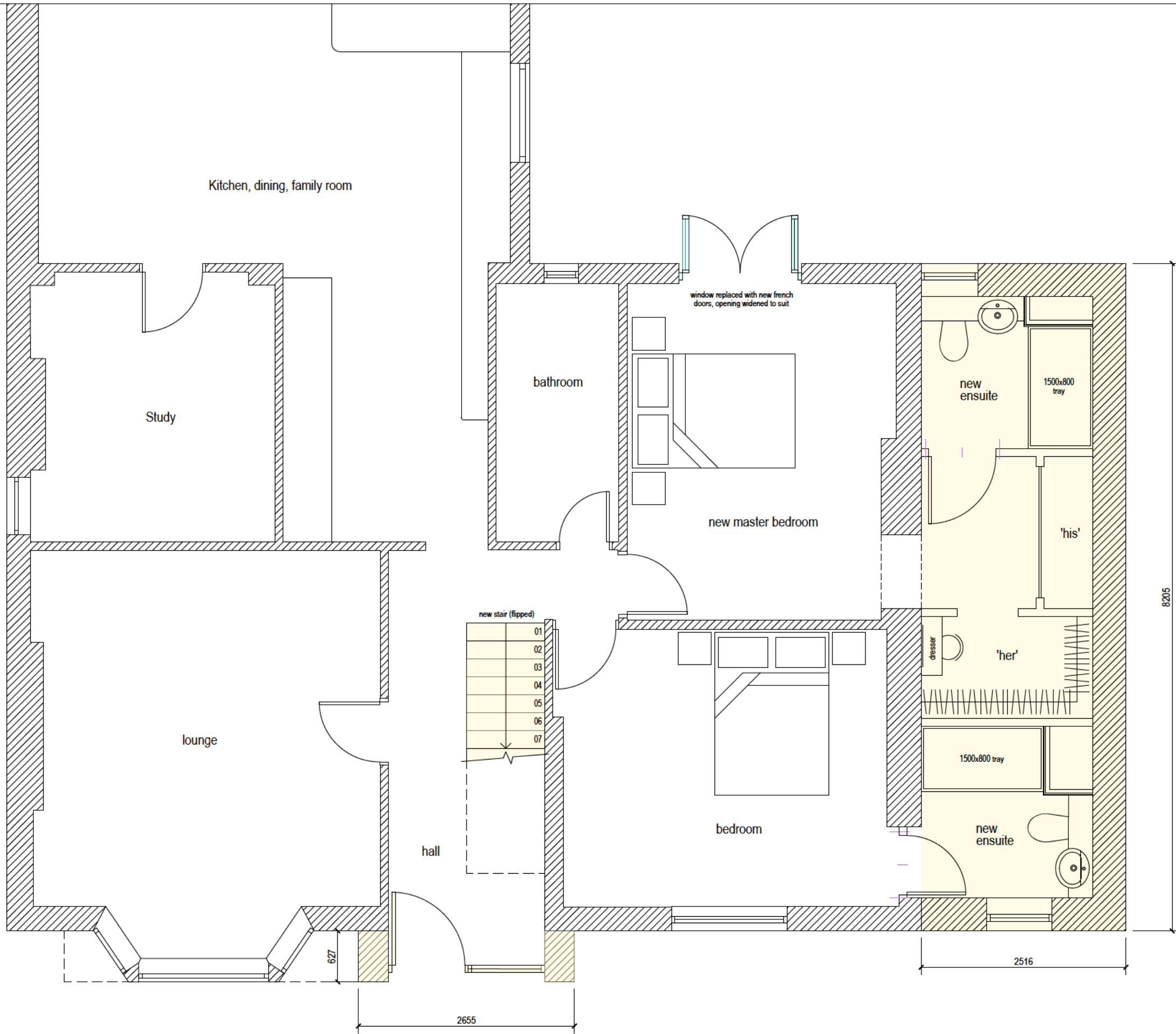
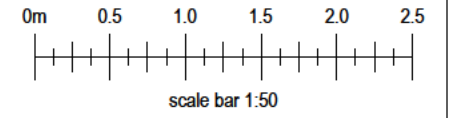
Rear Elevation (North/ West)



Side Elevation (South/ West)

|   |                             |
|---|-----------------------------|
| Project<br>28 Lanark Road West, Edinburgh<br>Extension and internal alterations |                             |
| Client<br>Steven and Carol Gourlay  |                             |
| Drawing<br>Existing Elevations  |                             |
| Drawing No<br>199-06  | Scale 1:100<br>Date June 21 |
| Rev   | Rev                         |

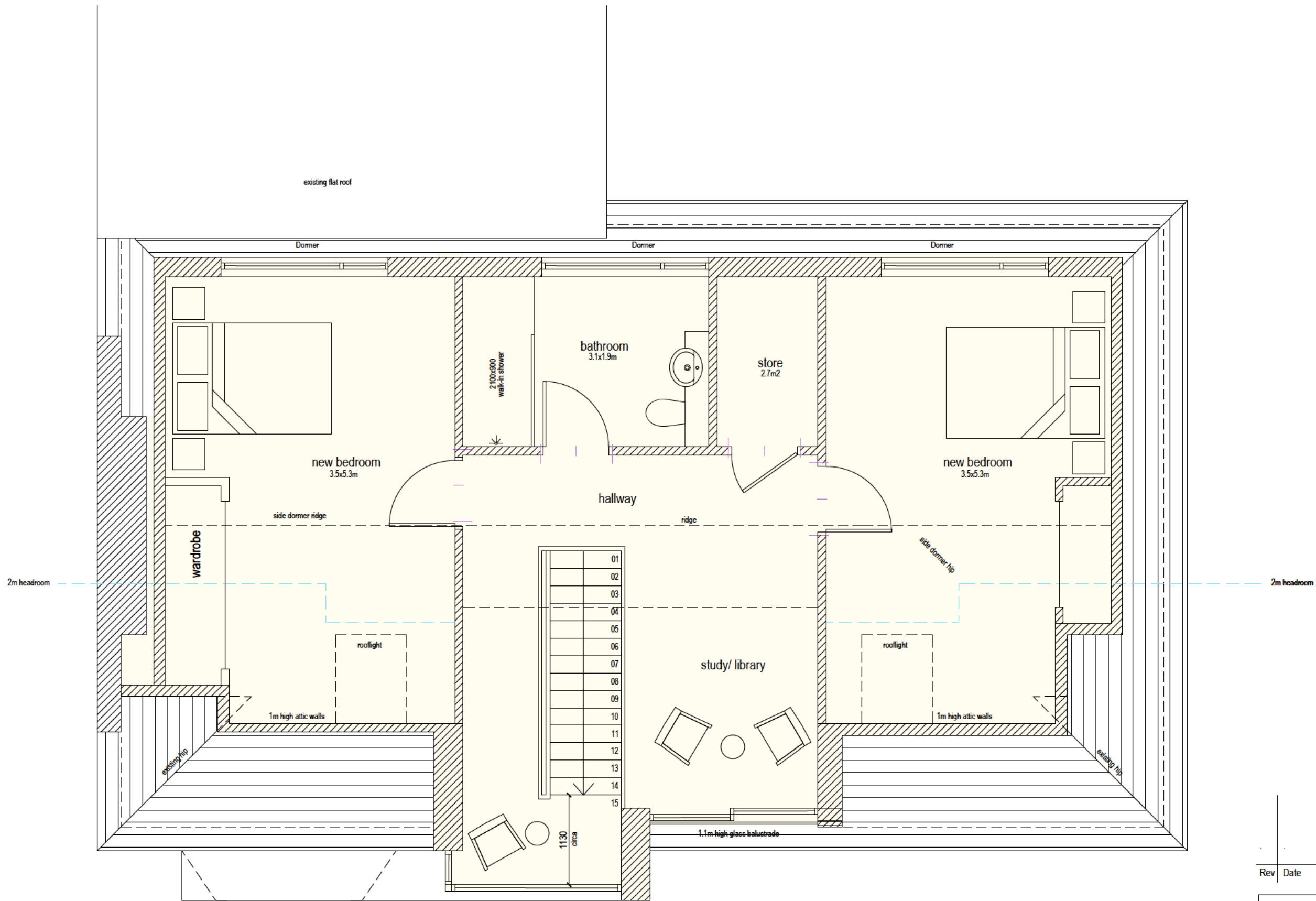
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| Rev | Date | Remarks |
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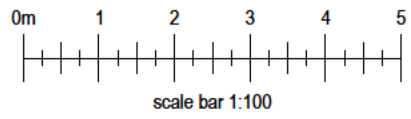
|   |                            |          |
|---|----------------------------|----------|
| Project<br>28 Lanark Road West, Edinburgh<br>Extension and internal alterations |                            |          |
| Client<br>Steven and Carol Gourlay  |                            |          |
| Drawing<br>Proposed Ground Floor Plan   |                            |          |
| Drawing No<br>199.1-04  | Scale 1:50<br>Date June 21 | Rev<br>/ |

Proposed Ground Floor Plan  
1:50

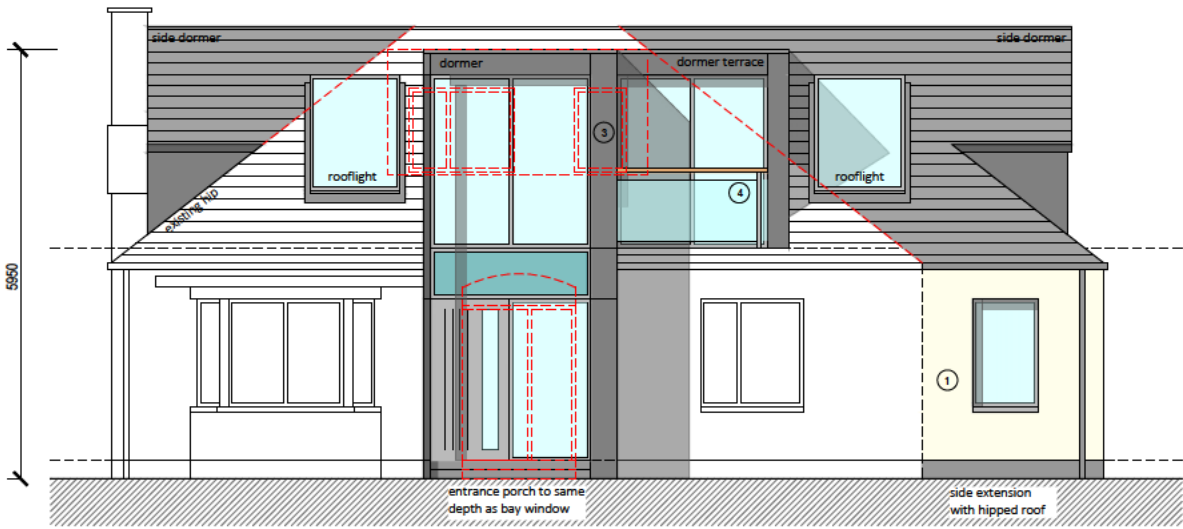


Proposed First Floor Plan  
1:50

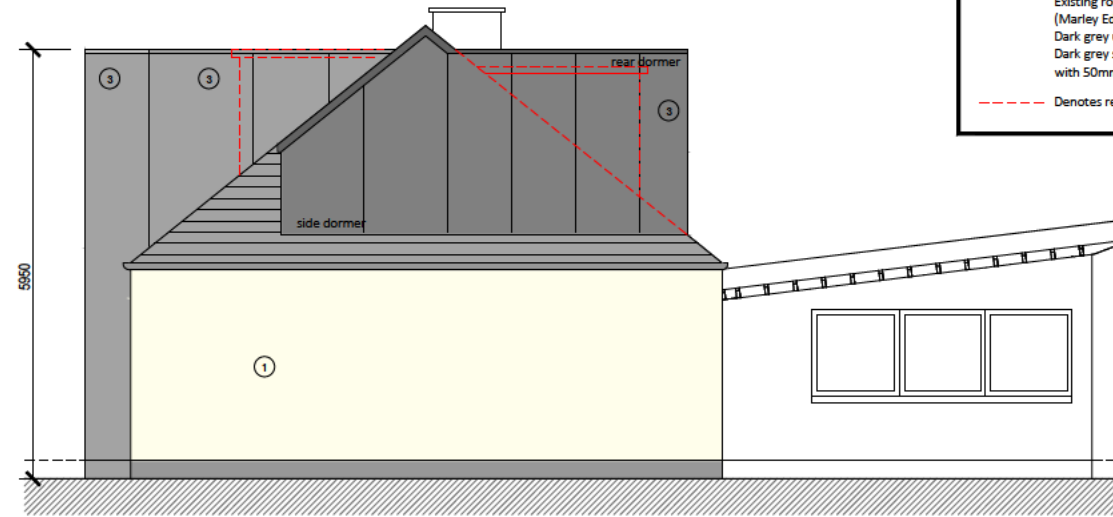
| Rev   | Date | Remarks                   |
|---|------|---------------------------|
| Project<br>28 Lanark Road West, Edinburgh<br>Extension and internal alterations |      |                           |
| Client<br>Steven and Carol Gourlay  |      |                           |
| Drawing<br>Proposed First Floor Plan  |      |                           |
| Drawing No<br>199.1-05  |      | Scale 1:50<br>Date Dec 21 |
|   |      | Rev<br>/                  |



- Materials List:**
- ① Smooth white render to match existing gable and existing rear extension
  - ② Cedar t&g horizontal cladding clear uv stain to preserve original colour
  - ③ Proprietary powder coated metal cladding panels
  - ④ Glass balustrade with cedar handrail
- General:  
Existing roof re-tiled dark grey concrete 'slate' tiles (Marley Edgemere).  
Dark grey upvc windows and doors.  
Dark grey single ply flat roof membrane to dormer with 50mm aluminium perimeter trim.  
--- Denotes removals.



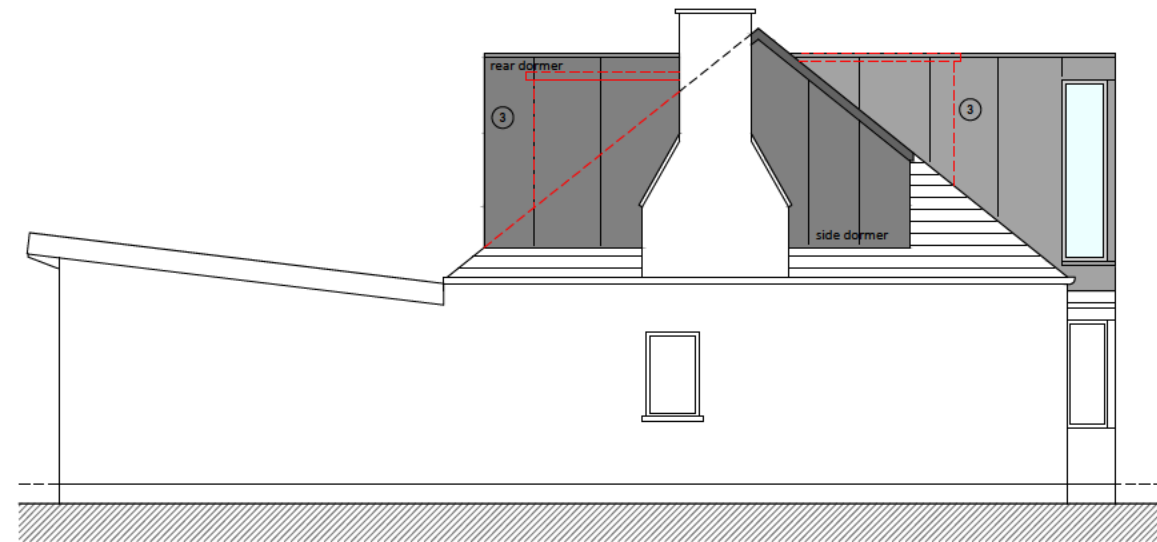
Front Elevation (South/ East)



Side Elevation (North/ East)



Rear Elevation (North/ West)



Side Elevation (South/ West)

| Rev | Date | Remarks |
|-----|------|---------|
|     |      |         |

|   |                             |          |
|---|-----------------------------|----------|
| Project<br>28 Lanark Road West, Edinburgh<br>Extension and internal alterations |                             |          |
| Client<br>Steven and Carol Gourlay  |                             |          |
| Drawing<br>Proposed Elevations  |                             |          |
| Drawing No<br>199.1-07  | Scale 1:100<br>Date June 21 | Rev<br>/ |

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Mrs Trueman  
68 Polmuir Road  
Aberdeen  
AB11 7TH

**Decision date: 13 October 2022**

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

Proposed Change of Use from dwelling to short-term let (in retrospect)  
At 3F2 8 North Bank Street Edinburgh EH1 2LP

**Application No:** 22/02284/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 8 June 2022, 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 proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

Drawings 01, 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 Lesley Porteous directly at [lesley.porteous@edinburgh.gov.uk](mailto:lesley.porteous@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.

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# Report of Handling

**Application for Planning Permission**  
**3F2 8 North Bank Street, Edinburgh, EH1 2LP**

**Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)**

**Item – Local Delegated Decision**  
**Application Number – 22/02284/FUL**  
**Ward – B11 - City Centre**

## **Recommendation**

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

## **Summary**

The proposal is acceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site relates to a self-contained flat on the fourth floor of a five-storey tenement block at 8, North Bank Street on the Mound. The property has two bedrooms. There are four floors of residential properties in the block, with two flats on each floor. The property shares its access and communal stairs with the other flats.

North Bank Street is at the top of the Mound and is a busy city centre location with mixed uses including retail, pubs, restaurants and cafes. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, LB 30064. 12/12/1974.

The site lies within the Old Town Conservation Area and the World Heritage Site.

### **Description Of The Proposal**

The application is for a change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let since 2015. Therefore, the application is retrospective. The applicant has not submitted a floor plan as part of the application.

### **Supporting Information**

Supporting statement.

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

No other relevant planning site history.

### **Consultation Engagement**

No consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 13 October 2022

**Date of Advertisement:** 24 June 2022

**Date of Site Notice:** 24 June 2022

**Number of Contributors:** 6

## **Section B - Assessment**

### **Determining Issues**

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
  - (i) harming the listed building or its setting? or
  - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
  
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

## **Assessment**

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

### **a) The proposals harm the listed building and its setting?**

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

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings.
- Managing Change in the Historic Environment: Setting.

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal

### **Conclusion in relation to the listed building**

The proposal harms neither the listed building, its setting or the conservation area. It is therefore acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act

### **b) The proposals harm the character or appearance of the conservation area?**

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the

importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

### **Conclusion in relation to the conservation area**

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **c) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 1, Env 3, and Env 6.
- LDP Housing policy Hou 7.
- LDP Transport policies Tra 2 and Tra 3.
- LDP Delivering the Strategy policy Del 2.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policy Env 6.

The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering policy Hou 7.

### Listed Building

LDP Environment policy Env 3 (Listed Buildings - Setting) states that development affecting the setting of a listed building will be permitted only if not detrimental to the appearance or character of the building, or to its setting.

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with LDP policy Env 3.

### Conservation Area

LDP Policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted if it preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation

area character appraisal and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal is acceptable with regard to LDP Policy Env 6.

#### World Heritage Site

LDP policy Env 1- World Heritage Sites states that development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh as World Heritage Sites or would have a detrimental impact on the site's setting will not be permitted.

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP policy Env 1.

#### Proposed Use/Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration.



The property is a fourth floor flat in a five storey Old Town -style tenement block. There are two flats on each floor of the tenement block. The property is accessed via communal stairs from North Bank Street and all flats use the same communal access.

The property is in a mixed use area within a residential flatted block. The use of the property as a short term let would have the potential to introduce an increased frequency of movement to the flat at unsociable hours. The applicant has not provided a floor plan despite being requested to do so. This assessment is based on the supporting statement which advises that there are two bedrooms in the property, each accommodating a standard double bed. The proposed two bedroom short stay use would enable four or more visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is also no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect. There is also the additional risk of harming the community spirit of the tenement block.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. The site lies within the City Centre and policy Del 2 reflects SPP by stating it supports a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. However, the promotion of mixed uses has to be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

Anti-social behaviour can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP policy Hou 7.

### Parking Standards

LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

There is no off street car parking available within the site. As the site is in the heart of the Old Town car use is discouraged. The site is accessible by public transport on the Mound. There is no cycle parking standards for SCVA's. Bikes could be parked within the property if required. The proposals comply with policies Tra 2 and Tra 3.

### **Conclusion in relation to the Development Plan**

The proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that would justify approval.

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

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

*material considerations*

- Negative impact on residential amenity. Addressed in c) above.
- No benefits to local economy. Addressed in c) above.
- Negative impact on community. Addressed in c) above.
- Not in accordance with LDP policy Hou 7. Addressed in c) above.
- Not in accordance with SPP Supporting Sustainable Places. Addressed in c) above.

*non-material considerations*

- Negative impact on core maintenance of communal areas. This is not a material planning consideration.
- Shortage of housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not yet been

submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

- Not in accordance with Scottish Government Housing Policy. The application must be assessed against the relevant LDP policies and non-statutory guidance.
- Contrary to LDP policy Env 4. No physical alterations proposed and, as such, policy Env 4 is not relevant.
- Not in accordance with LDP policies Des 1 and Des 5. These are not relevant LDP policies in the consideration of this application.
- Short term let visitors have no respect for long term residents. This is not a material planning consideration.

### **Conclusion in relation to identified material considerations**

The proposals do not raise any issues in relation to other material considerations identified.

### **Overall conclusion**

The proposal is acceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

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

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

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

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

**Date Registered: 8 June 2022**

**Drawing Numbers/Scheme**

01

Scheme 1

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

Contact: Lesley Porteous, Planning Officer  
E-mail: [lesley.porteous@edinburgh.gov.uk](mailto:lesley.porteous@edinburgh.gov.uk)

Appendix 1

## **Consultations**

No consultations undertaken.

# Comments for Planning Application 22/02284/FUL

## Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

## Customer Details

Name: Lord Cockburn Association

Address: 1 Trunks Close, 55 High Street, Edinburgh EH1 1SR

## Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: It is our view that in this residential shared stair context the proposed change of use is not in accordance with Policy Housing 7 'Inappropriate Uses in Residential Areas' as it would have a materially detrimental effect on the living conditions of other residents of the main door accessed residential stair, and so should not be permitted.

In addition, the proposed change of use is not supportive of either Scottish Government Housing policy on More homes - "everyone has a quality home that they can afford and that meets their needs" or Scottish Planning Policy on "socially sustainable places" and "supporting delivery of accessible housing".

# Comments for Planning Application 22/02284/FUL

## Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

## Customer Details

Name: Mrs Elspeth Wills

Address: 3 Brown's Place EDINBURGH

## Comment Details

Commenter Type: Community Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Old Town Community Council wishes to object to the above application and in particular to all retrospective applications

Our grounds of objection are as follows:

Shortage of housing to buy or rent is a real issue throughout Edinburgh as acknowledged by both by the current and 2030 national planning guidelines. This is particularly true of the Old Town where the voters' roll has fallen to its lowest level ever and one in three properties is now a STL.

The proliferation of STLs has damaging effects not only on neighbours (Hou 7) and on building maintenance but on whole communities. Judging by the neighbour notification list there are still a few residents surviving in the area

STLs bring few benefits to the local economy or community as most visitors stay for only 2-3 nights to have fun in the city centre.

The property is at the heart of the World Heritage site.

Loss of income to the Council who maintains essential services such as rubbish collection free of charge. Housing should be seen as a place for people to live in not as an investment.

We urge that this and all STL applications are turned down.

Yours sincerely

Elspeth Wills

Planning - OTCC

# Comments for Planning Application 22/02284/FUL

## Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

## Customer Details

Name: Ms OLD TOWN ASSOCIATION

Address: 1 Trunks Close, 55 High Street, Edinburgh EH1 1SR

## Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This application should be refused as the use of a residential house for short-term letting means loss of residential accommodation. Short-term lets in a single-use residential development results in noise and other disturbance for the inhabitants, especially where there are shared access paths. Short-term lets as a whole destroy communities and lead to a sense of insecurity amongst remaining residents.



# Comments for Planning Application 22/02284/FUL

## Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

## Customer Details

Name: Mr Tom Welsh

Address: 3 Blackie House, Wardrop's Court, Edinburgh EH1 2NY

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The amount of short term lets has had a detrimental effect on the area, especially as many seem to be unauthorised, as this one has been for a number of years. There is a lot of purpose built tourist accommodation in the area and soon the Virgin Hotel ,located close by, will be opening up adding hundreds of new beds.

# Comments for Planning Application 22/02284/FUL

## Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

## 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 the proposals for the change of use to short-term let in a B-listed tenement within the Old Town Conservation Area, and objects.

- 1) The proposals only relate to one property within the tenement, which is accessed from a shared stair. This would have a detrimental impact on the residential amenity of neighbouring properties, and limits the future of the flats not included within the application.
- 2) The change of use would contribute to the unsustainable growth of the short term let (STL) sector in Edinburgh. The economic benefits of tourism for Edinburgh are clear, and we celebrate the role that our architectural heritage plays in this sector. However, the current rising rate of STLs threatens the sense of place and community which are part of the city's attraction, and this is especially acute in the World Heritage Site.
- 3) Scottish Government Research has highlighted the links between STLs and the negative impacts of reduced availability of affordable housing, congestion and reduced quality of life through noise and disturbance (People, Communities and Places, October 2019, pp. iv-v)
- 4) With particular reference to architectural heritage the responsibility for the care and maintenance of communal areas and aspects of joint responsibility in listed buildings and conservation areas is diminished by the increase of short-term occupants.

The change of use does not respect the special characteristics of history and place reflected in the building's designation and location in the World Heritage Site, and would increase the negative impacts caused by the growth of STLs in Edinburgh.

The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities), ENV 4 (Risk of unnecessary damage to historic structures), and HOU7 (Materially detrimental effect on the living conditions of

nearby residents). We therefore object to the application.

# Comments for Planning Application 22/02284/FUL

## Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

## Customer Details

Name: Dr william zachs

Address: 1 blackie house 451 Lawnmarket edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I strongly object to this change of use, although I appreciate the efforts of the owner to at least put in the application which is not often the case, especially in this part of town. The centre of our wonderful city is more and more difficult for permanent full-time residents to exist peacefully. Such visitors often have little respect for permanent residents. The inundation of short-term letting undermines the core values of community living in a part of town where it is already challenging to live amidst a constant turnover. Let our very welcome visitors stay in hotels and other purpose-build accommodation.

Sincerely

Dr William Zachs

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      100603723-001

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

## Applicant Details

Please enter Applicant details

|                      |            |  |              |
|----------------------|------------|--|--------------|
| Title:               | Mrs        | You must enter a Building Name or Number, or both: * |              |
| Other Title:         |            | Building Name:                                       | 68           |
| First Name: *        | Sheila     | Building Number:                                     |              |
| Last Name: *         | Trueman    | Address 1 (Street): *                                | Polmuir Road |
| Company/Organisation |            | Address 2:   |              |
| Telephone Number: *  | [REDACTED] | Town/City: *   | Aberdeen     |
| Extension Number:    |            | Country: *   | UK           |
| Mobile Number:       |            | Postcode: *  | AB11 7TH     |
| 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:

3F2

Address 2:

8 NORTH BANK STREET

Address 3:

OLD TOWN

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH1 2LP

Please identify/describe the location of the site or sites

Northing

673621

Easting

325557

## 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)

Reference 100559109, Planning Refusal. I respectfully request a review and change of planning decision.

## 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.

It is our view that the refused change of use, does not materially affect the amenity of the neighbourhood or present any nuisance. Please see enclosed document for evidence and supporting statements.

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)

1. Supporting statements

## Application Details

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

100559109

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

27/04/2022

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

13/10/2022

## 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: Mrs Sheila Trueman

Declaration Date: 18/10/2022



Sheila Trueman  
68 Polmuir Road  
Aberdeen  
Ab11 7TH  
18th Oct 2022

**Reference Case 100559109. 8 North Bank Street, Flat 3F2. EH1 2LP. Request Review of Change of Planning Decision from Refused to Grant**

Dear Sir/Madam,

Contrary to the decision: -

*The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents'*

It is our view

*The change of use will have no impact on the character, amenity of neighbourhood or have detrimental effect on the living conditions of nearby residents. And is supported by the following evidence: -*

**1. Summary**

- i) Flat entry of guests is supervised in person, at sociable times.
- ii) Key boxes or code entry are not used.
- iii) Common areas including entrance and stairs are carpeted.
- iv) Car parking is not provided.
- v) Flat location is on a very noisy road, commercial and tourist area.
- vi) Flat maximum occupancy is 4 people (sharing standard double beds) and minimum stay of 3 nights limits disturbance.
- vii) No bunk, single, temporary or sofa beds are provided.

- viii) No change to physical parts of the building or land are required.
- ix) No issues or complaints reported in last 7 years.
- x) Continued second home use has no impact on availability on homes for long term rental or ownership.
- xi) Property is fully insured for STL including public liability insurance and all applicable business rates are paid.
- xii) Safe operation and features. In common areas connected, serviced fire detectors, alarms and automated vent are installed. Inside the flat connected heat, smoke and carbon monoxide detectors and fire door are installed. Furthermore, non gas heating system provides extra safety features.

## 2. General Information

- a. Flat is owned and managed responsibly by the applicant, Sheila Trueman. My permanent residence is in Aberdeen. As above.
- b. Flat has 2 bedrooms (1 standard double bed in each), 2 bathrooms (both ensuite) and has a combined half kitchen-dining and living space.
- c. Flat is our holiday home and is used by my immediate family for ad hoc, recreational use and we have no plan to sell or provide long-term letting.
- d. When not in use by family and friends, our property is listed on Airbnb for short term let. The property has Airbnb Plus status and is managed by me and my husband. We are Super hosts and have 4.95 (out of 5) rating from 323 reviews. We have let the property when not in personal use, since 2015 and have received no complaints or objections from neighbours.
- e. We indirectly employ a small, family run meet and greet, cleaning and laundry services. Otherwise, all property management, guest communication and vetting is managed by me, the owner. We have a vested interest in the quality of our guests and do not outsource this responsibility to an agency or commercial operators.
- f. I am not a commercial operator and I do not manage or operate any other properties other than that listed in this application.
- g. Income from the applicant property is used to cover costs and supplement my non worker income.
- h. Property Factoring is provided by James Gibb, including 24/7 emergency services, general maintenance of building and cleaning of common areas.
- i. Safety features. In the common areas, the building has a modern, centrally connected, maintained and serviced fire alarm system and automated, roof vent (**Figure 4**). Smoking is not permitted in the flat or common areas and is monitored by smoke alarms. Inside the flat, an automatic fire door is activated by kitchen fire or smoke and isolates sleeping areas. Carbon monoxide, mains connected, heat and smoke

alarms are installed. Furthermore, heating is provided by a relatively safe (no gas) combi electric system. The heating system is serviced annually (details available on request).

- j. The common areas are carpeted (**Figure 3**).
- k. Car parking is not provided or available to owners or guests.
- l. No change to the physical parts of the building, flat or land are required or requested
- m. Our flat is fully insured for short term let including public liability insurance, up to £5MM per claim. Reference Schofields, Policy No. 166969. (**Figure 5**).
- n. Edinburgh City, Business rates are paid, ref 3263855422 (**Figure 6**)
- o. Full income taxes are declared and paid.

### **3. Guest arrivals and departures**

- p. Access is not permitted at unsociable times, and monitored as following:
- q. Guest arrival and check in is managed in person and within specified times between 3pm and 9pm. Evidence of person check in from last 7 years of operation is available on request.
- r. A code or lock box is not used. Our guests are met in person. This ensures guests do not exceed the maximum occupancy of 4 persons, and non or minimal disturbance of neighbours. The meeting of guests for check in is coordinated by me prior to arrival.
- s. Laundry and maintenance services are provided by Gill Holden Property Management Services. Laundry and change overs occur during normal working hours between 11.00am and 15.00 hrs.
- t. Guest departure and check out is required before or at 11.00am.

### **4. The impact on residents' in flatted buildings**

- u. The security of the building is assured as key and code boxes are not used or permitted. Guests are checked in and met in person. This prevents unsociable check in times or behaviour. Personal check in is also used to verify booking details such as maximum persons (4) and the identity of guests matching the booked profile.
- v. Minimum duration of stay is 3 nights. This minimises change over activity and inconvenience to other residents.

### **5. Likely frequency and intensity of noise on neighbours**

- w. The likelihood of increased ambient noise is low to none. This is due to an already very noisy neighbourhood, including commercial operations, traffic and tourist activity. Specifically, North Bank Street is a bustling thoroughfare for road, car, bus and bus tour traffic connecting the New

and Old Towns and therefore has high levels of ambient road noise **(Figure 7)**. Furthermore, the property ground floor has two busy commercial operations and there is shared door (emergency fire exit) in the entrance hall. They are The Makars Rest Café and Whisky Rooms Restaurant **(Figure 2)**. Both operate lunch and evening service. The immediate neighbouring Wash Bar operates a late bar (01.00am) with frequent bottle emptying and outdoor smoking activity, resulting in high levels of noise. The Courtyard to the rear of the property has immediate access to the Writers Museum with high footfall, and is used daily by many (multi language) walking, and theme group tours e.g. The Witchery Tour. The Money Museum is located directly to the front. Suffice to say, our neighbourhood is very noisy, and residents are custom to it. For this reason, the property is ideally located for tourists, but not ideally located for residents. Our change of use will therefore have no impact on existing ambient noise levels.

- x. Common areas including entrance hall and stairs are carpeted, which therefore minimises noise from foot and luggage disturbance. **(Figure 3)**
- y. Parties and unsociable behaviour is not permitted and requires agreement of house rules by guests prior to arrival. This is verified in person at check in.
- z. The duration of each stay allowed is between 3 days and 3 weeks. This minimises the risk of single night parties and prevents a high change over, disturbance rate.
- aa. The flat has two double bedrooms, each with a standard double bed, suitable for a sharing family or couples. Extra single, sofa or bunk beds are not provided or permitted. This arrangement reduces the risk of noisy parties.
- bb. Hogmanay period is not available to booking guests.
- cc. The whole building is managed by Factor and to our best knowledge, all flats (8 in total) are short term let (STL) except one – which is on the top floor -and is therefore not disturbed by passing guests.

## **6. Impact on public services and residents' amenity**

- dd. Flat has maximum occupancy of 4, and has an approximate 70%, annual occupancy rate (including guests and owners). As guests and owners are tourists, eating at home is unusual as they utilise the many restaurants and cafes on the doorstep. It is our belief therefore, that the impact on rubbish collection services is the same or less than full time residents.
- ee. North Bank Street and indeed our flat specifically, has no parking facility and it is not offered to guests. The change of use to STL therefore has no impact on parking space availability for nearby residents. Most of our

guests arrive by foot or taxi. If they do drive (which is rare) we recommend that they use the nearby (10 min walk) commercial car parks at Waverley train station or QPark at Quartermile.

## **7. Impact on character and amenity of a neighbourhood**

- ff. No external or internal changes to the fabric of the building or land are required or requested. The character of the building is therefore unchanged.
- gg. Before conversion in 2011, the buildings original use was a commercial office, linked underground to the neighbouring Bank of Scotland. Also, the flat is a secondary holiday home, and will not be offered for sale or long-term letting. Therefore, change of use to a STL has no impact on the historical or future long-term rental or ownership availability.
- hh. Regarding seasonal availability. We can demonstrate a high level of occupancy (70%) spread across the year, reflecting high in and out of season use. Non usage is mostly created by our 3-day minimum stay requirement, where 2 days between guests becomes unusable. The high, out of season occupancy rate ensures that the character of the neighbourhood is thriving and maintained.
- ii. Our Airbnb listing is PLUS status, verified by Airbnb inspection as accurate and high quality. We have Superhost status. It therefore appeals to guests that require high quality and does not appeal to single guests, stag or hen groups.
- jj. As our guests are either families or 2 couples (max 4 occupants in 2 double beds). It is our opinion that the activities of our guests are similar to long term residents. Guests are verified by person at check in and do not exceed 4 persons.
- kk. Guests arrive by foot, usually via the train, airport tram link or taxi. No parking space is provided or permitted. The flat is also on the 3rd floor with no elevator. Guests therefore do not bring food with them but either purchase it locally or use the restaurant sector and contribute significantly to the local food and leisure economy.

## **8. Number of People staying**

- ll. The flat maximum occupancy is 4, with 2 bedrooms, each with a standard double bed. Our guests are families or sharing couples. As such, the number of occupants is similar to the long-term occupancy that might be expected, and the demand on services is similar if not the same as long term residents.
- mm. No bunk, single, temporary or sofa beds are provided. No partitioning of rooms is provided for extra beds.

Thank you for your attention. If you require more details or require an inspection, please do not hesitate to contact me.

Yours faithfully

Sheila Trueman



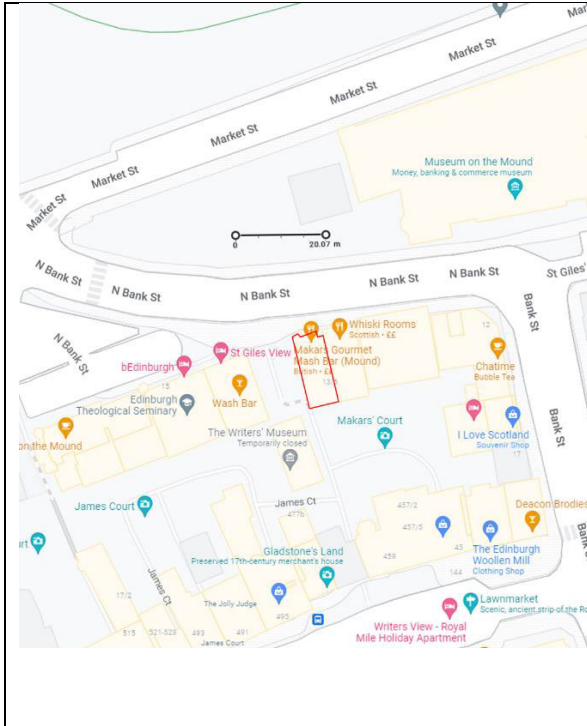
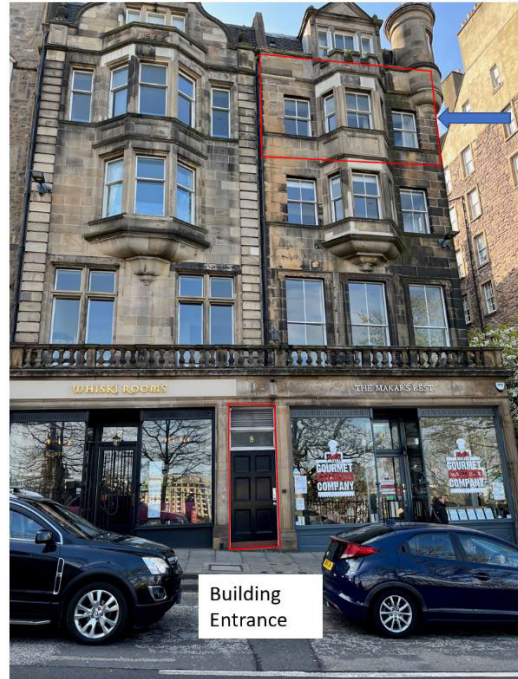


Figure 1. Location



Flat 3F2

Building Entrance

Figure 2. Photo Location

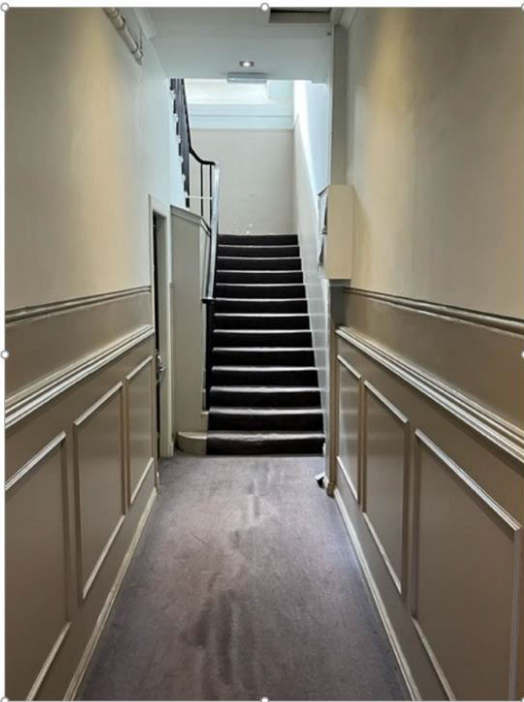


Figure 3. Entrance Hall and Stairs are Carpeted



Figure 4. Central Fire Alarm System

**SCHOFIELDS**  
UNDERWRITING AGENCIES

General Tel: 01204 365080  
Payment Tel: 01204 394345  
Email: [admin@schofields.ltd.uk](mailto:admin@schofields.ltd.uk)  
Website: [www.schofields.ltd.uk](http://www.schofields.ltd.uk)

**UK HOLIDAY HOMES INSURANCE**  
**POLICY SCHEDULE - CERTIFICATE OF INSURANCE**

Policy No: H6097  
Start Date: Apr 19 2022

Date: 01/24/2022  
Agreement No: 22838LOCV

THE ASSURED: MRS S TRUEMAN  
Correspondence: 88 Polmuir Road  
Address: ABERDEEN  
UK  
AB11 7TH

PERIOD OF INSURANCE: FROM 18/05/22 to 09/05/23 Both Days Inclusive

Insurance is provided under each of the Sections below where an amount or the words "as stated herein" are inserted. Where there is NO INSURANCE the words "NOT INCLUDED OR WR ARE SHOWN". This schedule must be read in conjunction with the enclosed policy wording which details full cover provided and standard policy exclusions.

| SECTIONS   | SUMS INSURED |
|--|--------------|
| Section 1 Buildings  |              |
| Section 2 Contents   |              |
| A Additional Damage to Contents Extension                                  |              |
| Section 3 Accidents by Domestic Staff                                      |              |
| Section 4 Legal Liability to the Public                                    |              |
| Section 5 Loss of Use and Dealt of Access - In Any One Period of Insurance |              |
| Section 6 Theft of Keys  |              |

The Premises:  
4 NORTH BANK STREET, EDINBURGH, UK, EH1 2LP

ADDITIONAL VOLUNTARY EXCESS: AN ADDITIONAL VOLUNTARY EXCESS OF [REDACTED] APPLICABLE; THIS IS IN ADDITION TO THE STANDARD POLICY EXCESSES.

VALUABLE ENDORSEMENTS:  
IC17 - WINTER HEATING DRAIN DOWN WARRANTY.

SUBROGATING SYNDICATES: Synoptic 4141 at Lloyd's, managed by BCC Underwriting Agency Limited (BUCA) trading as York-Morrie (ICC - 100%).

This years renewal premium [REDACTED] inclusive of 12% Insurance Premium Tax of [REDACTED].  
Renewal Code (for website payment use only): NFR

To review the policy you must make settlement of the premium, the policy does not auto renew.

OPTIONAL HOLIDAY HOME LEGAL EXPENSES POLICY: May be purchased as per the enclosed summary of cover at a cost of [REDACTED] annum. To purchase [REDACTED] to the optional renewal premium (including a charge, request cover when receiving by telephone or purchase while reviewing on line during the payment stage.

Schofields Underwriting Agencies, Trinity House, 7 Institute Street, Bolton, BL1 1PZ

TM1RH22.v1  
Authorised and Regulated by The Financial Conduct Authority - FCA, registered number: 110669

Figure 5. Certificate of Insurance

**• EDINBURGH •**  
THE CITY OF EDINBURGH COUNCIL

Non-Domestic Rates  
The City of Edinburgh Council  
P.O. Box 463  
Edinburgh  
EH7 9DJ

t: 0131 608 1133  
e: [non-domesticrates@edinburgh.gov.uk](mailto:non-domesticrates@edinburgh.gov.uk)  
w: [www.edinburgh.gov.uk/businessrates](http://www.edinburgh.gov.uk/businessrates)

**Non-Domestic Rates**

SHEILA TRUEMAN  
88 POLMUIR ROAD  
ABERDEEN  
AB11 7TH

Lands and Heritages Description: Self Catering Unit  
6(3F2) NORTH BANK STREET  
EDINBURGH  
EH1 2LP

Date of Issue: 01 April 2022

Reason for issue: Annual

**Non-Domestic Rates Financial Year 2022/23**

| Rateable Value | Basic Property Rate (poundage): |
|----------------|---------------------------------|
| [REDACTED]     | [REDACTED]                      |

**Charge breakdown for 01-APR-2022 to 31-MAR-2023**

Your rateable value: [REDACTED]  
Your poundage rate: [REDACTED]  
Your Rateable Value multiplied by Your Property Rate: [REDACTED]

Adjustments  
SMALL BUSINESS BONUS UP TO 25% 01/04/2022 - 31/03/2023 [REDACTED]

Payments

**Net Amount Due 1**

**Payment Instructions**

You are paying by Bankers Standing Order 1 instalment of [REDACTED] on 15th May, followed by 9 instalments of [REDACTED] the 15th of each month.

If rates remain outstanding 14 days after issue of a Final Notice we may apply for a Summary Warrant. In this instance, the full amount outstanding will become payable, together with a penalty of 10% of the amount due. If unpaid, this may result in legal proceedings against you to recover the debt.

Help us to reduce costs and our carbon footprint by joining the thousands already registered for paperless billing. Sign up at [www.edinburgh.gov.uk/business](http://www.edinburgh.gov.uk/business)

Figure 6. Non-Domestic Rates



Figure 7. North Bank Street Road and Exterior





Dual Scan Ltd.  
Mr Luke Barnes.  
South View  
Ormiston Hall  
Ormiston  
EH35 5NJ

**Decision date: 13 October 2022**

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

Change of use from residential to short-term let (STL).  
At 405 Webster's Land Edinburgh EH1 2RX

**Application No:** 22/02967/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 3 June 2022, 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 proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

Drawings 01, 03, 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 Lesley Porteous directly at [lesley.porteous@edinburgh.gov.uk](mailto:lesley.porteous@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 405 Webster's Land, Edinburgh, EH1 2RX**

**Proposal: Change of use from residential to short-term let (STL).**

**Item – Local Delegated Decision  
Application Number – 22/02967/FUL  
Ward – B11 - City Centre**

### **Recommendation**

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

### **Summary**

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.

The proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site is a one bedroom flat on the first floor at 405 Webster's Land in the West Port. The property shares its access to West Port via a communal stair and a secure gated access.

Webster's Land is a large residential development comprising around 116 individual flats. It is in a mixed use area just off the Grassmarket. The Grassmarket has a high concentration of cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the Old Town Conservation Area and the World Heritage Site.

### **Description Of The Proposal**

The application is for a change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let since 2017. Therefore, the application is retrospective.

### **Supporting Information**

Planning Statement.

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

No other relevant planning site history.

### **Consultation Engagement**

No consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 13 October 2022

**Date of Advertisement:** 24 June 2022

**Date of Site Notice:** 24 June 2022

**Number of Contributors:** 3

## **Section B - Assessment**

### **Determining Issues**

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

## **Assessment**

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

### **a) The proposals harm the character or appearance of the conservation area?**

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

- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

### **Conclusion in relation to the conservation area**

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 1 and Env 6.

- LDP Housing policy Hou 7.
- LDP Transport policies Tra 2 and Tra 3.
- LDP Delivering the Strategy policy Del 2.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policy Env 6.

The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering policy Hou 7.

#### Conservation Area

LDP Policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted if it preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The impact on the character and appearance of the conservation area has been considered above in a). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

#### World Heritage Site

LDP policy Env 1- World Heritage Sites states that development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh as World Heritage Sites or would have a detrimental impact on the site's setting will not be permitted.

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP policy Env 1.

#### Proposed Use and Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration.

The one-bedroom property is on the first floor of a large residential block of five storeys. The entrance door of the flat is connected to the shared entrance gate by a series of external walkways that are linked by internal stairways. These are communal.

The property is in a residential block and is a part of a 116-unit development. The use of the property as a short term let would have the potential to introduce an increased frequency of movement to the flat and in the communal stairways at unsociable hours. The proposed one bedroom short stay use would enable two or more visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is also no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect. There is the added risk of a potential detrimental impact on the sense of community and less interest in maintaining and cleaning the stairwell due to temporary occupation.

The location of the flat, being in a residential block, surrounded by a high number of residential units, creates a situation where such a use could bring additional noise and disturbance immediately outside the flat and in the shared stairwells.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. The site lies within the City Centre and policy Del 2 reflects SPP by stating it supports a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. However, the promotion of mixed uses has to be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

Anti-social behaviour can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP policy Hou 7.

### Parking Standards



LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

There is no off street car parking available within the site. As the site is in the heart of the Old Town car use is discouraged. The site is accessible to public transport links. There is no cycle parking standards for SCVA's. Bikes could be parked within the property if required. The proposals comply with policies Tra 2 and Tra 3.

### **Conclusion in relation to the Development Plan**

The proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that would justify approval.

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

The following material planning considerations have been identified:

##### SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development.

##### Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

##### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

## Public representations

A summary of the representations is provided below:

### *material considerations*

- Negative impact on residential amenity. Addressed in b) above.
- Negative impact on community. Addressed in b) above.
- Negative impact on cleaning and maintenance of stairwell. Addressed in b) above.
- Contradicts policy Hou 7 of the LDP. Addressed in b) above.
- Negative impact on the World Heritage Site. Addressed in b) above.
- Encourages waste issues. The applicant should have an agreement with CEC's Waste Services.

### *non-material considerations*

- Too many short term lets in the area. Each application has to be considered on its individual merits.
- Reduces housing stock. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Contradicts policies Des 1 and Des 5 of the LDP. The application must be assessed against the relevant policies of the LDP. These are not relevant policies.
- Pushes up house prices. This is a commercial consideration not covered by planning policy.

## **Conclusion in relation to identified material considerations**

The proposal does not raise any other material considerations.

### **Overall conclusion**

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.

The proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

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

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

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

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

**Date Registered:** 3 June 2022

### **Drawing Numbers/Scheme**

01, 03

Scheme 1

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

Contact: Lesley Porteous, Planning Officer  
E-mail: [lesley.porteous@edinburgh.gov.uk](mailto:lesley.porteous@edinburgh.gov.uk)

Appendix 1

## **Consultations**

No consultations undertaken.

# Comments for Planning Application 22/02967/FUL

## Application Summary

Application Number: 22/02967/FUL

Address: 405 Webster's Land Edinburgh EH1 2RX

Proposal: Change of use from residential to short-term let (STL).

Case Officer: Lesley Porteous

## Customer Details

Name: Mr Paul Burrows

Address: 509 Webster's Land Edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: There are already more short term lets in Webster's Land than is compatible with the development being a residential property and adding more will significantly impact on the quality of life for those who are long term residents. It should not be the purpose of planning to turn a residential development into a hotel.

# Comments for Planning Application 22/02967/FUL

## Application Summary

Application Number: 22/02967/FUL

Address: 405 Webster's Land Edinburgh EH1 2RX

Proposal: Change of use from residential to short-term let (STL).

Case Officer: Lesley Porteous

## 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 the proposals for the change of use to short-term let in a tenement within the Old Town Conservation Area, and objects.

- 1) The proposals only relate to one property within the tenement, which is accessed from a shared stair. This would have a detrimental impact on the residential amenity of neighbouring properties, and limits the future of the flats not included within the application.
- 2) The change of use would contribute to the unsustainable growth of the short term let (STL) sector in Edinburgh. The economic benefits of tourism for Edinburgh are clear, and we celebrate the role that our architectural heritage plays in this sector. However, the current rising rate of STLs threatens the sense of place and community which are part of the city's attraction, and this is especially acute in the World Heritage Site.
- 3) Scottish Government Research has highlighted the links between STLs and the negative impacts of reduced availability of affordable housing, congestion and reduced quality of life through noise and disturbance (People, Communities and Places, October 2019, pp. iv-v)
- 4) With particular reference to architectural heritage the responsibility for the care and maintenance of communal areas and aspects of joint responsibility in listed buildings and conservation areas is diminished by the increase of short-term occupants.

The change of use does not respect the building's location in the World Heritage Site, and would increase the negative impacts caused by the growth of STLs in Edinburgh.

The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities), and HOU7 (Materially detrimental effect on the living conditions of nearby residents). We therefore object to the application.

# Comments for Planning Application 22/02967/FUL

## Application Summary

Application Number: 22/02967/FUL

Address: 405 Webster's Land Edinburgh EH1 2RX

Proposal: Change of use from residential to short-term let (STL).

Case Officer: Lesley Porteous

## Customer Details

Name: Mrs Elspeth Wills

Address: 3 Browns Place Edinburgh

## Comment Details

Commenter Type: Residents Association

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: With the full support of the Old Town Community Council, GRASS the local community group for the area wishes to object strongly to the above application.

The area around the West Port is densely tenemented and the whole community is decimated by the inexorable rise of STLs. All the usual objections of late night noise, littering etc stand.

Although the building is modern it was built by a developer to meet the need for rented accommodation. That need is more than justified today where most property is unaffordable thanks to STLs pushing house prices up.

STLs bring few benefits to the local economy or community as most visitors stay for only 2-3 nights to have fun in the city centre.

The property is on the edge of the World Heritage site.

Loss of income to the Council who maintains essential services such as rubbish collection free of charge.

Housing should be seen as a place for people to live in not as an investment.

We urge that this and all STL applications are turned down.

Yours sincerely

Elspeth Wills





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      100603501-001

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

## Applicant Details

Please enter Applicant details

|                      |               |  |                |
|----------------------|---------------|--|----------------|
| Title:               | Mr            | You must enter a Building Name or Number, or both: * |                |
| Other Title:         |               | Building Name:                                       | South View     |
| First Name: *        | Luke          | Building Number:                                     |                |
| Last Name: *         | Barnes        | Address 1 (Street): *                                | Ormiston Hall  |
| Company/Organisation | Dual Scan Ltd | Address 2:   |                |
| Telephone Number: *  | [REDACTED]    | Town/City: *   | Ormiston       |
| Extension Number:    |               | Country: *   | United Kingdom |
| Mobile Number:       |               | Postcode: *  | EH35 5NJ       |
| 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:

405 WEBSTER'S LAND

Address 2:

TOLLCROSS

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH1 2RX

Please identify/describe the location of the site or sites

Northing

673276

Easting

325160

## 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)

Change of use from residential to short term let (STL).

## 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.

See attached supporting 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)

Supporting letter

## Application Details

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

22/02967/FUL

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

02/06/2022

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

13/10/2022

## 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 Luke Barnes

Declaration Date: 20/10/2022

## Appeal supporting statement for application number 22/02967/FUL

Following a review of the decision notice and report of handling associated with planning application number 22/02967/FUL, a number of points have been noted that warrant the submission of an appeal. The points are listed below and it is requested that they are reviewed as part of this appeal.

The primary ground for refusal is that, according to the planning officer, the proposal will have a materially detrimental impact on nearby residential amenity and is therefore contrary to Policy Hou 7 of the Local Development Plan. This opinion is based on the following statements taken from the report of handling:

- *'potential to introduce an increased frequency of movement to the flat and in the communal stairways at unsociable hours'.*

Guest movement has been shown to be similar to that of long-term residents during their stay and the layout of the building, with its predominantly external walkways help to minimize disturbance to residents as only a small portion of flats are passed and noise is not amplified as it is in a traditional tenement stairway. Arrival / departure times are typically mid-morning / afternoon with no late-night arrivals permitted.

An extract from enforcement report 19/00301/ESHORT reads *'the character of the development differs from traditional tenement style flats due to the scale of the development and nature of the external walkways. It is therefore likely that any noise and disturbance arising from the arrival and departure of guests will be less intense than that which may be experienced within an enclosed tenement block'.*

- *'use would enable two or more visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents'.*

- *'no guarantee that guests would not come and go frequently throughout the day and night'.*

As highlighted in the original supporting statement, no more than two guests are permitted to stay at any one time.

The Air BnB 'house rule' system ensures that all guests are reminded of the importance of respecting their neighbours while staying at the property. No complaints have ever been received from neighbouring residents in relation to the frequency and timing of guest transit in the building, nor for any other matter relating to the current use and residential amenity.

The patterns of coming and going to the property by the guests are very similar to, if not indistinguishable from, permanent residents; the use of the property as a residential flat is not intensified as a result. Guests are either on holiday, or on a business trip and therefore spend the majority of the day out of the property, and not entering and exiting the building multiple times per day or night. It is also noted that the property is not occupied every day of the year, and is occupied less intensively than some properties occupied by long term residents.

- *'risk of a potential detrimental impact on the sense of community and less interest in maintaining and cleaning the stairwell due to temporary occupation'.*

It is argued that the sense of community in city centre locations like the old town of Edinburgh has been impacted more significantly by things like increased student numbers and general gentrification than the more recent rise in self-catering accommodation. It has been noticed that tourists are typically more amenable to exchange pleasantries and have conversation than many of the long-term residents in the building.

All communal areas in the building are regularly cleaned and maintained by Trinity Factoring services, ensuring that residential amenity is not negatively impacted. The factor has never reported an increase to cleaning / maintenance requirements as a result of the current use.

- *'use could bring additional noise and disturbance immediately outside the flat and in the shared stairwells'.*

The flat is located one floor above street level with the majority of the route located externally. The areas outside the flat and stairwells are used for transit only as the walkways are fairly narrow with no reason for people to congregate.

Furthermore, it could be argued that "normal" residential use involves activities which may cause disturbance to a building, which the property as a short-term let does not. Examples would include carers coming and going during the day and night, friends of a resident visiting (unlikely with the short term guests), parties and other gatherings, use of household appliances such as a washing machine (unlikely with short term guests given the brevity of their stays) or a television (unlikely with short term guests due to the purpose of their visit being touristic), and cooking noises/smells and associated waste (most guests will eat in local restaurants). "Normal" residents would also take shopping and bicycles up the stairs, creating noise not generated by the short-term guests.

### Further points

The statements / reasons relating to the impact to residential amenity in the report of handling are all general speculations that do not take into account the type of people that stay in the property or the systems that are in place to control guest numbers, arrival times and encourage respectful behavior. It also does not consider that the use has been ongoing for the past 5 years with not one complaint received about noise or disturbance from fellow residents.

The report of handling does not make any mention of the covering letter that was attached to the application which raised many of the important points mentioned above.

Reference is only made to the public representations, two of which are from organizations that have no direct relationship with the building and are known to object to all applications of this nature. The third is from an individual who believes the change of use is only now about to start and clearly does not have any direct grievance with the property in question as they have been unaware that the use has been ongoing for 5 years.

Based on the points mentioned above, it is refuted that there has been any detrimental effect to neighbouring residential amenity and consider that the use of the property does not conflict with policy HOU 7.

The decision to refuse the application is effectively 'shutting down' a business that has been operating successfully and respectively for the past 5 years with zero complaints received. The owners take great pride in personally managing the bookings, liaising with guests and maintaining / cleaning the property. The personal impact of this decision cannot be overstated and although the council claim to judge each case on its own merits, the reasons / assumptions included in the report do not appear to support this statement.

The local review body is therefore invited to consider the above points and find that the use of the property for short-term residential lettings has not had a detrimental impact on residential amenity.

is relevant in this respect. However, there is a current lack of information on the scale of such requirements and how they should be addressed. Whilst it may be appropriate to seek contributions for such provision any requirement would need to be considered on a case by case basis where a clear justification can be provided in the context of Circular 3/2012. The feasibility of including such additional contributions and the impact on development viability would also have to be assessed.

### Area Specific Policies - Opportunities for major mixed use development/regeneration

146 Policies Del 2 - Del 4 will guide development in three major regeneration areas, the City Centre, Edinburgh Waterfront and Edinburgh Park/South Gyle. These policies aim to ensure that development and regeneration proposals incorporate an appropriate mix of uses consistent with the character of the wider area and its role in meeting the objectives of the plan.

#### Policy Del 2 City Centre

Development which lies within the area of the City Centre as shown on the Proposals Map will be permitted which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city. The requirements in principle will be for:

- a) comprehensively designed proposals which maximise the potential of the site in accordance with any relevant development principles, development brief and/or other guidance
- b) a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area.
- c) Where practicable, major mixed use developments should provide offices,

particularly on upper floors. At street level, other uses may be more appropriate to maintain city centre diversity, especially retail vitality on important shopping frontages

- d) the creation of new civic spaces and traffic-free pedestrian routes where achievable.

Housing as part of mixed use development will be encouraged on appropriate sites to help meet housing need and create strong, sustainable communities.

147 This policy guides development in the City Centre to ensure proposals provide an appropriate mix of uses and are of a high quality of design taking account of the characteristics of the historic environment. Given the demand for office space in the City Centre and the importance of office jobs to the economy, the policy requires office provision to be included in major mixed use development proposals wherever possible. Development principles for the Fountainbridge, Edinburgh St James and New Street sites are provided in Table 10 (Part 1 Section 5).

#### Policy Del 3 Edinburgh Waterfront

Planning permission will be granted for development which will contribute towards the creation of new urban quarters at Leith Waterfront and Granton Waterfront (specifically EW 1a, b & c and EW 2 a -d on the Proposals Map). The requirements in principle will be for:

- a) comprehensively designed proposals which maximise the development potential of the area
- b) the provision of a series of mixed use sustainable neighbourhoods that connect to the waterfront, with each other and with nearby neighbourhoods
- c) proposals for a mix of house types, sizes and affordability
- d) the provision of open space in order to meet the needs of the local community, create local identity and a sense of place

- e) the provision of local retail facilities and leisure and tourism attractions, including water related recreation in and around retained harbours
- f) transport measures agreed with the Council, including a contribution to the proposed tram network and other necessary public transport improvements, the eastwards extension of Ocean Drive and the provision of a network of paths for pedestrians and cyclists, including an east-west path that will form part of the city-wide coastal promenade (safeguarded routes for these are shown on the Proposals Map).

In Seafield and Leith's northern and eastern docks (EW 1d and e), planning permission will be granted for industrial and port-related development and compatible uses provided it complies with other relevant policies in this plan.

Development should accord with the Leith Waterfront or Granton Waterfront Development Principles.

<sup>148</sup> The purpose of this policy is to ensure the regeneration of Edinburgh's Waterfront comes forward in a planned manner within the context of a long term vision. It sets out key development principles to guide housing led regeneration on large parts of the site, with more detailed guidance provided in the relevant site briefs. The policy also recognises that some parts of the Waterfront will remain in business and industrial uses. Development Principles for Leith Waterfront and Granton Waterfront are set out in Table 11 (Part 1 Section 5).

#### Policy Del 4 Edinburgh Park/South Gyle

Within the boundary of Edinburgh Park/South Gyle as shown on the Proposals Map, planning permission will be granted for development which maintains the strategic employment role of the area and also introduces a wider mix of uses. The requirements in principle will be for;

- a) comprehensively designed proposals which maximise the development potential of the area
- b) development for office and other business uses as part of mixed use proposals
- c) housing as a component of business-led mixed use proposals
- d) the creation of a new commercial hub adjacent to Edinburgh Park Station
- e) additional leisure and community uses at Gyle shopping centre
- f) an extension of the existing green space corridor (known as the Lochans) space
- g) improved pedestrian and cycle links through the site and to provide strong, safe connections with services and facilities in the surrounding area

Development should accord with the Edinburgh Park/South Gyle Development Principles.

<sup>149</sup> This policy aims to promote a better mix of uses in Edinburgh Park/South Gyle and still retain its important role as a strategic business location. The vision is to change the character of the Edinburgh Park/South Gyle area over time from a business dominated environment with limited evening and weekend activity to a thriving mixed use and well integrated part of the city. The Edinburgh Park/South Gyle Development Principles set out in Part 1 Section 5 provide guidance on how development can help deliver the long term vision for this area.



## 2 Design Principles for New Development

150 The Council encourages innovation and well designed developments that relate sensitively to the existing quality and character of the local and wider environment, generate distinctiveness and a sense of place, and help build stronger communities. Policies Des 1–Des 13 will be used to assess planning applications to meet the following objectives. More detailed advice on how to interpret and apply these policies can be found in Council guidance including in the Edinburgh Design Guidance document.



### Objectives

- a) To ensure that new development is of the highest design quality and respects, safeguards and enhances the special character of the city
- b) To ensure that the city develops in an integrated and sustainable manner
- c) To create new and distinctive places which support and enhance the special character of the city and meet the needs of residents and other users

### Policy Des 1 Design Quality and Context

Planning permission will be granted for development where it is demonstrated that the proposal will create or contribute towards a sense of place. Design should be based on an overall design concept that draws upon positive characteristics of the surrounding area. Planning permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area around it, particularly where this has a special importance.

151 This policy applies to all new development, including alterations and extensions. The Council expects new development to be of a high standard of design. The Council's policies and guidelines are not to be used as a template for minimum standards. The purpose of the policy is to encourage innovation in the design and layout of new buildings, streets and spaces, provided that the existing quality and character of the immediate and wider environment are respected and enhanced and local distinctiveness is generated.

### Policy Des 2 Co-ordinated Development

Planning permission will be granted for development which will not compromise:

- a) the effective development of adjacent land; or
- b) the comprehensive development and regeneration of a wider area as provided for in a master plan, strategy or development brief approved by the Council.

152 This policy applies to all development involving one or more new buildings. The Council encourages a comprehensive approach to redevelopment and regeneration wherever possible, and the preparation of development frameworks or master plans, to identify the full design potential for creating successful places. Piecemeal development is less likely to lead to the creation of well-defined and cohesive networks of streets and spaces. In exceptional cases, it may be necessary for the Council to use its powers of compulsory purchase to assemble a site for development and enable a satisfactory outcome to be achieved.

### Policy Des 3 Development Design - Incorporating and Enhancing Existing and Potential Features

Planning permission will be granted for development where it is demonstrated that existing characteristics and features worthy of retention on the site and in the surrounding area, have been identified, incorporated and enhanced through its design.

153 This policy is relevant for all new development involving one new building or more. Its aim is to ensure that development proposals are informed by a detailed analysis and understanding of the site. The incorporation of existing features including built structures, archaeology, trees and woodland, landscape character, views and biodiversity can enhance a development's sense of place and contribution to the wider habitat and green network. Where practicable, proposals should provide new habitat to further the conservation of biodiversity.

### Policy Des 4 Development Design – Impact on Setting

Planning permission will be granted for development where it is demonstrated that it will have a positive impact on its surroundings, including the character of the wider townscape and landscape, and impact on existing views, having regard to:

- a) height and form
- b) scale and proportions, including the spaces between buildings
- c) position of buildings and other features on the site
- d) materials and detailing

154 This policy applies to all new development of one or more buildings. Where the built environment is of high quality and has a settled townscape character, new development proposals will be expected to have similar characteristics to the surrounding buildings and urban grain. Where the surrounding development is fragmented or of poor quality, development proposals should help repair the urban fabric, establish model forms of development and generate coherence and distinctiveness – a sense of place. The siting and design of development should also be guided by views within the wider landscape and an understanding of local landscape character, including important topographical features, e.g. prominent ridges, valleys and patterns of vegetation.

### Policy Des 5 Development Design – Amenity

Planning permission will be granted for development where it is demonstrated that:

- a) the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook
- b) the design will facilitate adaptability in the future to the needs of different occupiers, and in appropriate locations will promote opportunities for mixed uses
- c) community security will be promoted by providing active frontages to more important thoroughfares and designing for natural surveillance over all footpaths and open areas
- d) a clear distinction is made between public and private spaces, with the latter provided in enclosed or defensible forms
- e) refuse and recycling facilities, cycle storage, low and zero carbon technology, telecommunications equipment, plant and services have been sensitively integrated into the design

155 This policy applies to all new development for one or more new buildings. Buildings must meet the needs of users and occupiers, with consideration given to impacts on neighbouring properties to ensure no unreasonable noise impact or loss of daylight, sunlight or privacy. Buildings should be designed to be flexible in use and interact closely with the street, providing continuity of urban frontage and natural surveillance. Cul-de-sac and single access residential layouts and gated communities should be avoided to help the integration of new development into the wider neighbourhood. Ancillary facilities must be sensitively integrated into the design of buildings to avoid impacting upon the surrounding townscape.

### Policy Des 6 Sustainable Buildings

Planning permission will only be granted for new development where it has been demonstrated that:

- a) the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low and zero carbon generating technologies.
- b) other features are incorporated that will reduce or minimise environmental resource use and impact, for example:
  - i. measures to promote water conservation
  - ii. sustainable urban drainage measures that will ensure that there will be no increase in rate of surface water run-off in peak conditions or detrimental impact on the water environment. This should include green roofs on sites where measures on the ground are not practical
  - iii. provision of facilities for the separate collection of dry recyclable waste and food waste
  - iv. maximum use of materials from local and/or sustainable sources
  - v. measures to support and encourage the use of sustainable transport, particularly cycling, including cycle parking and other supporting facilities such as showers.

156 This policy applies to all development involving one or more new buildings. The purpose of this policy is to help tackle the causes and impacts of climate change, reduce resource use and moderate the impact of development on the environment.

157 Buildings account for a substantial proportion of total carbon emissions through the energy they consume. Local authorities, through their planning and building standards responsibilities have a key role in helping to meet the Scottish Government's target for nearly zero carbon homes and buildings by 2016. Scottish Building Standards set carbon dioxide emissions reduction targets. At March 2013,

### Policy Des 11 Tall Buildings – Skyline and Key Views

Planning permission will only be granted for development which rises above the building height prevailing generally in the surrounding area where:

- a) a landmark is to be created that enhances the skyline and surrounding townscape and is justified by the proposed use
- b) the scale of the building is appropriate in its context
- c) there would be no adverse impact on important views of landmark buildings, the historic skyline, landscape features in the urban area or the landscape setting of the city, including the Firth of Forth.

166 Proposals for development that would be conspicuous in iconic views of the city will be subject to special scrutiny. This is necessary to protect some of the city's most striking visual characteristics, the views available from many vantage points within the city and beyond, of landmark buildings, the city's historic skyline, undeveloped hillsides within the urban area and the hills, open countryside and the Firth of Forth which create a unique landscape setting for the city. In addition, the height of new buildings may need to be suppressed where necessary so that the city's topography and valley features continue to be reflected in roofscapes. This policy will play an important role in protecting the setting of the World Heritage Sites.

167 A study undertaken for the Council identifies key public viewpoints and is used in assessing proposals for high buildings. Further advice is provided in Council guidance.

### 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.

### Policy Des 13 Shopfronts

Planning permission will be granted for alterations to shopfronts which are improvements on what already exists and relate sensitively and harmoniously to the building as a whole. Particular care will be taken over proposals for the installation of illuminated advertising panels and projecting signs, blinds, canopies, security grills and shutters to avoid harm to the visual amenity of shopping streets or the character of historic environments.

169 Shopfront design, shop designs and shopfront advertising play an important role in the visual environment of the city. Important traditional or original features on older buildings, such as stall risers, fascias and structural framing of entrances and shop windows, should be retained and incorporated into the design. In conservation areas and on listed buildings, design and materials used will be expected to be of a high standard, and not damaging to existing fabric of buildings or wider character. Detailed advice on shopfronts is provided in Council guidance.

Development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted.

177 This policy requires development to respect and protect the outstanding universal values of the World Heritage Sites and their settings. Setting may include sites in the immediate vicinity, viewpoints identified in the key views study and prominent landscape features throughout the city.

## Policy Env 3 Listed Buildings - Setting

Development within the curtilage or affecting the setting of a listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting.

Proposals to alter or extend a listed building will be permitted where

- a) those alterations or extensions are justified;
- b) there will be no unnecessary damage to historic structures or diminution of its interest; and
- c) where any additions are in keeping with other parts of the building.

173 Page 311 In determining applications for planning permission or listed building consent, the Council is required to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest that it possesses. Applications for the demolition or substantial alteration of a listed building must be accompanied by a thorough structural condition report demonstrating that the proposals are necessary or justified. Information must be provided on the proposed replacement building; these should be of comparable quality in terms of construction and design. The loss of a listed building will only be justified in exceptional circumstances. Scottish Historic Environment Policy (SHEP) and Council guidance provide further advice for applications relating to Listed Buildings.

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.



## Policy Env 9 Development of Sites of Archaeological Significance

Planning permission will be granted for development on sites of known or suspected archaeological significance if it can be concluded from information derived from a desk-based assessment and, if requested by the Council, a field evaluation, that either:

- a) no significant archaeological features are likely to be affected by the development or
- b) any significant archaeological features will be preserved in situ and, if necessary, in an appropriate setting with provision for public access and interpretation or
- c) the benefits of allowing the proposed development outweigh the importance of preserving the remains in situ. The applicant will then be required to make provision for archaeological excavation, recording, and analysis, and publication of the results before development starts, all to be in accordance with a programme of works agreed with the Council.

178 The objective of the above policies is to protect and enhance archaeological remains, where possible by preservation in situ in an appropriate setting. In some cases, depending on the nature of the remains and character of the site, the Council may require provision for public access and interpretation as part of the proposed development. When preservation in situ is not possible, recording and/or excavation followed by analysis and publication of the results will be required.

179 Developers should seek early advice from the Council's Archaeologist for sites where historic remains are known or thought likely to exist. Where a development may affect a scheduled monument or its setting, early contact should be made with Historic Environment Scotland.

## Natural Environment

180 Policies Env 10 to Env 16 will play an important role in ensuring development proposals protect and where possible enhance Edinburgh's natural heritage. Further advice can be found in Council guidance.

### Policy Env 10 Development in the Green Belt and Countryside

Within the Green Belt and Countryside shown on the Proposals Map, development will only be permitted where it meets one of the following criteria and would not detract from the landscape quality and/or rural character of the area:

- a) For the purposes of agriculture, woodland and forestry, horticulture or countryside recreation, or where a countryside location is essential and provided any buildings, structures or hard standing areas are of a scale and quality of design appropriate to the use.
- b) For the change of use of an existing building, provided the building is of architectural merit or a valuable element in the landscape and is worthy of retention. Buildings should be of domestic scale, substantially intact and structurally capable of conversion.
- c) For development relating to an existing use or building(s) such as an extension to a site or building, ancillary development or intensification of the use, provided the proposal is appropriate in type in terms of the existing use, of an appropriate scale, of high quality design and acceptable in terms of traffic impact.
- d) For the replacement of an existing building with a new building in the same use provided:
  - 1) the existing building is not listed or of architectural / historic merit;
  - 2) the existing building is of poor quality design and structural condition,
  - 3) the existing building is of domestic scale, has a lawful use and is not a temporary structure; and

4) the new building is of a similar or smaller size to the existing one, lies within the curtilage of the existing building and is of high design quality.

181 It is necessary to control the type and scale of development in the green belt to enable it to fulfil its important role in terms of landscape setting and countryside recreation as described in Part 1. However, the purpose of the green belt is not to prevent development from happening. This policy sets out the circumstances in which development in the green belt can be supported.

182 In Edinburgh, Countryside areas i.e. land outwith existing settlements, which are not designated green belt are considered to be of equivalent environmental importance. For this reason, it is appropriate to apply the same level of protection to both green belt and Countryside areas.

183 The key test for all proposals in the green belt and Countryside areas will be to ensure that the development does not detract from the landscape quality and/or rural character of the area. The Council's guidance 'Development in the Countryside and Green Belt' provides more detailed advice.

### Policy Env 11 Special Landscape Areas

Planning permission will not be granted for development which would have a significant adverse impact on the special character or qualities of the Special Landscape Areas shown on the Proposals Map

184 This policy aims to protect Edinburgh's unique and diverse landscape which contributes to the city's distinctive character and scenic value. Special Landscape Areas (SLA) are local designations, which safeguard and enhance the character and quality of valued landscapes across the Council area.

185 A Statement of Importance has been prepared for each SLA and can be viewed on the Council's website. This sets out the essential qualities and characteristics of the area and the potential for enhancement. The Statements of Importance should be

used to guide development proposals in SLAs and will be a material consideration in assessing planning applications. A landscape and visual impact assessment is likely to be needed in support of proposals affecting a SLA.

### Policy Env 12 Trees

Development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or on any other tree or woodland worthy of retention unless necessary for good arboricultural reasons. Where such permission is granted, replacement planting of appropriate species and numbers will be required to offset the loss to amenity.

186 This policy recognises the important contribution made by trees to character, biodiversity, amenity and green networks. In assessing proposals affecting trees, the Council will consider their value, taking into account current Scottish Government guidance – presently contained in its Policy on Control of Woodland Removal and UK Forest Standard – and their status such as Tree Preservation Order, heritage tree, Ancient Woodland and Millennium Woodland, along with information from tree surveys.

187 Where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders.

### Nature Conservation

#### Policy Env 13 Sites of International Importance

Development likely to have a significant effect on a 'Natura 2000 site' will be permitted only if either:

- a) the development will not adversely affect the integrity of the area; or
- b) it has been demonstrated that:
- c) there are no alternative solutions and
- d) there are imperative reasons of overriding public interest for permitting the development, including reasons of a social or economic nature.
- e) **compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.**

188 The Plan area covers internationally important sites known as 'Natura 2000 sites', designated under the Conservation (Natural Habitats, &c) Regulations 1994. These are the Firth of Forth, Forth Islands (part), and Imperial Dock Lock Special Protection Areas. Where a proposal may affect an internationally protected site, the Council will carry out a Habitats Regulation Appraisal. If it considers the proposal is likely to have a significant effect, the Council must then undertake an appropriate assessment. The appropriate assessment will consider the implications of the development for the conservation interests for which the area has been designated. Applicants will be required to provide information to inform the appropriate assessment. Development which could harm any of these internationally important areas will only be approved in exceptional circumstances.

### Policy Env 14 Sites of National Importance

Development which would affect a Site of Special Scientific Interest will only be permitted where an appraisal has demonstrated that:

- a) the objectives of the designation and the overall integrity of the area will not be compromised or
- b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance.

189 Sites of Special Scientific Interest (SSSIs) are areas of land (including land covered by water) which are considered by Scottish Natural Heritage (SNH) to be of special interest by reason of their natural features, i.e. their flora, fauna or geological or geomorphological features. Development which could harm an SSSI will be required to demonstrate reasons which clearly outweigh the nature conservation interest of the site and justify a departure from the national policy to protect such sites.

### Policy Env 15 Sites of Local Importance

Development likely to have an adverse impact on the flora, fauna, landscape or geological features of a Local Nature Reserve or a Local Nature Conservation Site will not be permitted unless it can be demonstrated that:

- a) the reasons for allowing the development are sufficient to outweigh the nature conservation interest of the site
- b) the adverse consequences of allowing the development for the value of the site have been minimised and mitigated in an acceptable manner.

190 The purpose of this policy is to protect sites of local nature conservation value and designated Local Nature Reserves from damaging development. The network of Local Nature Conservation sites and Local Nature Reserves is shown on the Proposals

Map. Many of these provide connectivity between internationally and nationally important sites and contribute to green networks. A Site Report has been prepared for each LNCS.

### Policy Env 16 Species Protection

Planning permission will not be granted for development that would have an adverse impact on species protected under European or UK law, unless:

- a) there is an overriding public need for the development and it is demonstrated that there is no alternative
- b) a full survey has been carried out of the current status of the species and its use of the site
- c) there would be no detriment to the maintenance of the species at 'favourable conservation status'
- d) suitable mitigation is proposed

191 European Protected Species (EPS) are covered by the Habitats Regulations. EPS found in the Edinburgh area are bats, otters, and great crested newts. Other species-specific legislation to be taken into account includes the Protection of Badgers Act 1992 and those species listed in the Schedules of the Wildlife and Countryside Act 1981. If the presence of an EPS or other protected species is suspected, appropriate survey work must be carried out to enable the Council to assess the likely impact of development on the species.

\* *The EU Habitats Directive defines 'favourable conservation status' as the distribution and population of the species being at least the same as when the Directive came into force in 1994.*

## Countryside Access and Open Space

### Policy Env 17 Pentlands Hills Regional Park

Development which supports the aims of the Pentlands Hills Regional Park will be permitted provided it has no unacceptable impact on the character and landscape quality of the Park.

192 This policy aims to ensure that proposals for outdoor recreation activities, whilst likely to be supported in principle, do not detract from the special rural character of the Regional Park. Proposals will also be assessed in terms of other relevant policies such as Env 10 Green Belt and Env 11 Landscape Quality.

### Open Space

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193 The Proposals Map shows the significant areas of open space identified in an audit of the city. The criteria in Policy Env 18 will be applied to development proposals affecting all such open spaces citywide. Proposals affecting a playing field will be considered against relevant criteria in both Policy Env 18 and Policy Env 19.

### Policy Env 18 Open Space Protection

Proposals involving the loss of open space will not be permitted unless it is demonstrated that:

- a) there will be no significant impact on the quality or character of the local environment and
- b) the open space is a small part of a larger area or of limited amenity or leisure value and there is a significant over-provision of open space serving the immediate area and
- c) the loss would not be detrimental to the wider network including its continuity or biodiversity value and either

- d) there will be a local benefit in allowing the development in terms of either alternative equivalent provision being made or improvement to an existing public park or other open space or
- e) the development is for a community purpose and the benefits to the local community outweigh the loss.

194 This policy aims to protect all open spaces, both public and privately owned, that contribute to the amenity of their surroundings and the city, provide or are capable of providing for the recreational needs of residents and visitors or are an integral part of the city's landscape and townscape character and its biodiversity. The Council will only support development on open space in exceptional circumstances, where the loss would not result in detriment to the overall network and to open space provision in the locality. Such circumstances tend to exist where large areas of residential amenity space have been provided without a clear purpose or sense of ownership. The Council's Open Space Strategy sets the standards to be met for open space provision across Edinburgh and will be used to assess whether there is an over provision of open space in the immediate area (criterion b). To accord with criterion d), proposals for alternative provision or improvements to open space should normally address an identified action in the Open Space Strategy.

### Policy Env 19 Protection of Outdoor Sports Facilities

In addition to the requirements of Policy Env 18, the loss of some or all of a playing field or sports pitch will be permitted only where one of the following circumstances applies:

- a) The proposed development is ancillary to the principal use of the site as outdoor sports facilities
- b) The proposed development involves a minor part of outdoor sports facilities and would not adversely affect the use or potential of the remainder for sport and training
- c) An alternative outdoor sports facility is to be provided of at least equivalent

sporting value in a no less convenient location, or existing provision is to be significantly improved to compensate for the loss

- d) The Council is satisfied that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and the site can be developed without detriment to the overall quality of provision.

195 Outdoor sports facility provision must be considered as a city-wide resource and in terms of its contribution to local needs. The Council's assessment of provision in the city as a whole has concluded that the amount of pitches, whether or not in public ownership or publicly accessible, is equivalent to the need. However, there needs to be significant improvements in quality. On this evaluation, the loss of pitches to development cannot be justified in principle. However, the loss might be acceptable if alternative equivalent provision is to be made in an equally convenient location. Development has been allowed where other pitches serving the local community are to be equipped with all-weather playing surfaces. The Open Space Strategy identifies the locations where such investment is to be concentrated in multi-pitch venues.

### Policy Env 20 Open Space in New Development

The Council will negotiate the provision of new publicly accessible and useable open space in new development when appropriate and justified by the scale of development proposed and the needs it will give rise to. In particular, the Council will seek the provision of extensions and/or improvements to the green network.

196 This policy ensures that development proposals (other than housing which is covered by Policy Hou 3) include appropriate open space provision and, where the opportunity arises, contribute to Edinburgh's green network. The term 'open space' covers green space and civic space.

## Protection of Natural Resources

### Policy Env 21 Flood Protection

Planning permission will not be granted for development that would:

- a) increase a flood risk or be at risk of flooding itself
- b) impede the flow of flood water or deprive a river system of flood water storage within the areas shown on the Proposals Map as areas of importance for flood management
- c) be prejudicial to existing or planned flood defence systems.

197 This purpose of this policy is to ensure development does not result in increased flood risk for the site being developed or elsewhere. Identified areas of importance for flood management are identified on the Proposals Map. It is essential to maintain strict control over development in these areas. Proposals will only be favourably considered if accompanied by a flood risk assessment demonstrating how compensating measures are to be carried out, both on and off the site, and that any loss of flood storage capacity is mitigated to achieve a neutral or better outcome. In some circumstances, sustainable flood management or mitigation measures may not be achievable.

198 Culverting of watercourses can exacerbate flood risk and have a detrimental effect on biodiversity. Any further culverting across the city will be opposed, and the removal of existing culverts will be sought when possible.

199 New development can add to flood risk if it leads to an increase in surface water run-off. It is also at risk from water flowing over land during heavy rainfall. Policy Des 6 states that these risks should be avoided by the use of sustainable drainage techniques (SUDs).

### Policy Hou 6 Affordable Housing

Planning permission for residential development, including conversions, consisting of 12 or more units should include provision for affordable housing amounting to 25% of the total number of units proposed. For proposals of 20 or more dwellings, the provision should normally be on-site. Whenever practical, the affordable housing should be integrated with the market housing.

- 230 Government policy states that where a shortage of affordable housing has been identified, this may be a material consideration for planning and should be addressed through local development plans.
- 231 Affordable housing is defined as housing that is available for rent or for sale to meet the needs of people who cannot afford to buy or rent the housing generally available on the open market. Affordable housing is important in ensuring that key workers can afford to live in the city as well as helping meet the needs of people on low incomes.
- 232 A key aim is that affordable housing should be integrated with market housing on the same site and should address the full range of housing need, including family housing where appropriate. Provision on an alternative site may be acceptable where the housing proposal is for less than 20 units or if there are exceptional circumstances. Where planning permission is sought for specialist housing an affordable housing contribution may not always be required depending on the nature of the specialist housing being proposed and economic viability considerations.
- 233 Further information on affordable housing requirements is provided in planning guidance. The details of provision, which will reflect housing need and individual site suitability, will be a matter for agreement between the developer and the Council.

### Policy Hou 7 Inappropriate Uses in Residential Areas

Developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

- 234 The intention of the policy is firstly, to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent any further deterioration in living conditions in more mixed use areas which nevertheless have important residential functions. This policy will be used to assess proposals for the conversion of a house or flat to a House in Multiple Occupation (i.e. for five or more people). Further advice is set out in Council Guidance

### Policy Hou 8 Student Accommodation

Planning permission will be granted for purpose-built student accommodation where:

- a) The location is appropriate in terms of access to university and college facilities by walking, cycling or public transport
  - b) The proposal will not result in an excessive concentration of student accommodation (including that in the private rented sector) to an extent that would be detrimental to the maintenance of balanced communities or to the established character and residential amenity of the locality.
- 235 It is preferable in principle that student needs are met as far as possible in purpose-built and managed schemes rather than the widespread conversion of family

taken to mitigate any adverse effects on networks and bring accessibility by and use of non-car modes up to acceptable levels if necessary.

271 The policy applies to major offices, retail, entertainment, sport and leisure uses and other non-residential developments which generate a large number of journeys by employees and other visitors. These developments should be accessible by a choice of means of transport which offer real alternatives to the car. For this reason, a location in the City Centre will normally be preferable. Major travel generating developments will also be encouraged to locate in the identified town centres and employment centres, provided that the scale and nature of the development is such that it can be reached conveniently by a majority of the population in its catchment area by walking, cycling or frequent public transport services.

272 Out-of-centre development will only be acceptable where it can clearly be demonstrated that the location is suitable, and that access by sustainable forms of transport and car parking provision and pricing mean that the development will be no more reliant on car use than a town centre location. This means that good public transport, walking and cycling accessibility will still need to be assured.

273 Applications should be accompanied by travel plans to demonstrate how development, particularly in out of centre locations, will meet the requirements of Policy Tra 1. Travel plans should accord with Scottish Government guidance and will be monitored to assess their impact on reducing demand for car travel and maximising use of existing and new transport infrastructure. Travel plans may also be relevant when assessing residential applications in terms of Policy Hou 4 Housing Density or Policy Tra 2 Private Car Parking.

## Car and Cycle Parking

### Policy Tra 2 Private Car Parking

Planning permission will be granted for development where proposed car parking provision complies with and does not exceed the parking levels set out in Council guidance. Lower provision will be pursued subject to consideration of the following factors:

- a) whether, in the case of non-residential developments, the applicant has demonstrated through a travel plan that practical measures can be undertaken to significantly reduce the use of private cars to travel to and from the site
- b) whether there will be any adverse impact on the amenity of neighbouring occupiers, particularly residential occupiers through on-street parking around the site and whether any adverse impacts can be mitigated through control of on-street parking
- c) the accessibility of the site to public transport stops on routes well served by public transport, and to shops, schools and centres of employment by foot, cycle and public transport
- d) the availability of existing off-street parking spaces that could adequately cater for the proposed development
- e) whether the characteristics of the proposed use are such that car ownership and use by potential occupiers will be low, such as purpose-built sheltered or student housing and 'car free' or 'car reduced' housing developments and others providing car sharing arrangements
- f) whether complementary measures can be put in place to make it more convenient for residents not to own a car, for example car sharing or pooling arrangements, including access to the city's car club scheme.



274 The purpose of this policy is to ensure car parking provided as part of development proposals accords with the Council standards which are tailored to local circumstances, including location, public transport accessibility and economic needs, but generally fulfil the wider strategy of encouraging sustainable, non-car modes. The standards express the maximum amount of car parking that different types of development may provide.

275 The policy sets out the circumstances in which a lesser amount of car parking than the standards require may be appropriate to help reduce car use. This is only likely to be acceptable in locations where there are existing or planned on-street parking controls.

276 At least half the space saved by omitting or reducing car parking should be given over to landscape features and additional private open space (see Policy Hou 3), so that residents will have the amenity benefits of a car-free environment.

### Policy Tra 3 Private Cycle Parking

Planning permission will be granted for development where proposed cycle parking and storage provision complies with the standards set out in Council guidance.

277 The provision of adequate cycle parking and storage facilities is important in meeting the objective of the Local Transport Strategy to increase the proportion of journeys made by bicycle. The Council's parking standards set out the required levels of provision of cycle parking and storage facilities in housing developments and a range of non-residential developments.

### Policy Tra 4 Design of Off-Street Car and Cycle Parking

Where off-street car parking provision is required or considered to be acceptable, the following design considerations will be taken into account:

a) surface car parks should not be located in front of buildings where the building would otherwise create an active frontage onto a public space or street, and

main entrances to buildings should be located as close as practical to the main site entrance

- b) car parking should preferably be provided at basement level within a building and not at ground or street level where this would be at the expense of an active frontage onto a public street, public space or private open space
- c) the design of surface car parks should include structural planting to minimise visual impact
- d) the design of surface car parking or entrances to car parking in buildings should not compromise pedestrian safety and should assist their safe movement to and from parked cars, for example, by the provision of marked walkways.
- e) Space should be provided for small-scale community recycling facilities in the car parking area in appropriate development, such as large retail developments.

Cycle parking should be provided closer to building entrances than general car parking spaces and be designed in accordance with the standards set out in Council guidance.

278 This policy sets out important design considerations for car and cycle parking provision including environmental quality, pedestrian safety and security. Poorly located or designed car parking can detract from the visual appearance and vitality of the surrounding area. Car parking in front of supermarkets which widely separates entrances from main roads, is an added discouragement to public transport use and walking, and detracts from urban vitality and safety. A high standard of design for surface car parking will be sought, with landscaping to soften its visual impact, and in larger car parks the provision of marked walkways for ease of pedestrian movement and safety. New off-street car parking provides an opportunity to expand the city's network of small recycling points to complement larger community recycling centres. Provision of well located high quality cycle parking suitable to the type of development and to users is an essential component of the Council's efforts to encourage cycling.

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# Guidance for Businesses

March 2018

# Guidance for Businesses



## Who is this guidance for?

This guidance is intended to assist businesses in preparing applications to change the use of a property or carry out alterations to a business premises.



## Policy Context

This document interprets policies in the *Edinburgh Local Development Plan*. Relevant policies are noted in each section and should be considered alongside this document.



## Business Gateway

Business Gateway offers businesses free practical help and guidance. Whether you're starting up or already running a business, and provide access to business support and information services.

To get more information on help for your business, or to book an appointment with our experienced business advisers please contact our Edinburgh office.

Contact details:

**Business Gateway (Edinburgh Office)**  
**Waverley Court**  
**4 East Market Street**  
**Edinburgh**  
**EH8 8BG**  
**Tel: 0131 529 6644**

Email: [bglothian@bgateway.com](mailto:bglothian@bgateway.com)

[www.bgateway.com](http://www.bgateway.com)

This guidance was initially approved in December 2012 and incorporates additional text on short term commercial visitor accommodation approved in February 2013, and minor amendments approved in February 2014, February 2016 and March 2018.

Cover image courtesy of Edinburgh World Heritage.

**Misc:** Student Housing, Radio Telecommunications, Open Space Strategy etc.

This document and other non-statutory guidance can be viewed at: [www.edinburgh.gov.uk/planningguidelines](http://www.edinburgh.gov.uk/planningguidelines)

## Listed Buildings and Conservation Areas

If the building is listed or located within a Conservation Area, guidance on *Listed Buildings and Conservation Areas* must also be considered. Boxes throughout this guideline give specific information relating to Listed Buildings and Conservation Areas. You can check if your property is listed or located within a conservation area on the Council's website [www.edinburgh.gov.uk/planning](http://www.edinburgh.gov.uk/planning)

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| What should I do if it is permitted development?             |          | Retain the shopfront  |          |                                      |           |
| <b>What to consider if planning permission is required</b>   |          | Simple contemporary design  |          |                                      |           |
| Amenity  |          | Residential appearance  |          |                                      |           |
| Road safety and parking                                      |          | Consider the privacy of residents   |          |                                      |           |
| Parking in gardens   |          |   |          |                                      |           |
| Flatted properties   |          |   |          |                                      |           |
| Conditions   |          |   |          |                                      |           |

# Do I need Planning Permission?

## Planning Permission

Planning permission is required for many alterations, and changes of use. However, some work can be carried out without planning permission; this is referred to as 'permitted development'. Permitted development is set out in legislation.

Common enquiries are set out in the relevant chapters of this document.

If you believe your building work is 'permitted development', you can apply for a *Certificate of Lawfulness* to confirm that the development is lawful and can go ahead. This can be applied for online at [www.eplanning.scot](http://www.eplanning.scot)

## What is a change of use?

Most properties are classified under categories known as a 'Use Class'. For example, shops are grouped under Class 1 and houses under Class 9. Some uses fall outwith these categories and are defined as 'sui generis', meaning 'of its own kind'. This is set out in The Use Classes (Scotland) Order 1997 (as amended).

Changing to a different use class is known as a change of use and may require planning permission, although some changes between use classes are allowed without planning permission. Planning permission is not required when both the present and proposed uses fall within the same 'class' unless there are specific restrictions imposed by the council. *The Scottish Government Circular 1/1998* contains guidance on use classes.

## Listed Buildings and Conservation Areas

Fewer alterations are considered to be permitted development and most changes to the outside of a building, including changing the colour, require planning permission. More information on other consents which may be required is included on the next page.

## Listed Building Consent

Listed building consent is required for works affecting the character of listed buildings and also applies to the interior of the building and any buildings within the curtilage. Planning permission may also be required in addition to Listed Building Consent. If your building is listed, specific guidance on *Listed Buildings and Conservation Areas* must also be considered along with this document.

# What Other Consents Might Be Required?

## Advertisement Consent

Advertisements are defined as any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, and employed wholly or partly for the purpose of advertisement, announcement or direction.

While many advertisements require express consent, certain types do not need express consent as they have 'deemed consent'. You can check this by consulting *The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984*.

Advertisements displayed in accordance with the advert regulations do not require advertisement consent.

## Building Warrant

Converted, new or altered buildings may require a Building Warrant. There is more Building Standards information at [www.edinburgh.gov.uk/buildingwarrants](http://www.edinburgh.gov.uk/buildingwarrants). For detailed information please go to the [Scottish Government website](http://www.scottish.gov.uk).

## Road Permit

You must get a permit to the Council if you want to carry out work in or to occupy a public street. A *road permit* will be required if forming a new access or driveway or if placing a skip or excavation in a public road. It will also be required for scaffolding or to occupy a portion of the road to place site huts, storage containers, cabins, materials or contractors

plant, to put up a tower crane or to operate mobile cranes, hoists and cherry pickers from the public highway. For more information contact the Areas Roads Manager in your *Neighbourhood Team*.

## Licensing

Some activities, such as the sale and supply of alcohol or late hours catering, require a licence. Please contact *Licensing* for more information on 0131 529 4208 or email [licensing@edinburgh.gov.uk](mailto:licensing@edinburgh.gov.uk).

*The Civic Government (Scotland) Act 1982 (Licensing of houses in Multiple Occupation) Order 2000*, requires operators of HMOs to obtain a licence allowing permission to be given to occupy a house as a HMO where it is the only or principal residence of three or more unrelated people.

## Table and Chairs Permit

If your business sells food and drink you may be able to get a permit from the Council to put tables and chairs on the public pavement outside your business.

A *tables and chairs permit* allows you to put tables and chairs on the public pavement between 9am and 9pm, seven days a week and is issued for either six or twelve months. For more information please email [TablesChairsPermits@edinburgh.gov.uk](mailto:TablesChairsPermits@edinburgh.gov.uk) or phone 0131 529 3705.

## Biodiversity

Some species of animals and plants are protected by law. Certain activities, such as killing, injuring or

capturing the species or disturbing it in its place of shelter, are unlawful. It is also an offence to damage or destroy a breeding site or resting place (or obstruct access to).

If the presence of a European Protected Species (such as a bat, otter or great crested newt) is suspected, a survey of the site must be taken. If it is identified that an activity is going to be carried out that would be unlawful, a license may be required.

More information on European Protected Species, survey work and relevant licenses is available on the [Scottish Natural Heritage website](http://www.scottishnaturalheritage.gov.uk).

## Trees

If there are any trees on the site or within 12 meters of the boundary, they should be identified in the application. Please refer to *the Edinburgh Design Guidance (chapter 3.5)* for advice.

All trees in a Conservation Area or with a Tree Preservation Order are protected by law, making it a criminal offence to lop, top, cut down, uproot wilfully, damage or destroy a tree unless carried out with the consent of the council. To apply for works to trees, go to [www.eplanning.scot](http://www.eplanning.scot).

# Changing a Residential Property to a Commercial Use

## What does this chapter cover?

### Changes of use to:

- guest houses
- short term commercial visitor accommodation
- house in multiple occupation (HMOs)
- private day nurseries
- running a business from home

This guideline is not intended to address new hotel development which is covered by [Edinburgh Local Development Plan](#) (LDP) Policy Emp 10 Hotel Development.

Where an extension to a residential property is required to then run a business from home, please refer to the [Guidance for Householders](#) to understand what permissions are required.

## When is planning permission required?

Some activities within a residential property can be undertaken without requiring planning permission. Some common enquiries are given below.

## What should I do if it is permitted development?

If you believe planning permission is not required, you can apply for a [Certificate of Lawfulness](#) for legal confirmation.

## Using your home as a guest house

Planning permission will not be required for the use of a house as a bed and breakfast or guest house if:

- The house has less than four bedrooms and only one is used for a guest house or bed and breakfast purpose
- The house has four or more bedrooms and no more than two bedrooms are used for a guest house or bed and breakfast purpose

Planning permission will always be required if a flat is being used as a guest house or bed and breakfast, regardless of the number of rooms.

## Short Term Commercial Visitor Accommodation

The change of use from a residential property to short term commercial visitor accommodation may require planning permission. In deciding whether this is the case, regard will be had to:

- The character of the new use and of the wider area
- The size of the property
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand, and
- The nature and character of any services provided.

## Houses of Multiple Occupation (HMOs)

The sharing of accommodation by people who do not live together as a family is controlled at the point at which there is considered to be a material change of use. For houses, Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 considers this to be when more than 5 people are living together, other than people living together as a family. As with houses, the Council would also expect a material change of use to occur in flats when more than 5 unrelated people share accommodation. All planning applications for Houses in Multiple Occupancy (HMOs) are assessed using LDP Policy Hou 7: Inappropriate Uses in Residential Areas, having regard to the advice below.

## Private day nurseries

The change of use from a residential property to a private day nursery requires planning permission.

Where child minding is undertaken from a residential property, whether a change to a private day nursery has occurred will be assessed on a case by case basis. Consideration will be given to the number of children, the frequency of activity and the duration of stay. The criteria under 'Running a business from home' should also be considered.

## Running a business from home

Proposals which comply with all the following may not need planning permission, but always check with the council first.



- There should be no change in the character of the dwelling or the primary use of the area. For example signage, display of commercial goods, increased pedestrians and vehicular movements, noise etc.
- There should be no more than the parking of a small vehicle used for commercial and personal purposes within the curtilage of a dwelling house.
- Any ancillary business should not be detrimental to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, ash, dust, or grit.
- There should be no impact on the amenity or character of the area as a result of visitors or deliveries to the property.
- The primary use of the property must be domestic and any members of staff on the premises should have no impact on the amenity and character of the property.

## What to consider if planning permission is required

### Policy Hou 7

Sets out when uses will not be permitted in predominately residential or mixed use areas i.e. uses which would have a materially detrimental effect on the living conditions of nearby residents.

### Amenity

Proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents.

In the case of short stay commercial leisure apartments, the Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest.

In the case of private day nurseries, whether nearby residential uses overlook the garden will also be considered. This is due to the potential for increased noise to those households.

### Road Safety and Parking

The *car parking standards* define the levels of parking that will be permitted for new development and depends on the scale, location, purpose of use and the number of staff. Parking levels will also be dependent on the change of use and proximity to public transport.

The existing on-street parking and traffic situation will be important considerations in this assessment. The location should be suitable to allow people and deliveries to be dropped-off and collected safely. This is especially important for children going to and from a private day nursery. The potential impact on vulnerable road users – cyclists and pedestrians – will also be a consideration.

### Parking in Gardens

The provision of new car parking should have regard to character and setting of the property and should normally preserve a reasonable amount of front garden. In a conservation area parking in the front garden would only be considered if there was an established pattern and it was part of the character of the area. Parking in the front garden of a listed building is not likely to be supported and there is normally a presumption against loss of original walling and railings and loss of gardens. Further information on the design of parking in gardens can

be found in the *Guidance for Householders*.

### Flatted Properties

Change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs. Nurseries must also benefit from suitable garden space.

### Further information

If a proposal has the potential to result in impacts then these should be addressed at the outset so they can be considered by the case officer. Examples of information that may be required include:

- An acoustic report if there is potential for noise impact.
- Details of ventilation systems if the application has the potential to create odour problems, and details of the noise impact of any proposed ventilation system.
- Details of any plant and machinery
- Details of attenuation measures if structure-borne and air-borne vibrations will occur.

# Changing to a Food or Drink Use

## What does this chapter cover?

Uses such as:

- Restaurants, cafes and snack bars (Class 3)
- Hot food takeaways (Sui Generis)
- Cold food takeaways which are classed as a shop (Class 1)
- Public houses and bars (Sui Generis)
- Class 7 uses (hotels and hostels) licensed or intending to be licensed for the sale of alcohol to persons other than residents or persons other than those consuming meals on the premises. i.e. with a public bar.

### It does not include:

- Class 7 uses (hotels and hostels) without a public bar.

## When is planning permission required?

Some food and drink uses do not require planning permission. Information on some common enquiries is given on this page.

### Changing a shop to Class 3 use or hot food takeaway

Planning permission is required for a change of use from a shop to a hot food takeaway or to a Class 3 use, such as a café or restaurant. Whether this change has, or will occur will be determined on a case by case basis. Regard will be given to:

- Concentration of such uses in the locality
- The scale of the activities and character and appearance of the property
- Other considerations are the impact on vitality and viability, the effect on amenity and potential road safety and parking problems.

## Selling cold food for consumption off the premises

Businesses selling cold food for consumption off the premises, such as sandwich bars, fall within Class 1 shop use. If the building is already in use as a shop then permission is not required.

Some secondary uses alongside the main uses also do not need permission; this is dependant on the scale of the activity.

Ancillary uses which are not likely to require planning permission in addition to a Class 1 shop use are:

- The sale of hot drinks
- The provision of one microwave oven and/or one soup tureen
- Seating constituting a very minor element to the overall use. The limit will vary according to the size and layout of the premises
- An appropriately sized café in a larger unit, such as a department store, if it is a relatively minor proportion of the overall floorspace and operates primarily to service the shop's customers.

## What should I do if it is permitted development?

If you believe planning permission is not required, you can apply for a *Certificate of Lawfulness* for legal confirmation.

## What to consider if planning permission is required

### Protecting Shops

#### Policies Ret 9-11

Set out which locations a non-shop use is acceptable. These policies should be considered if a shop will be lost as part of the changes. In some areas of the City, the loss of a shop use will not be permitted. In other areas, certain criteria must be met.

#### Policy Hou 7

sets out when uses will not be permitted in predominantly residential or mixed use areas.

#### Policy Ret 11

Sets out when food and drink establishments will not be permitted.

## Restaurants, cafés, snack bars and other Class 3 Uses

Proposals will be supported in principle in the following locations:

- Throughout the Central Area
- In designated shopping centres
- In existing clusters of commercial uses, provided it will not lead to an unacceptable increase in disturbance, on-street activity or anti-social behaviour to the detriment of the living conditions of nearby residents.

Proposals in predominantly housing areas will not normally be permitted.

## Hot Food Takeaways

With the exception of proposals within areas of restriction (shown on the next page), proposals will be supported in principle in the following locations:

- Throughout the Central Area
- In designated shopping centres
- In existing clusters of commercial uses, provided it will not lead to an unacceptable increase in disturbance, on-street activity or anti-social behaviour to the detriment of the living conditions of nearby residents.

Proposals in the areas of restriction will only be accepted if there will be no adverse impact upon existing residential amenity caused by night-time activity. Where acceptable, this will normally be controlled through conditions restricting the hours of operation to 0800 to 2000.

Proposals in predominantly housing areas will not normally be permitted.

Where a restaurant's trade is primarily in-house dining but a minor element is take-away food then this still falls within the Class 3 use. Where take-away is a minor component of the business it will not require planning permission.

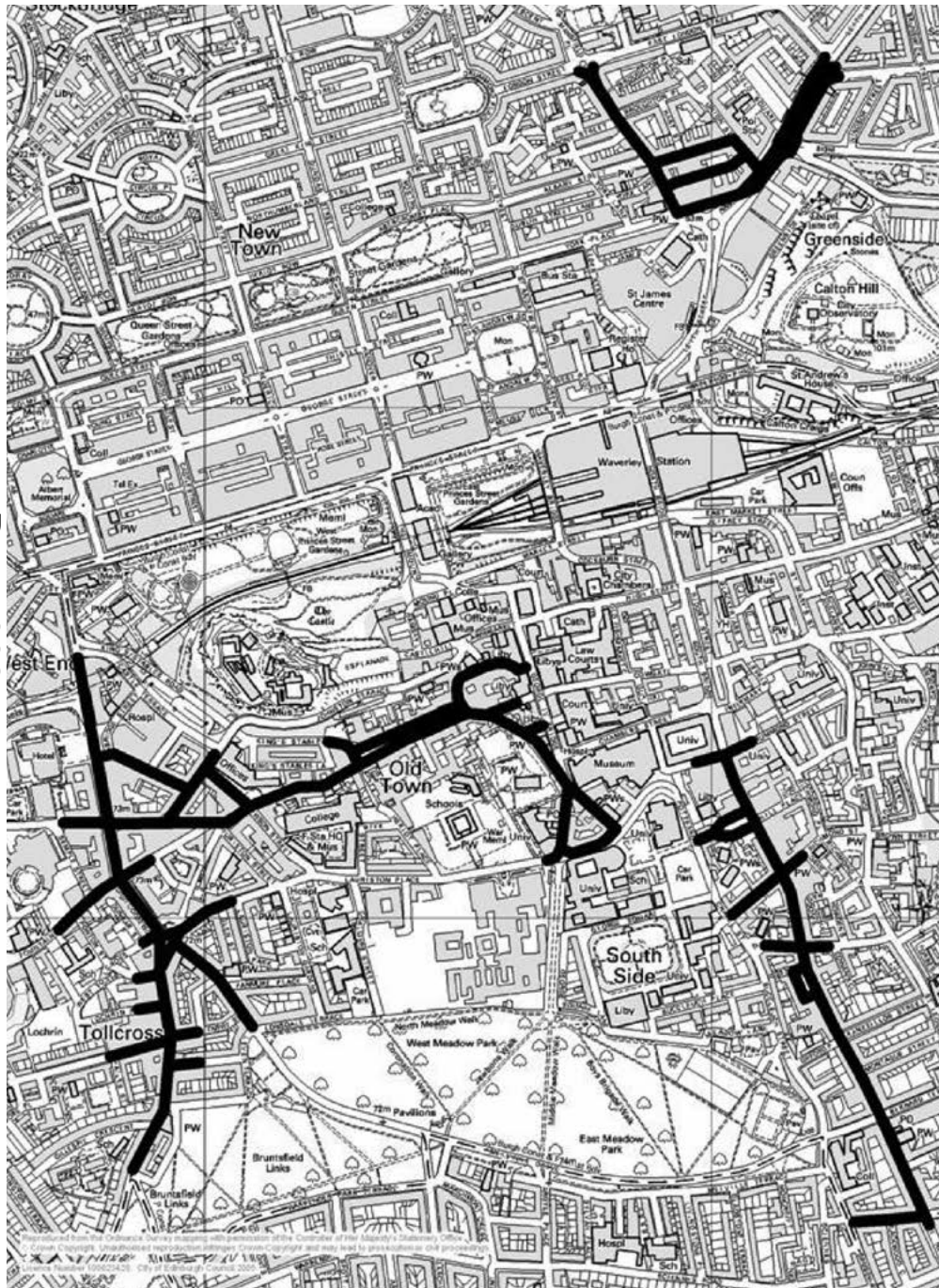
## Public houses, entertainment venues and hotels outwith Class 7 (Hotels and Hostels)

In all locations, these uses should be located so as not to impinge on residential surroundings. Accordingly, such developments, with the exception of public houses designed as part of a new build development, will not be allowed under or in the midst of housing<sup>1</sup>

There will be a presumption against new public houses and entertainment venues in the areas of restriction (shown on Page 10). Proposals for extensions to venues in the areas of restriction will only be accepted if there will be no adverse impact of the residential amenity caused by night time activity.

Proposals in predominantly housing areas and residential side streets will not normally be permitted.

[1] "Under or in the midst of housing" means a) where there is existing residential property above the application site or premises; or b) where there is existing residential property immediately adjoining two or more sides of the building or curtilage comprising the application site. "Residential property" means dwelling houses, flats or houses in multiple occupancy and includes any vacant units.



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## Ventilation

If the use is acceptable in principle, establishments with cooking on the premises must satisfy ventilation requirements to ensure that they do not impinge on the amenity of the residential area or other neighbourhoods.

An effective system for the extraction and dispersal of cooking odours must be provided. Details of the system, including the design, size, location and finish should be submitted with any planning application. A report from a ventilation engineer may also be required where it is proposed to use an internal route in an existing building for ventilation ducting.

The ventilation system should be capable of achieving 30 air changes an hour and the cooking effluvia ducted to a suitable exhaust point to ensure no cooking odours escape or are exhausted into neighbouring premises.

Conditions shall be applied to ensure the installation of an effective system before any change of use is implemented, and/or the restriction of the form and means of cooking where necessary.

On a listed building or in a conservation area, the use of an internal flue should be explored before considering external options. The flue would need planning permission and listed building consent in its own right.

## Design

Any external duct should be painted to match the colour of the existing building to minimise its visual impact.

## Location

Ventilation systems should be located internally. Where this is not practicable, systems located to the rear may be considered.

## Noise

Conditions may be put in place to ensure that there is no increase in noise that will affect the amenity of the area.

*The map identifies areas of restriction. These are areas of mixed but essentially residential character where there is a high concentration of hot food takeaways, public houses and entertainment venues.*

# Changing a Commercial Unit to Residential Use

## When is permission required?

Planning permission is required to convert a business to a house or flat. Permission will also be required for physical alterations to any external elevation. Listed building consent, where relevant, may also be required.

## What to consider if planning permission is required

### Protected shops

**Policies Ret 9-11**

set out when a non-shop use is acceptable. They should be considered if a shop will be lost as part of the changes.

In some areas of the city, the loss of a shop use will not be permitted. In other areas, certain criteria must be met. These policies should be considered for more information.

## Amenity

**Policy Hou 5**

Sets out the criteria to be met by proposals to convert to residential use.

Applications for a change of use will need to prove that the quality and size of accommodation created is satisfactory.

Units with insufficient daylight will be unacceptable; proposals should fully meet the council’s daylight requirements in the [Edinburgh Design Guidance](#). Basement apartments with substandard light will only be accepted where the remainder of the created unit represents a viable unit in its own right with regards to adequate daylight.

Dwelling sizes should meet the following minimum requirements and exceeding these standards is encouraged. Provision of cycle and waste storage is encouraged and may be required in some instances.

| Number of Bedrooms | Minimum Gross Floor Area (sq m) |
|--------------------|---------------------------------|
| Studio             | 36                              |
| 1 (2 persons)      | 52                              |
| 2 (3 persons)      | 66                              |
| 2 (4 persons)      | 81                              |
| 3 (4 persons)      | 81                              |
| Larger Dwellings   | 91                              |

## Design

**New designs should be of a high quality and respect their context**

1. Consider the architectural or historic merit of the shopfront and its context and identify an appropriate design from one of the following three basic approaches.

### Retain the shopfront



Henderson Street

Retaining the existing shopfront and adapting it for residential use is a simple method of conversion and ensures the property fits well within its context. Where the shopfront is of architectural or historic merit this will be the only appropriate design.

A design which retains the shop front could be used in residential areas or within a row of shops.

### Simple contemporary design



Royal Park Terrace

Simple contemporary designs are often the most successful. The existing structural openings should be retained and any features of architectural or historic merit retained and restored. High quality materials should be used.

A simple contemporary design could be used in residential areas or within a row of shops.

### Residential appearance

Conversions with a residential appearance are rarely successfully achieved. Attention should be paid to structural openings, materials and detailing to ensure the new residential property does not stand out from its context.

Windows which are a version of those on the upper floors in terms of proportions, location and detail are usually most appropriate. Doors should relate to the scale of the building and should not result in a cluttered appearance.

Paint work should be removed to expose the stone or toned to match the building above.

A design with a residential appearance may be appropriate in residential areas but not within a row of shops.



### Consider the privacy of residents

To create privacy within the property, shutters or moveable screens behind the window could be considered as an alternative to frosted glass. Where considered acceptable, frosted glass should not occupy more than 50% of the height of the window. Retaining recessed doors also provides a degree of separation from the street. Metal gates could also be added.

# Altering a Shopfront

There should always be a presumption to improve, where possible, a poor shopfront.

## Understanding your shopfront

**Policy Des 12**

sets out the principles for altering a shopfront

Page 335

**1. Consider the period of the building and the style of the shopfront**

Shopfronts come in many styles, reflecting the different periods of architecture in Edinburgh. Those of architectural merit or incorporating traditional features or proportions should be retained and restored.

**2. Determine whether there are any original or important architectural features or proportions which need to be retained**

The pilasters, fascia, cornice and stallriser form a frame around the window and should be retained. Recessed doorways, including tiling, should not be removed. Original proportions should be retained.



Pilasters



Cornice



Stallriser

### 3. Identify any inappropriate additions which should be removed

Large undivided areas of plate glass can be appropriate within a small shopfront, however over a larger area can appear like a gaping hole over which the upper storeys look unsupported.

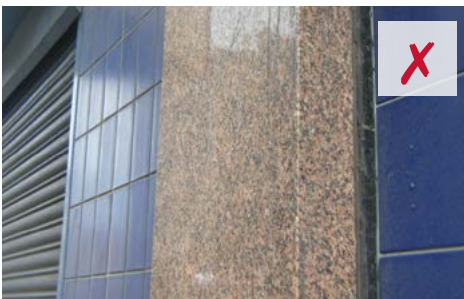
Large deep fascia boards and other claddings should be removed and any original features reinstated.



Deep Fascia



Proportions



Cladding

### Good Example

At 37-41 Nicolson Street, Edinburgh, restoration work has been carried out to remove modern additions and unveil the original Victorian shopfront of 'McIntyre's Drapery Stores'. Architectural features, including the cornice, pilasters and glazing bars have been exposed. Views into the store have now been opened up and the shop is more noticeable in the street.



### Context

Shopfronts should be designed for their context

#### 1. Consider the relationship of the frontage to the rest of the street

The relationship of the frontage to the established street pattern should be considered, particularly in terms of fascia and stallriser height and general proportions. Alterations should preserve and strengthen the unity of the street.





One shopfront across two separate buildings will not normally be acceptable as it disrupts the vertical rhythm of the facades above.



## 2. Consider the relationship to features on the upper floors

Where units have a narrow frontage and vertical emphasis, they should retain their individual integrity, rather than attempting to achieve uniformity with adjoining properties.



## Good Examples



St Stephen Street



William Street



Grassmarket

## New Design

New designs should be of high quality and respect their surroundings

### 1. Identify the features or proportions which will need to be retained or restored

The pilasters and frame should be retained, even if the rest of the frontage is not of sufficient quality to merit retention.

Poorly designed fascias and pilasters do not make up a well composed frame. Pilasters should not be flat to the frontage and fascias should not exceed one-fifth of the overall frontage height or be taken over common staircases. Stallrisers should be in proportion to the frontage.

Cornice which continues from the adjacent frontages will require to be restored. No part of the frontage should be located above this.

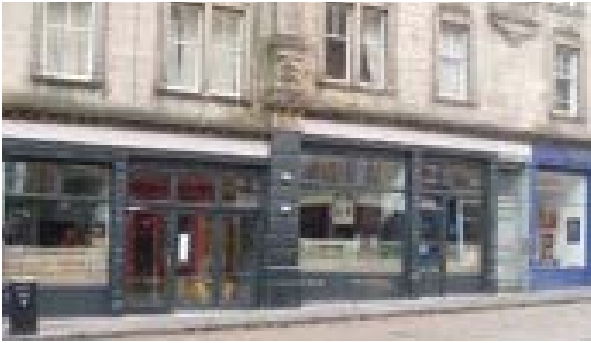
### 2. Consider the design and materials to be used

Where a new frontage is considered appropriate, there is no particular correct style. Modern designs will be considered acceptable providing they incorporate high quality materials, are well proportioned, and retain any features of architectural merit.

Reproduction frontages should be based on sound historical precedent in terms of archival evidence or surviving features.

Appropriate spacing and cornice should be used to create a visual break between the frontage and the building above.

### Good Examples



Barclay Place



Bread Street

In general, natural and traditional materials, such as timber, stone, bronze, brick and render should be used. These should be locally sourced from renewable or recycled materials, wherever possible. Frontages clad in incongruous materials will not be acceptable.

## Paint and Colour

### When is permission required?

Planning permission, and where relevant listed building consent, will be required to paint a building which is listed or within a conservation area, including a change of colour.

Planning Permission will not be required to paint an unlisted building out with conservation areas. However the painting and colour of a building should reflect its character and the area.

### Good Example



Victoria Street

## Listed Buildings and Conservation Areas

### Paint

Unpainted stonework and other good quality materials should not be painted.

### Colour Schemes

The creation of a strong identify for a business must come second to an appropriate balance with the context. Colour schemes should clarify the architectural form and not apply alien treatments and design. The most successful are simply schemes which employ only one or two colours.

Muted or dark colours are preferable.

### Uniform Appearance

Coordinated paint schemes are encouraged and should be retained where present. In particular, common details, such as arches and pilasters, should have a uniform treatment. Similar lettering and signage should also be used.

The range of colours within a block should be limited.

## Security

### 1. Determine whether a security device is necessary and consider alternative solutions

Security devices should not harm the appearance of the building or street. Toughened glass or mesh grilles could be used as an alternative to security shutters.



### 2. If a device is considered acceptable, consider its location in relation to the window

Where shutters are not common within the immediate area, they should be housed internally, running behind the window.

Elsewhere, shutters should be housed behind the fascia or a sub-fascia.

Shutters should not be housed within boxes which project from the front of the building.



### 3. Identify an appropriate shutter design

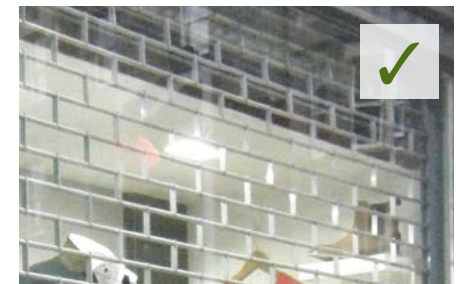
Solid roller shutters are unacceptable. They do not allow window shopping at night, the inability to view the inside of the shop can be a counter security measure and they tend to be a target for graffiti.



Roller shutters of the non-solid type may be acceptable in a perforated, lattice, brick bond or open weave pattern. Shutters made up of interlocking clear polycarbonate sheets running externally to the glass may also be acceptable.



Where there is evidence of early timber shutters, they should be restored to working order or replaced to match.



### Listed Buildings and Conservation Areas

Externally mounted shutters will not be considered acceptable.

The most appropriate security method is toughened glass. Internal open lattice shutters or removable mesh grilles may also be acceptable.

Metal gates are most appropriate on recessed doors.

Shutters should be painted an appropriate colour, sympathetic to the rest of the frontage and immediate area.

## Blinds and Canopies

### 1. Consider whether a blind or canopy is appropriate on the building

Blinds and canopies should not harm the appearance of the building or street.

Traditional projecting roller blinds, of appropriate quality, form and materials, will be considered generally acceptable

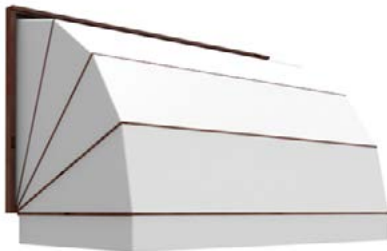
Dutch canopies will not be acceptable on traditional frontages where important architectural elements would be obscured.

### Listed Buildings and Conservation Areas

Dutch canopies will not be acceptable on listed buildings or in conservation areas.

Blinds and canopies will not be considered acceptable on domestic fronted buildings.

Solar glass and film are acceptable alternative methods of protecting premises from the sun, providing they are clear and uncoloured.



Dutch canopy

### 2. If acceptable, consider the location of the blind or canopy

Blinds and canopies should fold back into internal box housings, recessed within the frontage. They must not be visually obtrusive or untidy when retracted.



Boxes housing blinds and canopies that project from the building frontage will not be acceptable.

Blinds and canopies will not be acceptable above the ground floor level.



### 3. Determine an appropriate design and materials

Blinds and canopies must be made of high quality fabric. Shiny or high gloss materials in particular will not be supported.

An advert, including a company logo or name, on a blind or canopy will need advertisement consent.



## Automatic Teller Machines

### 1. Consider whether an ATM will be acceptable

ATMs should not impact upon the character of the building or area.

Free standing ATMs add to street clutter and will not be considered acceptable.

ATMs may be considered acceptable when integrated into a frontage, providing no features of architectural or historic interest will be affected and the materials and design are appropriate.

### 2. If acceptable, consider the location, design and access

Consideration should be given to pedestrian and road safety. Terminals should be sited to avoid pedestrian congestion at street corners and narrow pavements. The assessment of the impact on road safety will include any potential increase in the number of vehicles stopping, visibility and sightlines.

The use of steps for access to ATMs should be avoided and the units should be suitable for wheelchair access.

Where ATMs are removed, the frontage should be reinstated to match the original.

### Listed Buildings and Conservation Areas

Consideration should first be given to locating the ATM internally. For guidance on internal alterations, consider the Listed Buildings and Conservation Area guidance.

Externally, ATMs should be located in a concealed position on the façade, within an inner vestibule or on a side elevation.

ATMs should not be fitted to finely detailed façades or shopfronts of historic or architectural merit. They will not be acceptable where stone frontages, architectural features or symmetry will be disturbed. New slappings (knocking a hole through a wall to form an opening for a door, window etc) will be discouraged.

Only one ATM will be allowed on the exterior of any building.

Where acceptable, the ATM should not be surrounded by coloured panels or other devices and signage should not be erected. The ATM and any steps or railings, where necessary, should be formed in high quality materials and be appropriate to the area. Surrounding space should match the façade in material and design.

### Permissions Required

ATMs which materially affect the external appearance of a building require planning permission. Listed building consent may also be required for an ATM on a listed building. In addition, advertisement consent may be required for any additional signage.

### Air Conditioning and Refrigeration

#### Location

Air conditioning and refrigeration units should not be located on the front elevation or any other conspicuous elevations of buildings, including roofs and the flat roofs of projecting frontages.

It will normally be acceptable to fix units to the rear wall. These should be located as low as possible.

### Design

Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

### Listed Buildings and Conservation Areas

The preferred location for units on listed buildings and within conservation areas are:

- standing within garden or courtyard areas (subject to appropriate screening and discreet ducting)
- Within rear basement areas
- Inconspicuous locations on the roof (within roof valleys or adjacent to existing plant). However, in the New Town Conservation Area and World Heritage Site, aerial views will also be considered.
- Internally behind louvers on inconspicuous elevations. This should not result in the loss of original windows.

Where it is not practicably possible to locate units in any of the above locations, it may be acceptable to fix units to the wall of an inconspicuous elevation, as low down as possible.

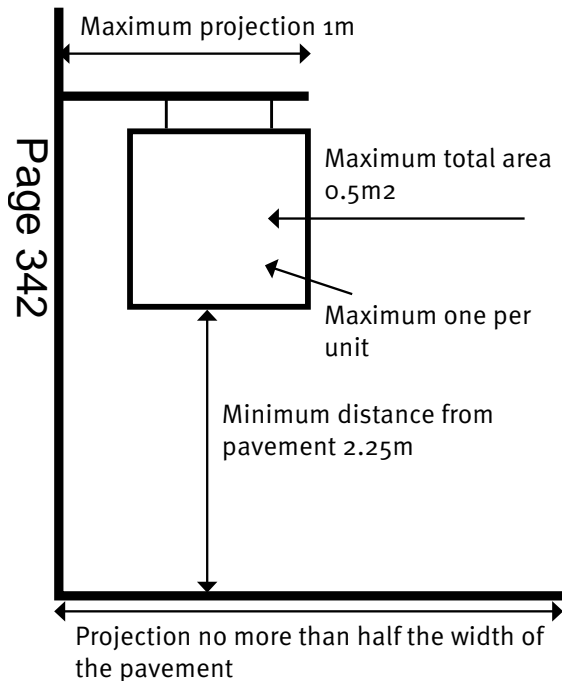
Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

Ducting must not detract from the character of the building.

# Signage and Advertisements

## 1. Consider the scale, location and materials of the advertisement and any lettering

High level signage is not normally considered acceptable.



NB. Dimensions may be reduced for smaller frontages

## Projecting and Hanging Signs

Traditional timber designs are most appropriate on traditional frontages.



## Fascia

Box fascia signs applied to existing fascias are not considered acceptable.

Individual lettering should not exceed more than two thirds the depth of the fascia, up to a maximum of 450mm.

## Princes Street

Projecting signs and banners will not be supported. Illumination must be white and static.

## Listed Buildings and Conservation Areas

Signage obscuring architectural details is not acceptable.

Signage should be timber, etched glass or stainless steel; synthetic materials are not appropriate.

Signage should harmonise with the colour of the shopfront.

Applied fascia boards/panels will not normally be acceptable. Lettering shall be applied directly onto the original fascia. If there is an existing applied fascia board/panel in place, this should a) be removed and the original fascia restored, or b) an appropriate new fascia applied but only where there is no original fascia.

Letters must be individual and hand painted.

On buildings of domestic character, lettering or projecting signs are not acceptable. Guidance on alternative signage is given on the next page.

## 2. Consider an appropriate method of illumination

External illumination will only be acceptable if unobtrusive.

Individual letters should be internally or halo lit. Discreet spotlights painted out to match the backing material or fibre optic lighting may also be acceptable. Illumination must be static and no electrical wiring should be visible from outside of the premises. White illumination is preferable.

Projecting signs should only be illuminated by concealed trough lights.

LED strip lighting to illuminate signage may be acceptable where it can be positioned discreetly on the shop front.

## 3. Consider alternative advertisements

### Internal Advertisements

Advertisements behind the glass should be kept to a minimum to allow maximum visibility into the premises.



## Listed Buildings and Conservation Areas

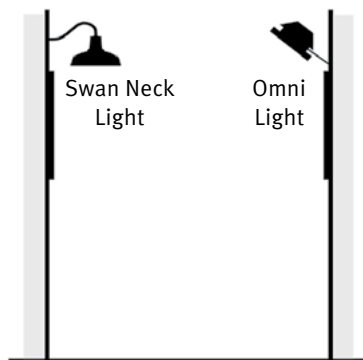
### Basement properties

Basement properties may be identified by a name plate or modest sign on the railings, or where they don't exist, discreet and well designed pole mounted signs may be acceptable.



## Listed Buildings and Conservation Areas

Swan neck lights, omni-lights on long arms or trough lights along the fascia will not normally be acceptable. Letters should be halo or internally lit.



### Directional Signs

Advance directional signs outwith the curtilage of the premises to which they relate are not acceptable unless particular circumstances justify a relaxation.

### Guest Houses

Houses in residential use (Class 9) but with guest house operations should not display signs, except for an official tourism plaque or a window sticker.

For properties operating solely as a guest house (Class 7), any pole signs located in front gardens should not exceed 0.5sq metres in area.

### Buildings of domestic character

On buildings of domestic character, identification should consist of a brass or bronze nameplate, smaller than one stone. Where the building is in hotel use, consideration will be given to painted lettering on the fanlight or a modest sign on the railings.



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# Guidance for Householders

February 2019

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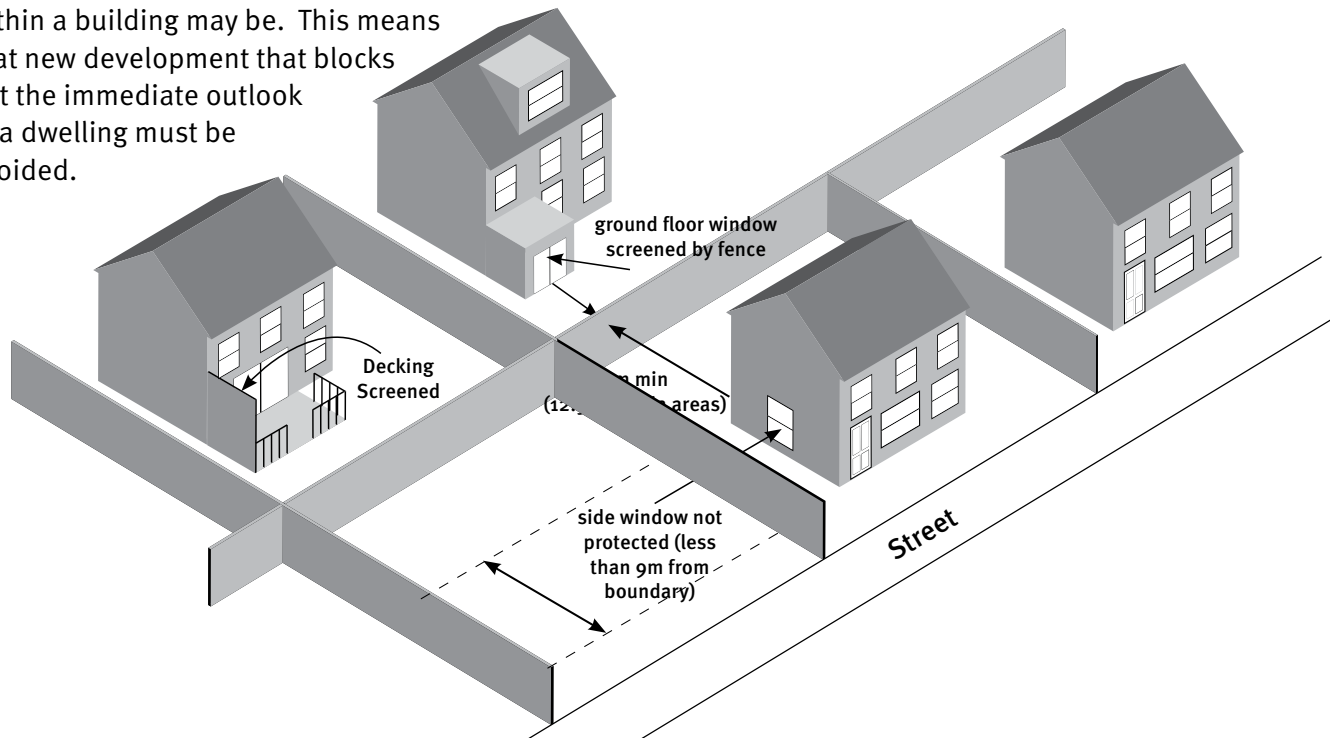
## Privacy and outlook

People value privacy within their homes but they also value outlook - the ability to look outside, whether to gardens, streets or beyond. To achieve both, windows either have to be spaced sufficiently far apart so that it is difficult to see into a neighbouring property or windows have to be angled away from one another.

18m is the minimum recommended distance between windows, usually equally spread so that each property's windows are 9 metres from the common boundary.

A frequent objection to a development is loss of a particular view from the neighbour's house. Though private views will not be protected, immediate outlook of the foreground of what can be seen from within a building may be. This means that new development that blocks out the immediate outlook of a dwelling must be avoided.

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## Side Windows

Windows will only be protected for privacy and light if they themselves accord with policies in terms of distance to the boundary. Windows on side walls or gables - as often found on bungalows, for instance - will not normally be protected as they are not set back sufficiently from the boundary to be "good neighbours" themselves, taking only their fair share of light.

Ground floor windows can sometimes be closer than 9 metres to a boundary if they can be screened in some way, e.g. by a fence or hedge.

## Decking, Roof Terraces, Balconies and Rooflights

Balconies, roof terraces and decking which are close to boundaries and overlook neighbouring properties can be a major source of noise and privacy intrusion.

Generally, decking should be at, or close to, ground level (taking account of any level changes in the garden ground), of simple design (including barriers and steps), and should not detract from the appearance of the house.

Opportunities for decking may be limited on listed buildings, as it is rarely part of the original character.

Permission for roof terraces and balconies will not be granted where there is significant overlooking into neighbouring property due to positioning and height or if the terracing results in loss of privacy to neighbouring properties.

Rooflights in new extensions that are within 9 metres of the boundary may be acceptable so long as they do not have an adverse impact on the existing privacy of neighbouring properties. Any adverse impacts on privacy may be mitigated if the rooflight(s) is set at a high level above floor level (usually above 1.8 metres).

# Listed Buildings and Conservation Areas

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# Listed Buildings & Conservation Areas

## Who is this guidance for?

Anyone considering work to a property within a conservation area or to a listed building.

This guidance provides information on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

This document and other non-statutory guidance can be viewed at:

[www.edinburgh.gov.uk/planningguidelines](http://www.edinburgh.gov.uk/planningguidelines)



Misc: Student Housing, Radio Telecommunications, Open Space Strategy etc.

March 2018

This document is divided into two parts:

**Part 1. Listed Building Guidance**

**Part 2. Conservation Area Guidance**

## Policy Context

This guidance interprets policies in the Edinburgh Local Development Plan which seek to protect the character and setting of listed buildings, and the character and appearance of conservation areas.

This guidance was initially approved in December 2012 and incorporates minor amendments approved in February 2016 and March 2018.

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- apply For Planning Permission
- apply For Listed Building Consent
- apply For Certificate of Lawfulness

# Part1: Listed Buildings

Listed buildings represent the very best examples of the built heritage. They are defined as buildings of special architectural or historic interest and are protected under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The lists of Buildings of Historic or Architectural Interest are compiled by Historic Scotland on behalf of Scottish Ministers. The term *building* includes structures such as walls and bridges.

There are three categories of listed buildings:

**Category A** - Buildings of national or international importance, either architectural or historic, or fine little-altered examples of some particular period, style or building type.

**Category B** - Buildings of regional or more than local importance, or major examples of some particular period, style or building type which may have been altered.

**Category C** - Buildings of local importance, lesser examples of any period, style, or building type, as originally constructed or moderately altered; and simple traditional buildings which group well with others in categories A and B.

Buildings which relate together in townscape terms or as planned layouts in urban, rural or landed estate contexts, often have their group value stressed by inclusion within 'A' or 'B' groups.

To check whether your property is listed, use our [online map](#).

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## Do I need Listed Building Consent?

Listed buildings are afforded statutory protection. This means that listed building consent is required for the demolition of a listed building, or its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest.

Listing covers the interior as well as the exterior, and includes any object or structure fixed to the building, or which has been included within its curtilage since 1st July, 1948. Listing, therefore, extends to historic fixtures or fittings (plasterwork, chimneypieces, panelling) and items within the curtilage such as stables, mews, garden walls and stone setts. Any proposals to alter unsympathetically, relocate or remove such features are likely to detract from the quality of the setting and are unlikely to be approved.

Listed building consent must be obtained where proposals will alter the character of the listed building, regardless of its category or whether the work is internal or external.

Proposed change will be managed to protect a building's special interest while enabling it to remain in active use. Each proposal will be judged on its own merits. Listing should not prevent adaptation to

modern requirements but ensure that work is implemented in a sensitive and informed manner. The aim is to guard against unsympathetic alterations and prevent unnecessary loss or damage to historic fabric. Any alterations which would seriously detract from or alter the character of a listed building are unlikely to receive consent



Listed building consent is not required for internal redecoration, renewal of bathroom and kitchen fittings, rewiring or new plumbing, provided fittings or internal decorations (such as decorative plaster, murals and paintings) which contribute to the character of the building or structure are not affected.

In considering any application for listed building consent, and also any application for planning permission for development which affects a listed

building or its setting, the Council are required to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it may possess. In this context, preserving, in relation to a building, means retaining it either in its existing state or subject only to such alterations or extensions as can be carried out without detriment to its character.

The tests for demolition are detailed in the Scottish Historic Environment Policy. No listed building should be demolished unless it has been clearly demonstrated that every effort has been made to retain it. The Council will only approve such applications where they are satisfied that:

- the building is not of special interest; or
- the building is incapable of repair; or
- the demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
- the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.

Repairs which match the original materials and methods and do not affect the character of the building do not usually require listed building consent or planning permission.

You can apply for listed building consent at [www.eplanning.scot](http://www.eplanning.scot).

## What if the work has already been carried out?

It is a criminal offence to demolish, alter materially or extend a listed building without listed building consent. Alterations may be subject to enforcement action or prosecution at any time. Retrospective applications for listed building consent will be considered on their merits.

Our guidance on [Selling Your House](#) sets out the criteria which will be used to determine whether to take enforcement action against unauthorised works to a listed building. This will help if you are selling a listed property and provides general advice on listed building consent.

## What Other Consents Might Be Required?

### Planning Permission

Development is defined as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Planning permission is required for many alterations, additions and changes of use, although some development can be carried out without planning permission. This is ‘[permitted development](#)’.

To determine whether planning permission is required, the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992](#) or [Government Circular on Permitted Development](#) should be considered.

If you believe your building work is ‘permitted development’, you can apply for a [Certificate of Lawfulness](#). This is a legal document from the Council which confirms that the development is lawful.

In addition, listed building consent may be required regardless of whether planning permission has been granted.

### Advertisement Consent

Many advertisements will require advertisement consent, in addition to listed building consent and planning permission. You can check this by consulting or by seeking advice from the Planning Helpdesk.

### Building Warrant

Converted, new or altered buildings may require a building warrant, even if planning permission or listed building consent is not required. Please contact Building Standards for more information on 0131 529 7826 or [email: buildingwarrant.applications@edinburgh.gov.uk](mailto:buildingwarrant.applications@edinburgh.gov.uk).

## General Principles

The aim of this guideline is to prevent unnecessary loss or damage to historic structures and ensure that proposals will not diminish their interest.

The fact that a building is listed does not mean that changes cannot be made. However, it does mean that any alterations must preserve its character. Any alterations which would seriously detract from or alter the character of a listed building are unlikely to receive consent.

It is strongly advised that specialist advice be sought prior to carrying out any works to a listed building. Without exception, the highest standards of materials and workmanship will be required for all works associated with listed buildings.

Any alterations should protect the character and special interest of listed buildings .

There is a strong presumption against demolition of listed buildings and proposals for demolition will be assessed against the criteria set out in the Scottish Historic Environment Policy.

## Repair

Planning permission and listed building consent are not normally required for repairs which match the original materials and methods and do not affect the character of the building. Inappropriate repairs can result in enforcement action or prosecution.

Repairs to listed buildings should always be carried out with care. Matching the original materials and method is important. The use of inappropriate materials and poor repair techniques can accelerate the decay of traditional historic buildings, shorten their lifespan and result in longer-term problems which may result in much higher repair costs.

### Stone Repair

Before any repairs are undertaken, the existing stonework details should be carefully categorised for the:

- **Type:** ashlar, random rubble, coursed rubble etc.
- **Tooling:** broached, stugged, polished
- **Joints:** v-jointed, square-jointed, fine-jointed, etc.

An analysis of the stone will also be required to establish its chemical make-up and ensure compatibility with the existing stone.

These details should be respected and repeated, where appropriate, when stone replacement and pointing is carried out. Inappropriate replacements affect the architectural integrity of historic buildings.

It is also imperative to remedy the cause of any decay by eliminating sources of soluble salts, preventing the passage of moisture and rectifying active structural faults.

### Indenting

Indenting is the insertion of a new stone to replace one which is damaged or decayed.

Indenting may not always be necessary when a stone has a defect; if the stone can reasonably be expected to survive for another 30 years, it should be left, regardless of its appearance.



Where indenting is appropriate, the indent should be selected to closely match the original stone. Artificial stone should not be used on listed buildings.



There will inevitably be a marked contrast between old and new work. However, within a few years of repair the effects of natural weathering will have gone a long way to remedy this situation. Cosmetic treatment of indented stone, either cleaning the old stone or distressing the new is not recommended.

Partial indenting should not normally be considered. In certain circumstances, small indents may be appropriate on moulded detail, but leaving the damaged stonework may be more acceptable than carrying out a visually intrusive repair.

Stone indents on external original steps and entrance platts are normally the most appropriate method of repair. Concrete screeds to steps and entrance platts are not acceptable.

### Redressing

Redressing is the removal of the surface layer from the decayed stone. This may not be appropriate as it can cause considerable damage to the underlying stone and accelerate decay.

### Mortar

Mortar repairs to stone should only be used as an extension of pointing to fill in small areas of decay and extend the life of a stone which would otherwise have to be replaced.

In some cases, it may be appropriate to use mortar on sculpted or moulded stonework. However, as mortar is significantly different from stone, ensuring a permanent bond between the two materials will be difficult. Therefore, a mortar repair will have a considerably shorter life than indenting.

Lime mortars will usually be the most appropriate mix. The presence of cement in the mix used for mortar repairs will accelerate decay in the neighbouring stone.



## Weather Proofing

In traditional construction, the free movement of water vapour through the fabric of a building in both directions is essential.

The use of silene and silicone treatments to weather proof stone is not recommended because serious damage can occur if condensation builds up within a stone and the process is not reversible.

## Mortar Joints and Pointing Repair

The original mortar joints and pointing should be respected, if traditional and causing no damage. Pointing can take many forms (recessed, flush, slaistered etc.) In some instances, small pieces of stone or slate are used in the mortar mix. In cases where it is unclear what existed previously, mortar analysis should be carried out.

Under no circumstances should joints be widened to facilitate the work. Raking out should be done carefully with hand tools; power tools should never be used. It is important that the correct pointing and tools are chosen and used for specific types of joints.

Mortar should be sufficiently resilient to accommodate minor movements in the masonry, but it should never be stronger or denser than adjoining stones. This will cause the mortar to crack and prevent drying out through the joints, causing moisture to evaporate through the stones, accelerating decay.

Lime mortar should be used in most instances. However, as the technology, science and physical properties of pure lime mortars vary considerably from cement gauged mortars, they must be used

carefully. Hard cement mortar should never be used.

## Traditional Harls and Renders

Hard cement mixes should not be used for harls and renders. A hard mix will trap a layer of moisture between the harl and the stonework beneath, thus forcing water back into the stone and encouraging accelerated decay. Lime mixes are recommended.

Original harls can be analysed to establish their composition. In order to prepare surfaces for harling and rendering, old cement render should usually be removed. In most cases, it will be more appropriate to use a wet dash rather than a dry dash. It is important that each 'layer' of harl is allowed to dry fully before applying another coat. However, each situation is different and specialist advice should be sought on best practice.

## Roofs

Listed building consent will be required for alterations to roofs. Planning permission may also be required, depending on the proposal.

Planning permission and listed building consent are not normally required for repairs which match the original materials and methods and do not affect the character of the building.

The roof, which includes parapets, skews, chimney heads and chimney pots, is an important feature of a building. The retention of original structure, shape, pitch, cladding (particularly colour, weight, texture and origin of slate and ridge material) and ornament is important. Any later work of definite quality which makes a positive contribution to the interest of the building should also be kept.



The restoration of lost roof elements to match the original form will be encouraged.

It is important to use the proper repair techniques and materials for ridges, flashings, mortar fillets



and parapet gutters. Ridges should be replaced to match existing. Most ridges and flashings should be replaced in lead, making sure to use the correct code of lead.

Any change to the roofing material, including alternative slate, will require listed building consent and may require planning permission.

Most traditional roofs within Edinburgh are covered with Scots slates, although other materials, such as Welsh and Cumbrian slates, pantiles and thatch, have also been used. In some instances, materials such as copper may have been used on the roof of a decorative turret. Traditional materials should always be respected and repeated, where appropriate.



Scots slates are becoming increasingly rare and in some circumstances second-hand slates are of poor quality and size. It is preferable in some cases that sound old slates are laid together on visible roof slopes, with new slates used on non-visible roof slopes. Alternatives to Scots slate will be considered on their merits.

It is important to ensure consistency in the texture and grading, and that the new slate matches the colour, size, thickness and surface texture of the original materials as closely as possible.

Concrete tiles or artificial slate should never be used in conjunction with, or as a replacement for real slate. The introduction of slate vents may require listed building consent.

Patterned slating, incorporating fish scale or diamond slates, sometimes in different colours, should be retained and repaired with special care.

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The original gradation of slates should be repeated.

### Flat Roofs

Lead is usually the most appropriate covering for the long-term maintenance of flat roofs. Alternatives to lead may be considered acceptable in certain cases. Bituminous felt is not generally appropriate for use on listed buildings.

### Chimneys

Removal of all or part of a chimney will require listed building consent and may require planning permission.

Original chimneys should always be retained and repaired as they are an essential feature of traditional buildings and contribute to the historic skyline. Non-original additions to chimneys should be removed.

Chimneys should be repaired using traditional methods to reinstate as original, with particular attention to the detail of the coping stone. Particular care should be taken to retain chimneystacks to their original height.

Detailed records of the original structure should be made where dunting is necessary to ensure correct replacement. Chimney pots should always be replaced to match the original.

Where the original chimneys have been demolished and replaced in brick and render, the rebuilding in stone will be encouraged.

### Rainwater goods (guttering, downpipes etc.)



Replacement rainwater goods should match the original, cast iron or zinc should be used where these were the original materials. Other materials such as aluminium may be acceptable, where appropriate.

They should be painted either black or to tone in with the adjacent stonework and roofing respectively.

### Railings, Gates, Balconies and Handrails

The erection of railings, gates, balconies and handrails requires listed building consent and planning permission.

Planning permission and listed building consent are not normally required for repairs.

Balconies, gates, railings and handrails are usually formal components in the design of an elevation. They should be maintained and repaired and, if

they have to be replaced, should be erected on a like for like basis. The recommended paint colour is black gloss.

Usually, railings were made from cast iron, although there may be some examples surviving of wrought iron. If the railings no longer exist, it is important to establish what the original railings were like. Remaining sections of iron work may still exist in the cope or on similar neighbouring properties or old photographs and plans can be used. In most cases, cast iron railings fixed individually into the cope should be used.



Railings are normally fixed to stone copes. These should be repaired according to the principles outlined in the previous section on stone repair. Moulded copes and other special details should always be respected and repeated.

## External Alterations

Any external alterations, however minimal, may require listed building consent and possibly planning permission.

This section provides guidance on the most common forms of change. You are encouraged to contact Planning to discuss any proposed work.

Where it is proposed to restore lost features, it will be important to ensure that all restorative work is

based on sound physical and documentary evidence of the previous state of the building. This is to ensure that work is carried out in an architecturally and historically correct manner.

## Stone Cleaning

Listed building consent is required to stone clean listed buildings. Planning permission is also required for the stonecleaning of any building within a conservation area.

Stone cleaning cannot be undertaken without damaging a building. It can also reveal the scars of age, such as staining, poor previous repairs and surface damage. It may also remove the natural patina, the protective layer on the stone, opening up the surface pore structure and making re-soiling much easier.

There will, therefore be a presumption against the stone cleaning of listed buildings and buildings within conservation areas. Stone cleaning will not be considered acceptable on any street where cleaning has not commenced. Where cleaning of a street has commenced, the issue of reinstating architectural unity will be a material considerations in assessing the merits of individual applications.

Specialist professional skills should be sought to undertake analysis and, where acceptable, design a suitable cleaning method and undertake work.

Applications for stone cleaning should be accompanied by a full drawing and photographic survey.

To assess the most appropriate method of stone

cleaning, applicants will be required to ascertain geological characteristics through laboratory tests.

Stone cleaning methods should be tested on an inconspicuous trial area of two or three stones.

If stone cleaning is approved, post-cleaning photographic records should be submitted and documented for research purposes.

It is expected that most necessary repairs will be identified at the initial application stage. Therefore, consent would be conditional upon a commitment by applicants to undertake a minimum standard of repair subsequent to stonecleaning.

## Stone Cleaning Methods

The following are the most common stone cleaning methods. Their inclusion in this guideline is for information only and does not imply their acceptability.

### 1. Mechanical - Carborundum Disc

This method comprises a hand-held rotary disc with a carborundum pad.

### 2. Air and Water Abrasive

These methods comprise grits and other abrasive mediums carried by jets of air and/or water.

### 3. Chemical Cleaning

This method comprises the application of chemicals and a high pressure water wash or pressure steam.

#### 4. Water (High Pressure, Low Pressure, Manual)

When water pressure is used as part of the cleaning method, water is forced into the stone to a depth where natural evaporation will not take place. The water can then percolate down through the fabric of the wall and cause accelerated weathering at lower levels in the building. High pressure water can also cause damage to the stone.

A water wash remains an alternative stone cleaning technique. A low pressure water wash (100-200psi) is the least aggressive method of stone cleaning. However, it will not remove dirt which has combined with the surface to form an insoluble compound. High pressure and/or excessive water can cause surface erosion, pointing wash-out, staining and force water into the core of the wall. Due to the dangers of thermal expansion, water washing should be avoided in frosty conditions.

### Paint Removal from Masonry

Paint removal will require planning permission and listed building consent.

The restoration of the original surface through the removal of paint can improve the character and appearance of a building. Where surfaces have been previously painted, the removal of paint will be supported in principle, provided that the proposed removal method does not adversely affect the original surface.

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The removal of paint requires chemical and/or abrasive cleaning to re-expose the stone beneath. Abrasive methods can cause severe damage to the surface and will be unlikely to remove all traces of paint from coarse, porous sandstone. In certain circumstances, a minimally abrasive method may be appropriate to remove the outermost paint layers not in contact with the stone surface. Chemical paint removal varies from paint stripper to a proprietary poultice (a substance placed on the stone to draw out the paint). Each requires extreme caution due to their potentially damaging effects and trial samples should be carried out.

Previous painting could have disguised the poor condition or appearance of the surface so repair work may be required following paint removal. Therefore, consents will be conditional upon a commitment by applicants to undertake a minimum standard of repair subsequent to paint removal.

Where paint removal is not appropriate, the property should be repainted in a matt finish stone coloured paint to tone with the adjoining stonework.

Specialist professional skills should be sought to undertake analysis, design a suitable treatment method and undertake any work.

### Graffiti Treatment

Graffiti treatment will require planning permission and listed building consent if the proposed method will affect the character or appearance of the building.

Whilst graffiti can have an adverse impact on the character and appearance of a building and general environment, inappropriate graffiti treatment can cause irreversible and fundamental damage to buildings.

The treatment of graffiti from listed buildings and buildings within conservation areas will generally be supported provided there would be no unacceptable change in the appearance of the historic surface or structural integrity. However, the condition or architectural detailing of the surface or the nature of the graffiti may, in some circumstances, prevent any form of graffiti treatment from being acceptable.



Each site must be assessed on an individual basis and a site specific proposal prepared. Specialist professional skills should be sought to design suitable treatment methods and undertake any work.

At sites where graffiti is a recurring issue or where historic surfaces are vulnerable to the effects of graffiti treatment, alternative strategies may be required to prevent or reduce incidences of graffiti. Lighting, CCTV, physical barriers and the repositioning of fixtures may be required. These may need listed building consent and/or planning permission.

Temporary sacrificial coatings will also be encouraged in areas of persistent graffiti attack, provided there would be no adverse impact on the surface.

The permanent sealing of a surface will result in accelerated decay of the stone leading to expensive repairs and will therefore not be considered acceptable.

## Graffiti Removal Methods

### Chemical

Includes solvent based paint removers, other organic solvents and alkali-based paint removers or caustic removers.

### Physical

Mainly air abrasion but can also include pressure washing and steam cleaning.

### Heat

Includes hot pressure washing and steam cleaning, which must be applied at an appropriate pressure for the substrate; and laser treatments which can be labour intensive, slow and expensive.

## Painting and Render

Paint which matches the existing in colour and uses traditional materials and methods will not require listed building consent or planning permission.

Painting or rendering of a previously untreated surface will require planning permission and listed building consent, and is unlikely to be acceptable.

Changing the colour of a listed building will need listed building consent. Planning permission will also be required to change the colour of any building located within a conservation area.



External stonework must not be painted or rendered, unless the surface was originally painted or rendered.

Coping stones and the edge of steps should not be painted.

Information on painting a shop or other commercial premises is included within the [Guidance for Businesses](#).

Walls covered with smooth cement render or a harled finish should generally be painted in earth colours or neutrals (grey, cream or beige). Rendered bands to windows should generally be in stone colours.

## Extensions and Additions

Listed building consent will be required for extensions or additions to listed buildings. Planning permission may also be required, depending on the proposal.

New extensions on a terraced block may not be acceptable where there are no existing extensions. Where the principle of extending a listed building is acceptable, the extension should be subservient to the main building and will rarely be permitted on principal elevations. Extensions should not normally exceed 50% of the width of any elevation.



It is usually acceptable for an addition to be different and distinguishable from the existing building, in terms of design. The use of high quality materials which complement the main building will be required. In other circumstances it may be appropriate to match the new work to the existing, in which case the new materials should be carefully matched.

The visual separation of extensions is encouraged. In the case of side extensions, they should be set back from the facade and be of a scale that does not affect the overall architectural composition. The effect of any addition on a symmetrical composition will be particularly important.

Encouragement will be given to the removal of inappropriate additions which are of inferior quality and which detract from the listed building. Where there is an existing extension of historic or architectural interest, such as a conservatory or outshot, this should be restored or repaired, rather than replaced.

## Shopfront Alterations and Signage



Page 358 Specific information is included in Guidance for Businesses. This should be considered alongside this document, where relevant.

## Windows

The removal, replacement or alteration of windows will normally require listed building consent.

Repairs and painting which match the existing and use traditional materials and methods will not require listed building consent or planning permission.

Double glazing in listed buildings will require listed building consent.

Where a significant proportion of historic glass (such as Crown, cylinder and drawn sheet) remains on an individual window, it should be retained or re-used.

Secondary glazing is likely to require listed building consent where it will impact on architectural detail or affect the external appearance of the building.

Planning permission may also be required where the replacement or alteration will not match the existing in design, material, size, opening mechanism or proportion. Replacement windows which do not result in a material change to the appearance will not normally require planning permission.

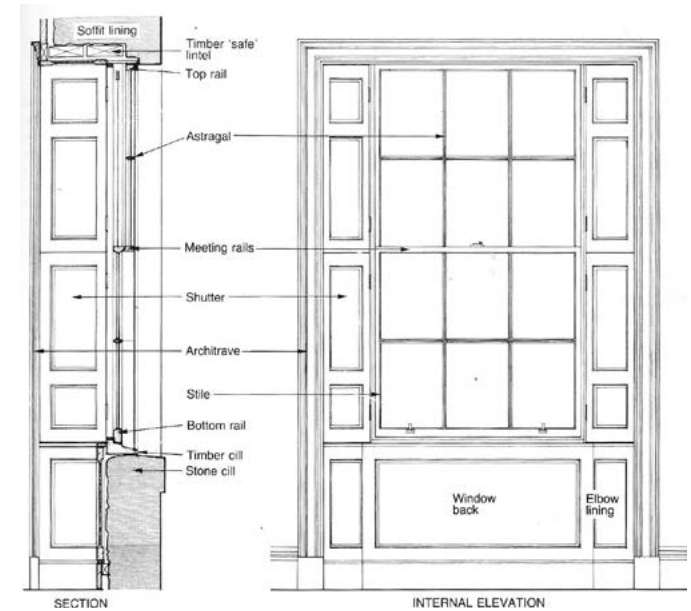
The reinstatement of the original window pattern will normally be encouraged.

## Repair and Maintenance

There is a general presumption against the removal of original window frames and glazing; repair and refurbishment is preferred. Decay in timber is usually caused by moisture penetration, which can be prevented by thorough painting, regular maintenance and prompt attention to necessary repairs.

Glazing should be fixed with putty or a glazing compound rather than timber beading.

The thermal performance standard of existing windows can be improved by repair, draught-stripping and working internal shutters.



## Openings

Window openings play an important role in establishing the character of an elevation and they should not be altered in their proportions or details.

Proposals to increase the glazing area by removing stone or timber mullions (vertical members between windows which form the divisions between windows) will not normally be granted consent.

Proposals to convert windows into door openings will not be considered acceptable on principal frontages or above garden level on all other elevations. Where acceptable, the width of the existing opening should not be increased. Normally, only one set of French windows will be permitted.

Entirely new window openings are unlikely to be acceptable on principal elevations as this can create an unbalanced composition.

## Replacing Original Windows



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Original windows are important features of any building and should not be removed or altered. The complete replacement of original windows will only be approved where they have clearly deteriorated beyond practicable repair. Proposals must be accompanied by evidence demonstrating that they are beyond repair; a professional survey may be requested.

In the event that replacement windows can be justified, they should be designed to replicate the original details, including materials, design and opening method. Particular attention must be paid to the mouldings; standard modern sections are not acceptable for reinstatement work. uPVC will not be acceptable.

Care should be taken to ensure that replacement windows are fitted in the same plane as the originals, are made of timber sections (the profile and dimensions of which match the originals) and

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have the meeting rails in the same position as the originals; this is especially important where the windows of only one property in a tenement or terrace block are being replaced.

Whenever an original window has been lost, any modern windows which are badly proportioned, of the wrong type, or incorrectly glazed, should be reinstated to the original proportion and detail. This is especially important in the case of unified terraces.

### Double Glazing

Slim profile double glazing with a cavity (the space between the two sheets of glass) of a maximum of 6mm can be fitted into existing windows, provided early glass is not present.

Double glazing with a cavity of more than 6mm is not acceptable.

### Secondary Glazing

Secondary glazing involves an independent internal window in addition to the existing. It should, wherever possible, be fitted immediately inside existing sashes or at a suitable position within the depth of the window reveal, being fixed either to the case or the surrounding framework of the ingoes. Secondary glazing should not disrupt architectural features, such as shutters.

The meeting rails and frames of secondary windows should be as small in section as possible to allow them to be disguised behind existing rails. Painting their external faces black helps to minimise visibility from the outside. Where necessary, detailing of internal secondary windows must allow for the use of the easy-clean hinges on the lower sash of the original outer window.

Additional glazing units fitted to the outside of existing windows are not acceptable.

### Fanlights



Decorative fanlights should be retained, and where necessary, replaced.

### Astragals

Where there is clear photographic or physical evidence that astragals (the glazing bars dividing panes of glass) have been removed, their replacement to the original profile and dimensions will be encouraged. The glazing pattern which forms part of a significant later re-modelling scheme should not be changed. Astragals applied to the surface of the glass or sandwiched between the glass of doubled glazed units are not considered acceptable.

### Horns

Horns are Victorian projections of the side frames of the sashes, devised to strengthen them, following the introduction of heavy plate glass. Georgian and early Victorian windows with astragals never have horns and will therefore be strongly resisted. Edwardian windows sometimes had horns, and their use may, therefore, be appropriate.

## Ventilators and Extractor Fans

Ventilators cut through the glass or visible on the window frames will not be considered acceptable; they should be located unobtrusively in the meeting rail or through the box frame.

Mechanical extractor fans should be located on rear or side elevations and will not normally be acceptable within windows or fanlights, or on front elevations.

## Paint

Originally, most windows were painted dark brown or bottle green. However, window joinery, including fanlights, should normally be painted white or off-white to maintain uniformity (brilliant white should be avoided).

Freestanding buildings may have more scope to investigate and 'restore' the original colours.

All areas of dormer windows, other than the window frames, should be painted to tone in with the roof.

## Special Cases

### Institutional/Industrial buildings

Industrial and institutional buildings have a variety of window types, depending on their age and function. The original window type should be retained wherever practicable, although flexibility on window design may be acceptable to allow conversion to new uses. The glazing pattern should be reproduced and the manner of opening should be as close to the original as possible. Standard double glazing may be acceptable, provided discrepancies in the form, profile, section, materials and opening method are kept to a minimum.

## Early Modern Metal Windows

Early modern metal framed windows should normally be repaired or replaced with matching windows of the same materials and design. New units manufactured from different materials will rarely be capable of accurately matching and will only be acceptable where exact replication of the original window is of less importance. In such cases, any discrepancy in form, profile, section and opening method should be kept to a minimum.

## Casement Windows

Original inward opening casement windows are relatively rare and must be retained or identically replaced.

## Special Types of Glass

There is a presumption in favour of retaining stained, decorative leaded, etched glass and historic glass. If the glass has to be removed and is of artistic merit, arrangements should be made for its recording and its careful removal. Proposals to use wired glass, obscured glass, and louvered glass or extract fans in windows on main elevations will not be considered acceptable.

## Dormer Windows and Rooflights

New dormer windows will not normally be acceptable unless they are part of the original or early design of an area. Rooflights will almost always be a preferable solution, but these will not generally be permitted on roof slopes which are largely unaltered. Where acceptable, rooflights should be of



a conservation type and should be of an appropriate scale and proportion. The proposed number of rooflights will also be a determining factor.

## Doors

The removal, replacement or alteration of doors will normally require listed building consent.

Original doors are important features of any building and should not be removed or altered. The complete replacement of original doors will only be approved where they have clearly deteriorated beyond practicable repair. Proposals must be accompanied by evidence demonstrating that they are beyond repair; a professional survey may be requested.

Replacement doors which incorporate integral fanlights or inappropriate glazing or panelling patterns will not be granted consent.

Entirely new door openings are unlikely to be acceptable on principal elevations as this can create an unbalanced composition.



Doors in street frontages, even though no longer used, should be retained.

Door furniture and later fittings of quality should be retained. Where these have not survived, the replacement of modern fittings with items appropriate to the period of the building will be encouraged.

Door entry systems should be discreetly designed and should be located on door ingoos, not the main façade.



## Paint

Doors should be painted in an appropriate dark and muted colour.

## Basements

Listed building consent may be required for external alterations to basements. Planning permission may also be required, depending on the proposal.

There is a presumption against the removal of original stone slabs from basement areas. They should never be covered in concrete or any other material such as gravel or chips. Where existing stone slabs need to be renewed new stone slabs should be laid. Similarly, stone steps and platts to ground floor entrances should be repaired or renewed in natural stone to match the original in



colour. Basement steps, floors and walls should not be painted .

Proposed extensions in front basement areas or under entrance platts are not normally acceptable and owners are encouraged to remove existing extensions.

The formation of lightwells in basements will only be permitted where they are part of the character of the street. These should always be in matching materials to the main building and covered with a flush cast iron grille.

## Access Stairs

New external access stairs will require listed building consent and may also require planning permission.

There is a general presumption against the introduction of external access stairs on any elevation. External access stairs may be acceptable in exceptional circumstances where there is a pattern of original access stairs established relevant



to the elevation(s) in question and this can be fully supported by an historic building analysis.

Where access stairs can be justified, they should be in-keeping with the character of the building. The design of the stair should either be based on an original design for the type of building or a lightweight modern addition with metal being the preferred material. New doors and stairs should be painted appropriate colours, usually black for metal work. They should not be enclosed structures.

Stairs should normally be for access only. Where they include platforms for incidental use, the Council's guidelines on privacy must be complied with. Stairs should be kept close to the building, but should not obstruct daylight from existing windows.

When buildings are in single occupancy and there is an existing door at either ground floor or basement level, an access stair at upper levels will not normally be permitted. On all other properties, access stairs will be restricted to the floor above the lowest habitable floor level. Bridges over rear basement areas will not be considered acceptable.

## Renewable Energy Technologies (Solar Panels, Wind Turbines etc.)

Listed building consent will normally be required for the installation of renewable energy technologies. Planning permission may also be required, depending on the proposal.

The installation of renewable energy technologies should be carefully sited in order to protect the architectural integrity of the listed building.

Poorly located renewable energy technologies can be visually intrusive and will not be acceptable where they detract from the character of the building. They should not be visible from public view. They may be acceptable in the following locations:

- On the ground to the rear of the building.
- On a modern extension to the rear of the building, providing that no part is higher than the main building.
- In the internal valley of a roof, provided that no part projects above the ridge.

In the New Town Conservation Area and World Heritage Site, aerial views will also be considered.

## External Plumbing

Listed building consent may be required for external plumbing. In some circumstances, planning permission may also be required, depending on the proposal.

Additional pipework on important facades should be avoided especially if it would result in disturbance to, or the breaking through of masonry, mouldings or decorative features. Replacements should be in cast iron, painted to match the colour of the walling and should match the original sections.

## Gas Pipes and Meter Boxes

Listed building consent is only required where the guidelines listed below cannot be complied with.

A maximum of a 450mm of supply pipe can be visible on the front wall of listed buildings. External pipes which are both horizontal and vertical must have the horizontal section within the basement areas (where applicable) and not be visible from the street.

Holes in stonework must be kept to a minimum and should be made through stone joints, except in the case of “V” jointing or rubble where holes should be in the stonework. Non-ferrous fixings must be used.

Pipe runs should not interfere with cornices and decorative plasterwork. Where pipes are chased into walls, plasterwork must be reinstated to original.

All redundant surface-run pipe work must be removed and the surfaces made good and painted to match existing materials and colour.

Meter boxes should not be fitted to the front or any conspicuous elevation of buildings.

Pipe work and meter boxes should be painted to match adjacent stone.

## Flues

Listed building consent is required to install balanced flues on the front or any conspicuous elevation of listed buildings. In certain circumstances an application for planning permission will also be required.

Balanced flues will not normally be acceptable on the front or conspicuous elevations of listed buildings.

The balanced flue should be painted to match the colour of the surrounding stonework.

Holes to accommodate the balanced flue should be formed with a core cutter.

## Ventilation Grilles

Listed building consent is required to install ventilation grilles on the front elevation (or any conspicuous elevations) of listed buildings. Planning permission is not normally required if of a domestic scale.

Ventilation grilles will not normally be acceptable on the front or other conspicuous elevations of listed buildings.

If acceptable in principle, ventilation grilles should generally be no bigger than the standard size, flush with the wall surface and coloured to match the background.

## Air Conditioning and Refrigeration

Planning permission and listed building consent will normally be required to install air conditioning and refrigeration units on the exterior of buildings. Listed building consent may also be required to install units within listed buildings where units would disrupt architectural features and fixtures.

The preferred location for units on listed buildings are:

- Free standing within garden or courtyard areas, subject to appropriate screening and discreet ducting.
- Within rear basement areas.
- Inconspicuous locations on the roof (within roof valleys or adjacent to existing plant). However, in the New Town Conservation Area and World Heritage Site, aerial views will also be considered.
- Internally behind louvres on inconspicuous elevations. This should not result in the loss of original windows.

Where it is not practicably possible to locate units in any of the above locations, it may be acceptable to fix units to the wall of an inconspicuous elevation, as low down as possible; they should not be located on the front elevation.

Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

Ducting must not detract from the character of the building.

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## Alarm Boxes

Alarm boxes on listed buildings should be the smallest available, fitted in the least conspicuous location and painted to match the background colour or stonework.



There will be a general presumption against the location of alarm boxes on the front elevation of listed buildings which retain their original domestic character, irrespective of the use of the premises.

Where alarm boxes have to be located on the front elevation, they should be restricted to the least visible location. On tenemental properties, alarm boxes should not normally be located above the ground floor.

In basement areas, it may be possible to fit alarm boxes in inconspicuous locations such as on in-facing walls, under entrance platts and stairs, and on the sides of platt supporting arches close to the junction with the pavement.

Concealed locations on side and rear elevations should also be considered. Consideration should also be given to fitting boxes inside the building behind windows and fanlights. Alarm boxes should not bridge mortar joints in the stone, particularly where V or square joints are used.

Alarm boxes will normally be considered acceptable in appropriate locations and on painted shop fronts and commercial frontages where the boxes are painted to match the background colour.

## Satellite Dishes

Listed building consent will normally be required to install a satellite dish on a listed building. Planning permission may also be required if located within a Conservation Area.

Poorly sited satellite dishes can be visually intrusive and will not be acceptable where they detract from the character of the building. They should not be visible from public view. They may be acceptable in the following locations:

- On the ground to the rear of the building.
- On a modern extension to the rear of the building, providing that no part of the dish is higher than the main building.
- In the internal valley of a roof, provided that no part of the dish projects above the ridge.
- Behind a parapet, provided no part of the dish projects above it.

In the New Town Conservation Area and World Heritage Site, aerial views will also be considered.

Where the location for a dish is considered to be appropriate, it should be chosen to blend in with its background. This may require the dish to be painted.

All fixings should be non-ferrous.

Consent may be refused for additional dishes due to the visual effects of a multiplicity of dishes, even if this precludes some residents from receiving satellite television. The sharing of satellite dishes will be encouraged.

## Other Additions

External fixtures will require listed building consent when they affect the character of the listed building. These include floodlighting, security cameras, window boxes, key boxes, bird control installations and eyebolts (unless on window reveals). Planning permission may also be required, depending on the proposal.

Only undamaging and visually unobtrusive positions for such fixtures will be considered acceptable. Fixtures should not lie across, cut into or through any architectural feature or disturb the balance of a symmetrical façade. Fixings into stonework should be kept to a minimum and should be non-ferrous.

The size and number of additions will also be an important consideration and, where appropriate, applicants may be asked to erect fixtures on a temporary basis in order that their impact can be accurately assessed.

Proposals to erect any fixtures which fail to respect the form and detailing of the building and detract from its appearance are not likely to be acceptable.

The position and colour of cabling for lighting, television and other services should be inconspicuous. Cabling may often be accommodated behind or next to downpipes or on top of projecting string courses and cornices. Black or grey cabling is normally the most appropriate colour.

## Adaptation for Accessibility

Listed building consent is required to install ramps, handrails, indicators and lifts and for alterations to doors. Planning permission may also be required.

While the Equality Act 2010 requires service providers to take “reasonable” steps to make their buildings and services accessible, there is also a statutory duty to protect the character of the historic environment. The provision of access for the less able to historic buildings will, therefore, require careful consideration and design.

Full access for everyone via the principal entrance may not be appropriate. Alternative access arrangements which preserve the character of the listed building may be required.

Listed building consent will be required for any internal alterations which will alter the character of the listed building.

Planning permission is not required for internal alterations.

Solutions should be tailored to the particular building through the use of innovative design and high quality materials.

### Ramps

The placing of a ramp on a building should have minimal impact on the historic fabric.

The symmetry of existing elevations and the rhythm of the street as a whole should be respected, and where relevant, care should be taken to protect the relationship between railings, property and basement.



Where appropriate, consideration should be given to regrading the ground at the entrance in order to overcome the need for larger ramps and minimise the visual impact on the building. If this will cause a footway hazard, a ramp inside the building may be appropriate; the removal of steps and the lengthening of doors can sometimes accommodate this.

Ramps on the public footway will not generally be supported. Where acceptable, ramps must leave sufficient clear footway for pedestrians. This will vary according to the volume of pedestrian traffic. In general, this is 2 metres for residential areas, 3 metres for main roads and 5-6 metres for busy shopping streets.

Where a ramp is acceptable, high quality materials, such as stone to match the existing building, will be encouraged. In some circumstances, high quality design in modern materials may be more appropriate.

### Handrails

Where required, handrails should be carefully designed and sensitively located to avoid being visually intrusive.

Appropriate contrast with the background material can be achieved with high quality traditional or contemporary materials.

### **Tactile Indicators**

Historic flooring materials should not be replaced with standard tactile paving. A tactile grid can be achieved by using materials that match those of the surrounding area, and which have been textured with ridges or dimples. More information is available in the [Edinburgh Design Guidance](#).

### **Visual indicators**

Brightly coloured high-visibility strips should be avoided, unless their use helps to avoid other more visually intrusive works.

### **Doors**

There may be cases (particularly in the case of historic buildings) where it is less damaging to seek alternative access routes than to widen or alter a doorway. Historic doors are often an integral part of the design of the building, and should be retained wherever possible.

Where historic doors are heavy or difficult to operate, it is normally possible to adapt them by re-hanging and/or introducing opening mechanisms or visual indicators to make the handles more prominent.

### **Lifts**

External chair and platform lifts can have a significant impact on the architectural character of a building, but may be more appropriate than a ramp in certain circumstances. The resting position of any external lift should be as low as possible, and the design of the platform and restraints should be as transparent as possible. Metal cages are unlikely to be acceptable as they are disruptive to the streetscape and can seem intimidating to the user.

## **Internal Alterations**

Listed building consent will be required for any internal alterations which will alter the character of the listed building.

Planning permission is not required for internal alterations.

### **Subdivision**

The original plan form of a building should always be respected.

All major works of alteration should be limited to areas of secondary importance. There will be a particular requirement not to sub-divide, either vertically or horizontally, principal rooms and entrance/stair halls. Where the interior is of particular architectural or historical importance, subdivision will not be permitted.

The degree of change to the plan form which may be acceptable will normally be dependent on previous alterations and use.

There will be a presumption against the sub-division of complete houses and flats currently in residential use. A greater degree of flexibility will be exercised where the current use is non-residential and a return to residential is proposed.

Where acceptable, subdivision should not normally result in the formation of more than one flat per floor in town houses.

Rear stairs should not be attached as part of a sub-division proposal. Access to rear gardens should be retained through a basement room, where possible.

Garden ground should not be formally divided up by the use of fences and other unsuitable boundary markers to delineate ownership. Particular care should be taken to conceal the clutter of intensified domestic use, e.g. garages and bin stores.

### **Internal Walls and Partitions**

Internal walls in listed buildings should always be investigated with care in advance of alterations as historic or interesting features may be concealed by plaster or behind panelling. In some cases, the partitions themselves may be of historic interest.

In general, consent will not be granted for the removal of original internal walls or partitions between front and rear principal rooms at ground and first floor level.

In cases where it is considered acceptable for an existing wall or partition to be removed, it will be necessary to leave nibs and a downstand of at least 300mm with any original cornice left intact. Work should not cut through mouldings or enriched plaster decoration but be shaped around them to allow for reinstatement at a later date. In most cases it will be desirable to replicate the original cornice detail at the head of new partitions as well as dadoes and skirtings.

New partitions which affect the proportions of principal rooms will not be considered acceptable.

### **Internal Doors**

Doors that form part of the architectural composition of a room or plan form should be retained. Where they are redundant in terms of circulation, they should be locked shut and left in position, rather than being removed.

If traditional panelled doors require to be upgraded for fire resistance, fire resistant paper applied to the panelling or intumescent paint and edge strips should be used. Door closers should be hidden.

In general, consent will not be granted for new doors connecting front and rear principal rooms at ground and first floor level. Jib (secret) doors may only be allowed in certain cases.

Where new door openings are considered acceptable, they should be correctly detailed with matching doors and architraves. They should not incorporate features such as glazed panels. Where doors are to be added, but are not in traditional positions it is often acceptable to design a jib door or modern opening, so as not to confuse the building's history.

Buffet recesses are an important feature in the dining rooms of listed buildings, particularly in the New Town, and should be retained. New door openings will not be granted within a buffet recess.

**Plasterwork**



Care should always be taken with works to old plaster to avoid destroying early decoration. All decorative features from a simple cornice or cove

to elaborate wall and ceiling decoration should be preserved. Suspended ceilings should never be formed in principal rooms or entrance halls which have decorative plasterwork. They may be acceptable in minor rooms provided they are above window height.

**Chimneypieces**

Chimneypieces, along with fireplaces containing original features are part of the decorative history of a building and are often central to the design of a room. Even later chimneypieces of interest can make a significant contribution to the character of a room. Original or later chimneypieces or fireplaces of interest should not be removed, even if the chimney is redundant. In cases where there is no alternative to the removal of a chimneypiece, it should be re-used in an appropriate location within the building. The removal of a chimneybreast is almost never acceptable, particularly as this may affect the structural stability and ventilation of the building. The restoration of missing chimneypieces will be supported.



**Staircases**



The removal or alteration of any historic staircase, including handrails and balusters, is not normally acceptable. The stair is often the most significant piece of design within a building and can be important dating evidence. Where subdividing ground and basement floors, the basement stair must be retained. In retail premises, the removal of the lowest flight of stairs, which provides access to and use of upper floors, will not be allowed.

**Lifts and Stair Lifts**

Wherever possible, lifts should be installed in an existing opening in order to minimise physical and visual disruption to the built fabric.

Stair lifts and chair lifts may not be acceptable in sensitive interiors. It may be better to use a secondary stair if possible, or to rationalise the service provision within the building so that access to all floors is not required. An independent device such as a stair climber could also be considered.

## Floors and Ceilings

Floors which are original to the building and/or of interest because of their materials, form or surface treatment should be respected, and repaired and retained in situ. Care must be taken when such floors require to be lifted in order to install or repair services. In some instances, features of interest are concealed behind suspended or false ceilings. This should always be the subject of investigation prior to any works being carried out.

## Kitchens and Bathrooms

New kitchens and bathrooms should be located at the rear of a building to prevent fittings being built across windows to the front of a property and to avoid cluttering a front elevation with downpipes and ventilators.

New kitchens will generally not be acceptable in principal rooms and must not obscure any architectural detailing.

Podded kitchens and bathrooms will rarely be permitted in principal rooms but may be permitted elsewhere provided they are of a limited area, are freestanding and do not have a detrimental effect on any fixtures of architectural interest.

En-suite bathrooms will not be acceptable in principal rooms. They should ideally be located within existing boxrooms or cupboards. Where this is not possible, it may be acceptable to locate them in larger, secondary rooms although this will be dependent on their form and how they affect room proportions.

En-suite bathrooms, where acceptable within rooms, will normally be height, appearing as a 'piece of furniture' within the room.

## Sprinkler Systems

The introduction of sprinkler systems into important and/or vulnerable interiors will normally be acceptable. Whilst exposed pipework systems minimise the degree of disturbance to the structure, care must be exercised in the design of exposed pipework to ensure its appearance is appropriate to the historic interior to be protected. Pipework should not be cut into decorative plasterwork.

The location of sprinkler heads, either ceiling or wall mounted, must be carefully integrated into interiors in order to reduce their visual impact. In particular, ornate interior locations, will not normally be considered acceptable. On highly decorative ceilings, sprinkler heads are best concealed within the raised modelling of the ceiling.

The presence of sprinkler protection does not eliminate the need for preventative measures to reduce the risk of a fire occurring or spreading.

## Other Services

The installation of services, such as computer trunking, fibre optics and central heating pipes, should be reversible and should not result in damage to architectural features. Surface mounting such services may be preferable.

## New development in the grounds of listed buildings

Development within the curtilage of a listed building which is not physically attached to listed structures does not require listed building consent, but may require planning permission.

Buildings and structures erected before 1 July 1948 within the curtilage of a listed building are treated as part of the listing building, even if they are not included within the description. Listed building consent will, therefore, be required for works which affect their character. Planning permission may also be required.

The curtilage of a listed building is the area of land originally attached to, and containing the structure of the main house and its ancillary buildings, and which was used for the comfortable enjoyment of the house. The extent of the curtilage in individual cases will be based on an assessment of the physical layout, pattern of ownership, and the past or present use and function of the building. Thus, buildings such as coach-houses, doocots, mews/stable courts, walled gardens, lodges, boundary walls, garden ornaments and gates would all be considered to be part of the curtilage of the listed building and are treated as part of the listed building, even if they are not individually listed.

The setting of a listed building is the environment of which the building was designed to be a principal focus, and which it was designed to overlook. The 'setting' of a listed building takes into account a much broader assessment of the siting and situation

of the building. The curtilage of a house will normally form part of the setting, but it is also important to consider land immediately adjacent to, or visible from, the listed building.

Development within the setting of a listed building will only be acceptable if it can be demonstrated that the proposal would not be detrimental to the architectural or historic character of the listed building.

The sympathetic conversion and re-use of existing buildings on the site, particularly stable blocks, mews, service courts and steadings, should be considered prior to developing proposals for new build; care should be taken to incorporate surviving original features in these buildings where possible.

However, any proposals to alter unsympathetically, relocate or remove items within the curtilage, such as stables, mews, garden walls, stone steps, stone paving and cobbled or setted areas are likely to detract from the quality of the building's setting and are unlikely to be approved.

The condition of the main item of listing is critical and, where it has gone out of use, it is important that the restoration of the listed building is sought as a priority. It should be a condition that work on the listed building should be completed, or that an appropriate contract has been let for its restoration, prior to the commencement of new development.

## New Development

Where new development within the grounds of a listed building is acceptable, the siting, design, scale, form, density and materials should be sympathetic to the listed building, including ancillary buildings.

The feeling of spaciousness of the grounds in relation to the main building should be protected for the amenity of the property. The scale of new development should be controlled so as not to crowd or obscure the house. No building of similar or greater bulk should be erected close to the main listed building.

The relationship that exists between the main house and its ancillary uses should not be disrupted by the new build.

## Views

New development should always be set back from the original building line of the main house to avoid interfering with oblique views of the listed building and disrupting formal approaches. Development to the front of a listed building which breaks its relationship to the street is not acceptable. This is particularly destructive of character, not only to the building, but to the area, especially where the building is part of a unified group. The principal elevations should remain visible in their entirety from all principal viewpoints. New development should not restrict or obstruct views of, or from, the listed building or rise above and behind the building so that its silhouette can no longer be seen against the sky from the more familiar viewpoints. Distant views of features and landmarks which may have been exploited in the design of the building should not be obstructed by the development.

## Landscape

The landscape setting of the building should be analysed as the loss of garden ground can seriously affect the setting of a listed building.

Planting which forms part of the original landscape should be retained and, where appropriate, the original landscape restored. New landscaping should be used imaginatively to screen and enhance new development and to retain the landscape setting of the building. Immediate surroundings should be maintained communally, avoiding individually defined gardens.

Conservation areas are areas of special architectural or historic interest which have a character and appearance which is desirable to preserve or enhance.

To check whether your property is located within a conservation area, the Council's [online map](#) can be used.



# Part 2: Conservation Areas

## Conservation Area Character Appraisals

Conservation Area Character Appraisals identify the essential character of conservation areas. They guide the local planning authority in making planning decisions and, where opportunities arise, preparing enhancement proposals. The Character Appraisals are a material consideration when considering applications for development within conservation areas.

## Implications of Conservation Area Status

1. The permitted development right which allows any improvement or alteration to the external appearance of a flatted dwelling that is not an enlargement is removed.
2. Special attention must be paid to the character and appearance of the conservation area when planning controls are being exercised. Most applications for planning permission for alterations will, therefore, be advertised for public comment and any views expressed must be taken into account when making a decision on the application.
3. Within conservation areas the demolition of unlisted buildings requires conservation area consent.
4. Alterations to windows are controlled in terms of the Council's policy.

5. Trees within conservation areas are covered by the Town and Country Planning (Scotland) Act 1997. The Act applies to the uprooting, felling or lopping of trees having a diameter exceeding 75mm at a point 1.5m above ground level, and concerns the lopping of trees as much as removal. The planning authority must be given six week's notice of the intention to uproot, fell or lop trees. Failure to give notice renders the person liable to the same penalties as for contravention of a Tree Preservation Order (TPO).

## Do I Need Planning Permission?

### Planning Permission

Planning permission is required for many alterations, additions and changes of use. However, some work can be carried out without planning permission; this is referred to as 'permitted development'.

Within conservation areas, fewer alterations are permitted development and most changes to the outside of a building, including changing the colour, require planning permission.

The **Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended)** sets out the requirements for planning permissions.

If you believe your building work is 'permitted development' and doesn't need planning permission, you can apply for a Certificate of Lawfulness. This is a legal document from the Council which confirms that the development is lawful.

## What Other Consents Might Be Required?

### Listed Building Consent

Listed building consent is required for works affecting the character of listed buildings, including the interior and any buildings within the curtilage. Planning permission may also be required in addition. If your building is listed, the Listed Buildings Guidance should be used.

### Advertisement Consent

Advertisements are defined as any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, and employed wholly or partly for the purposes of advertisement, announcement or direction.

While many advertisements require permission, certain types do not need permission as they have "deemed consent". You can check this by consulting **The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984**.

## Building Warrant

Converted, new or altered buildings may require a Building Warrant, even if Planning Permission is not required. Please contact Building Standards for more information on 0131 529 7826 or **email: [buildingwarrant.applications@edinburgh.gov.uk](mailto:buildingwarrant.applications@edinburgh.gov.uk)**.

## Road Permit

A Road Permit will be required if forming a new access or driveway. Please contact the Area Roads Manager in your **Neighbourhood Team** for more information.

## Biodiversity

Some species of animals and plants are protected by law. Certain activities, such as killing, injuring or taking the species or disturbing it in its place of shelter, are unlawful.

If the presence of a European Protected Species (such as a bat, otter or great crested newt) is suspected, a survey of the site must be undertaken. If it is identified that an activity is going to be carried out that would be unlawful, a licence may be required.

More information on European Protected Species, survey work and relevant licenses is available in the Edinburgh Planning Guidance on Biodiversity and the **Scottish Natural Heritage** website.

## Trees

If there are any trees on the site or within 12 metres of the boundary, they should be identified in the application. Please refer to **Edinburgh Design Guidance** for advice.

Trees with a Tree Preservation Order or in a conservation area are also protected by law, making it a criminal offence to lop, top, cut down, uproot, wilfully damage or destroy a tree unless carried out with the consent of the Council. You can read more about this on our website at [www.edinburgh.gov/privatetrees](http://www.edinburgh.gov/privatetrees)

## General Principles

Designation of a conservation area does not mean development is prohibited.

However, when considering development within a conservation area, special attention must be paid to its character and appearance. Proposals which fail to preserve or enhance the character or appearance of the area will normally be refused. Guidance on what contributes to character is given in the conservation area character appraisals.

The aim should be to preserve the spatial and structural patterns of the historic fabric and the architectural features that make it significant.

Preservation and re-use should always be considered as the first option.

Interventions need to be compatible with the historic context, not overwhelming or imposing.

Without exception, the highest standards of materials and workmanship will be required for all works in conservation areas.

## Repair

Planning permission is not normally required for repairs which match the original materials and methods and do not affect the character of the building.

## Demolition

Conservation area consent is required for the complete demolition of unlisted buildings within conservation areas.

Demolition will only be acceptable if the new development preserves or enhances the area.

## Extensions and Alterations

Information on extensions and alterations to residential properties is included within '**Guidance for Householders**'.

Proposals must preserve or enhance the character or appearance of the conservation area.

The use of traditional materials will be encouraged. UPVC will not be acceptable.

# Shopfront Alterations and Signage

Specific information is included in Guidance for Businesses. This should be considered alongside this document, where relevant.

## Windows and Doors

The replacement, repair and painting of windows and doors which match the design, materials and methods utilised in the existing build will not require planning permission.

Planning permission will not be required where replacement or altered windows and doors meet the following requirements.

Replacement windows and doors on all elevations of unlisted properties of a traditional design within conservation areas must match the original proportions, appearance, materials, and opening method. Appropriate timber sealed unit double glazing will normally be considered acceptable. Rooflights on unlisted properties of a traditional design should be of a 'conservation style'. Alternative materials such as uPVC will not be acceptable.

A departure from these guidelines must be fully justified. The form of the existing windows &



doors within the building and in its immediate surroundings will be taken into consideration.

Replacement windows and doors in less traditional developments within conservation areas should maintain the uniformity of original design and materials and should open in a manner that does not disrupt the elevation. However, the exact replication of the original windows or doors may, in some cases, be of lesser importance.

Doors should be painted in an appropriate dark and muted colour. Windows should normally be painted white or off-white.

Planning permission is required for the stonecleaning of any building within a conservation area.

## Stone Cleaning

Stone cleaning cannot be undertaken without damaging a building. It can also reveal the scars of age, such as staining, poor previous repairs and surface damage. It may also remove the natural patina, the protective layer on the stone, opening up the surface pore structure and making re-soiling much easier.

There will therefore be a presumption against the stone cleaning of buildings within conservation areas. Stone cleaning will not be considered acceptable on any street where cleaning has not commenced.



Where cleaning of a street has commenced, the issue of reinstating architectural unity will be a material consideration in assessing the merits of individual applications.

Specialist professional skills should be sought to undertake analysis and, where acceptable, design a suitable cleaning method and undertake work.

### 1. Fabric Survey

A full drawing and photographic survey should be submitted. This should identify the types of stone on the building and the extent and nature of any current defects, including previous mortar or plastic repairs and the condition of pointing. The photographic survey should illustrate the frontage in relation to neighbouring properties and streetscape. This will allow an assessment of the impact of a 'clean' building within its wider environmental context. For comparative purposes, the fabric survey should also include a record of 'colour value' measured either by chromatic or Kodak colour strip.

### 2. Laboratory Analysis

To assess the most appropriate method of stone cleaning, applicants will be required to ascertain geological characteristics through laboratory tests. These tests should be carried out on uncleaned and trial area cleaned samples. The tests should include:

- (i) depth profiling
- (ii) petrological analysis
- (iii) stone permeability

These may reveal the presence of potentially damaging salts, the types of density of mineral grains and the stone's resistance to surface water penetration.

Applicants will also be asked to provide photographs to allow assessment of surface texture and roughness, both before and after trial cleaning.

The extent of laboratory analysis required may vary, subject to the architectural and historic importance of the building.

### 3. Trial Cleaning Samples

Paint removal methods should be tested on an inconspicuous trial area of two or three stones. A photographic survey should be carried out of the pre and post cleaning samples and the visual and chemical effects recorded. This enables an assessment of the technique's effectiveness.

Applicants may be asked for further samples.

The number of samples should reflect the nature of the specific building being tested; all varieties of stone should be tested.

### 4. Post-Cleaning

If acceptable, post-cleaning photographic records should be submitted and should be documented for research purposes.

It is expected that most necessary repairs will be identified at the initial application stage. Therefore, consent would be conditional upon a commitment by applicants to undertake a minimum standard of repair subsequent to stonecleaning.

### Stone Cleaning Methods

The following are the most common stone cleaning methods. Their inclusion in this guideline is for information only and does not imply their acceptability.

#### 1. Mechanical - Carborundum Disc

This method comprises a hand-held rotary disc with a carborundum pad. The surface layer of stone is removed along with the dirt, often creating contours as the disc hits hard and soft areas. This produces an uneven surface and causes the loss of fine detail.

#### 2. Air and Water Abrasive

These methods comprise grits carried by jets of air and/or water. The impact of the particles on the surface of the stone removes both dirt and stone and relies upon the skill of the operative to ensure that not too much stone is lost. The results of this method vary, but the pitting of the surface of the stone and the loss of fine detail are common. Dry grit blasting is usually more aggressive than wet grit washing.

#### 3. Chemical Cleaning

This method comprises the application of chemicals and a high pressure water wash. The balance of chemicals varies with the type of stone and surface deposit to be removed. Poultices can also be used; these are more gentle but damage still occurs.

After chemical cleaning, most stones retain the chemicals, even after pressure washing. This then increases decay.

#### 4. Water

When water pressure is used as part of the cleaning method, water is forced into the stone to a depth where natural evaporation will not take place. The water can then percolate down through the fabric of the wall and cause accelerated

weathering at lower levels in the building. High pressure water can also cause damage to the stone.

A water wash, pressurised or not, remains an alternative stone cleaning technique. It is likely that a low pressure water wash remains the least aggressive method of stone cleaning. However, it will not remove dirt which has combined with the surface to form an insoluble compound. High pressure and/or excessive water can cause surface erosion, pointing wash-out, staining and force water into the core of the wall. Due to the dangers of thermal expansion, water washing should be avoided in frosty conditions.

## Painting

Planning permission will be required to paint or render a previously untreated surface or change the colour of a building.

Paint which matches the existing in colour and uses traditional materials and methods will not require planning permission.

External stonework must not be painted or rendered, unless the surface was originally painted or rendered.

In basements, painting the underside of the entrance platt will be considered exceptions. Coping stones and the edge of steps should not be painted.

Walls covered with smooth cement render or a harled finish should generally be painted in earth colours or neutrals (grey, cream or beige). Rendered bands to windows should generally be in stone colours.

Information on painting a shop or other commercial premises is included within the **Guidance for Businesses**.

Doors should be painted in an appropriate dark and muted colour. Windows should normally be painted white or off-white. All areas of dormer windows, other than the window frames, should be painted to tone in with the roof.

Railings, balconies, other ornamental ironwork and downpipes should be painted black gloss, although other very dark colours may be appropriate for railings, such as dark green for railings around gardens.

## Paint Removal

Paint removal will require planning permission.

The restoration of the original surface through the removal of paint can improve the character and appearance of a building. Where surfaces have been previously painted, the removal of paint will be supported in principle, provided that the proposed removal method does not adversely affect the original surface.

The removal of paint requires chemical and/or abrasive cleaning to re-expose the stone beneath. Abrasive methods can cause severe damage to the surface and will be unlikely to remove all traces of paint from coarse, porous sandstone. In certain circumstances, a minimally abrasive method may be appropriate to remove the outermost paint layers not in contact with the stone surface. Chemical paint removal varies from paint stripper to a proprietary poultice (a substance placed on the stone to draw

out the paint). Each requires extreme caution due to their potentially damaging effects and trial samples should be carried out.

Previous painting could have disguised the poor condition or appearance of the surface so repair work may be required following paint removal. Therefore, consents will be conditional upon a commitment by applicants to undertake a minimum standard of repair subsequent to paint removal.

Where paint removal is not appropriate, the property should be repainted in a matt finish stone coloured paint to tone with the adjoining stonework.

Specialist professional skills should be sought to undertake analysis, design a suitable treatment method and undertake any work.

### 1. Fabric Survey

A full drawing and photographic survey should be submitted. This should identify the types of stone on the building and the extent and nature of any current defects, including previous mortar or plastic repairs and the condition of pointing. The photographic survey should illustrate the frontage in relation to neighbouring properties and streetscape. This will allow an assessment of the impact of paint removal within its wider environmental context. For comparative purposes, the fabric survey should also include a record of 'colour value' measured either by chromatic or Kodak colour strip.

### 2. Trial Paint Removal Samples

Paint removal methods should be tested on an inconspicuous trial area of two or three stones. A photographic survey should be carried out of the pre and post painting samples and the visual

and chemical effects recorded. This enables an assessment of the technique's effectiveness. Applicants may be asked for further samples.

The number of samples should reflect the nature of the specific building being tested; all varieties of stone should be tested.

## Telecommunications including Satellite Dishes

Planning permission will be required for a satellite dish on a building within a conservation area.

The installation of cable television equipment in conservation areas requires planning permission. Equipment should be sensitively sited to minimise the affect on the special character and appearance of the conservation area.

Satellite dishes in conservation areas should not be easily visible from public view.

They should be located in inconspicuous locations, such as behind a parapet wall, within a roof valley or concealed behind by a chimney. They may also be acceptable on modern extensions to the rear, providing no part is higher than the main building.

To prevent a multiplicity of satellite dishes, the Council may refuse consent for additional dishes, even if this may prevent some properties from receiving satellite television. The sharing of dishes on buildings will be encouraged.

Where acceptable, satellite dishes should blend in with the background; this may require it to be painted. All fixings should be non-ferrous.

## Gas Pipes and Meter Boxes

Planning permission is only required where the guidelines below cannot be complied with.

A maximum of a 450mm of supply pipe should be visible on the front wall. External pipes which are both horizontal and vertical must have the horizontal section within the basement areas (where applicable) and not be visible from the street.

Holes in stonework must be kept to a minimum and should be made through stone joints, except in the case of “V” jointing or rubble where holes should be in the stonework. Non-ferrous fixings must be used.

All redundant surface-run pipe work must be removed and the surfaces made good and painted to match existing materials and colour.

Meter boxes should not be fitted to the front or any conspicuous elevation of buildings.

Pipe work and meter boxes should be painted to match adjacent stone.

## Flues

Balanced flues will only be permitted where it is not possible to line an existing chimney to form an internal flue.

Balanced flues will not normally be acceptable on the front or conspicuous elevations of listed buildings.

## Air Conditioning and Refrigeration

Planning permission will normally be required to install air conditioning and refrigeration units on the exterior of buildings.

The preferred location for units within conservation areas is:

- Free standing within garden or courtyard areas, subject to appropriate screening and discreet ducting.
- Within rear basement areas.
- Inconspicuous locations on the roof (within roof valleys or adjacent to existing plant). However, aerial views will also be considered.
- Internally behind louvres on inconspicuous elevations. This should not result in the loss of original windows.

Where it is not practicably possible to locate units in any of the above locations, it may be acceptable to

fix units to the wall of an inconspicuous elevation, as low down as possible; they should not be located on the front elevation.

Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

Ducting must not detract from the character and appearance of the building and area.

## Adaptation for Accessibility

Planning permission may be required to install ramps, handrails, indicators and lifts and for alterations to doors.

While the Equality Act 2010 requires service providers to take “reasonable” steps to make their buildings and services accessible, there is also a statutory duty to protect the character of the historic environment. The provision of access for the less able to historic buildings will therefore require careful consideration and design.

Full access for everyone via the principal entrance may not be appropriate. Alternative access arrangements which preserve the character of the listed building may be required.

Solutions should be tailored to the particular building through the use of innovative design and high quality materials.

Apply for planning permission or a certificate of lawfulness at [www.eplanning.scot](http://www.eplanning.scot).

apply

## Ramps

The placing of a ramp on a building should have minimal impact on the historic fabric.

The symmetry of existing elevations and the rhythm of the street as a whole should be respected, and where relevant, care should be taken to protect the relationship between railings, property and basement.

Where appropriate, consideration should be given to regrading the ground at the entrance in order to overcome the need for larger ramps and minimise the visual impact on the building. If this will cause a footway hazard, a ramp inside the building may be appropriate; the removal of steps and the lengthening of doors can sometimes accommodate this.

Ramps on the public footway will not generally be supported. Where acceptable, ramps must leave sufficient clear footway for pedestrians. This will vary according to the volume of pedestrian traffic. In general, this is 2metres for residential areas, 3metres for main roads and 5-6metres for busy shopping streets.

Where a ramp is acceptable, high quality materials, such as stone to match the existing building, will be encouraged. In some circumstances, high quality design in modern materials may be more appropriate.

## Handrails

Where required, handrails should be carefully designed and sensitively located to avoid being visually intrusive.

Appropriate contrast with the background material can be achieved with high quality traditional or contemporary materials.

## Tactile Indicators

Historic flooring materials should not be replaced with standard tactile paving. A tactile grid can be achieved by using materials that match those of the surrounding area, and which have been textured with ridges or dimples. More information is available in the [Edinburgh Design Guidance](#).

## Visual indicators

Brightly coloured high-visibility strips should be avoided, unless their use helps to avoid other more visually intrusive works.

## Doors

There may be cases (particularly in the case of historic buildings) where it is less damaging to seek alternative access routes than to widen or alter a doorway. Historic doors are often an integral part of the design of the building, and should be retained wherever possible.

Where historic doors are heavy or difficult to operate, it is normally possible to adapt them by re-hanging and/or introducing opening mechanisms or visual indicators to make the handles more prominent.

## Lifts

External chair and platform lifts can have a significant impact on the architectural character of a building, and should only be proposed where no other option is suitable. The resting position of any

external lift should be as low as possible, and the design of the platform and restraints should be as transparent as possible. Metal cages are unlikely to be acceptable as they are disruptive to the streetscape and can seem intimidating to the user.



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HISTORIC  
ENVIRONMENT  
SCOTLAND

ÀRAINNEACHD  
EACHDRAIDHEIL  
ALBA

# MANAGING CHANGE IN THE HISTORIC ENVIRONMENT

## Setting





Above: Kilmartin Glen, Argyll and Bute. An important prehistoric linear cemetery composed of a number of burial cairns and standing stones. Intervisibility between elements of the complex, and views along the line of monuments, through and along the valley, are key to understanding each monument and the complex as a whole. © Kilmartin House Trust'

Cover image: Bronze-Age stone circle at Tomnaverie, Aberdeenshire. Many recumbent stone circles are located on elevated positions and are positioned to have wide-ranging views over the landscape. Views towards these monuments are also an important part of their setting as many appear skylined against the horizon.

MANAGING CHANGE IS A SERIES OF NON-STATUTORY GUIDANCE NOTES ABOUT MANAGING CHANGE IN THE HISTORIC ENVIRONMENT. THEY EXPLAIN HOW TO APPLY GOVERNMENT POLICIES.

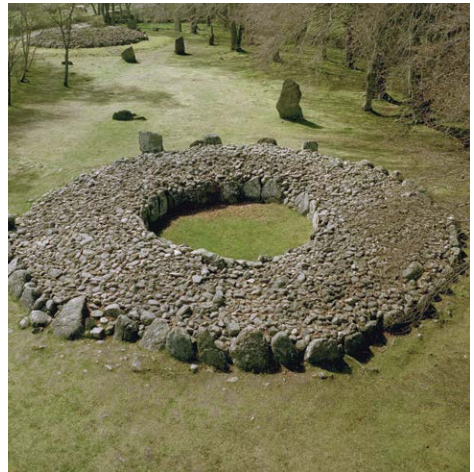
The aim of the series is to identify the main issues which can arise in different situations, to advise how best to deal with these, and to offer further sources of information. They are also intended to inform planning policies and the determination of applications relating to the historic environment.

# INTRODUCTION

This note sets out the principles that apply to developments affecting the setting of historic assets or places, including scheduled monuments, listed buildings, Inventory historic gardens and designed landscapes, World Heritage Sites, conservation areas, historic battlefields, Historic Marine Protected Areas and undesignated sites.

Planning authorities usually make the initial assessment of whether a development will affect the setting of a historic asset or place. However, this may also be identified through other mechanisms such as an Environmental Impact Assessment (EIA) or Strategic Environmental Assessment (SEA). If a planning authority identifies a potential impact on a designated historic asset, it may consult Historic Environment Scotland, who act as statutory consultees in the planning process.

World Heritage Site status brings a commitment to protect the site's cultural significance and the Outstanding Universal Value for which the site is inscribed. This may include reference to aspects of setting.



Clava Cairns, Highland. An important Bronze-Age cemetery complex of burial cairns and standing stones. Intervisibility of elements of the complex is key to understanding the scheduled monument. © Crown copyright: Historic Environment Scotland. Licensor canmore.org.uk

Below: Fort Augustus lock flight, Caledonian Canal, Highland. Running from Inverness to Banavie, near Fort William, the scheduled Caledonian Canal represents the culmination of 18th-century canal construction in Scotland. The modern village of Fort Augustus developed along the locks, and views along the lock flight clearly reveal the relationships between the urban topography and the canal. © J. Malcolm



## KEY ISSUES

1. Setting can be important to the way in which historic structures or places are understood, appreciated and experienced. It can often be integral to a historic asset's cultural significance. Planning authorities must take into account the setting of historic assets or places when drawing up development plans and guidance, when considering environmental and design assessments/statements, and when making decisions on planning applications.
2. Where development is proposed it is important to:
  - identify the historic assets that might be affected
  - define the setting of each historic asset
  - assess the impact of any new development on this
3. Setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Both tangible and less tangible elements can be important in understanding the setting. Less tangible elements may include function, sensory perceptions or the historical, artistic, literary and scenic associations of places or landscapes.
4. If proposed development is likely to affect the setting of a key historic asset, an objective written assessment should be prepared by the applicant to inform the decision-making process. The conclusions should take into account the significance of the asset and its setting and attempt to quantify the extent of any impact. The methodology and level of information should be tailored to the circumstances of each case.
5. In the light of the assessment described above, finalised development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.
6. Advice on whether a planning application should include an assessment of the development's impact on setting should be sought from the planning authority.

## 1. WHAT IS 'SETTING'?

'Setting' is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced.

Monuments, buildings, gardens and settlements were almost always placed and orientated deliberately, normally with reference to the surrounding topography, resources, landscape and other structures. Over time, these relationships change, although aspects of earlier settings can be retained.

Setting can therefore not simply be defined by a line on a map, and is likely to be unrelated to modern landownership or to curtilage, often extending beyond immediate property boundaries into the wider area.

Baltersan Castle, South Ayrshire. A category A listed 17th-century tower house, viewed from the 15th-century gatehouse of the adjacent Crossraguel Abbey. The medieval burgh of Maybole lies beyond, marked by the bell tower of the tolbooth. These elements of the late medieval / early modern Maybole area have clear visual and spatial relationships. © J. Malcolm

## 2. WHAT FACTORS CONTRIBUTE TO SETTING?

The setting of a historic asset can incorporate a range of factors, not all of which will apply to every case. These include:

- current landscape or townscape context
- views to, from and across or beyond the historic asset or place
- key vistas (for instance, a 'frame' of trees, buildings or natural features that give the historic asset or place a context, whether intentional or not)
- the prominence of the historic asset or place in views throughout the surrounding area, bearing in mind that sites need not be visually prominent to have a setting
- aesthetic qualities



- character of the surrounding landscape
- general and specific views including foregrounds and backdrops
- views from within an asset outwards over key elements in the surrounding landscape, such as the view from the principal room of a house, or from a roof terrace
- relationships with other features, both built and natural
- non-visual factors such as historical, artistic, literary, place name, or scenic associations, intellectual relationships (e.g. to a theory, plan or design), or sensory factors
- a ‘sense of place’: the overall experience of an asset which may combine some of the above factors

Defining the setting of a historic asset or place is case-specific and will ultimately rely on informed judgement, based on a range of considerations, including those set out above.

Cullen Seatown, Moray. In this conservation area the layout of the buildings is closely linked to the landscape context: on the north side of the village, gables face the sea to maximise shelter; here, on the south side, the houses are aligned to maximise light. © N. Haynes



### 3. ASSESSING THE IMPACT OF CHANGE

There are three stages in assessing the impact of a development on the setting of a historic asset or place:

- **Stage 1: identify the historic assets** that might be affected by the proposed development
- **Stage 2: define and analyse the setting** by establishing how the surroundings contribute to the ways in which the historic asset or place is understood, appreciated and experienced
- **Stage 3: evaluate the potential impact of the proposed changes** on the setting, and the extent to which any negative impacts can be mitigated (see Section 4)

#### Stage 1: identify the historic assets

A desk assessment of historic environment records and other relevant material will provide the baseline information, identifying which assets will be affected and what is significant about them.

The initial approach should include all the potentially affected historic assets and places (including those relatively distant from the proposal) and their settings. It may be necessary to engage a suitably qualified historic environment consultant to undertake this identification and assessment.

Neist Point Lighthouse, Skye, Highland. The remote location and open views are important elements in the function and setting of the category B listed lighthouse. Seaward views are important, and views towards the lighthouse from shipping channels also form part of the setting.





## Stage 2: define and analyse the setting

The setting of a historic asset comprises our present understanding and appreciation of its current surroundings, and what (if anything) survives of its historic surroundings combined with subsequent historic changes. Answering the following questions often helps define a setting:

- How do the present surroundings contribute to our ability to appreciate and understand the historic asset or place?
- How does the historic asset or place contribute to its surroundings? For instance, is it a prominent or dominant feature in the landscape?
- When the historic asset or place was developed or in use (both originally and subsequently):
  - how was it intended to be viewed? From a distance? From other sites, buildings or specific points in the landscape?
  - what views was it intended to have? Wide views over the landscape or seascape? Confined views? Narrow alignment(s)?

Key viewpoints to, from and across the setting of a historic asset should be identified. Often certain views are critical to how a historic asset is or has been approached and seen, or understood when looking out. These views were sometimes deliberately manipulated, manufactured and/or maintained, and may still be readily understood and appreciated today. Depending on the historic asset or place these could include specific points

on current and historical approaches, routeways, associated farmland, other related buildings, monuments, natural features, etc.

Sometimes these relationships can be discerned across wide areas and even out to distant horizons. In other cases they have a more restricted view, defined and enclosed by topographical or built features. For some historic assets and places, both immediate and distant points of visual relationship are crucial to our understanding of them.

Changes in the surroundings since the historic asset or place was built should be considered, as should the contribution of the historic asset or place to the current landscape. In some cases the current surroundings will contribute to a sense of place, or how a historic asset or place is experienced.

The value attributed to a historic asset by the community or wider public may influence the sensitivity of its setting. Public consciousness may place a strong emphasis on an asset and its setting for aesthetic reasons, or because of an artistic or historic association. Such associative values can contribute to the significance of a site, and to the sensitivity of its setting.

Whether or not a site is visited does not change its inherent value, or its sensitivity to alterations in its setting. This should be distinguished from the tourism, leisure or economic role of a site. Tourism and leisure factors may be relevant in the overall analysis of the impact of a proposed development, but they do not form part of an assessment of setting impacts.

In certain circumstances the value attributed to a historic asset by the community or wider public may influence the sensitivity of its setting. Public consciousness may place a strong emphasis on an asset and its setting for aesthetic reasons, or because of an artistic or historic association. Such associative values can contribute to the significance of a site, and to the sensitivity of its setting. However, it is important to emphasise that an asset has a setting whether it is visited or not.

### Stage 3: evaluate the potential impact of the proposed changes

The impact of a proposed development on the setting of a historic asset or place can be a material consideration in determining whether a planning or other application is given consent, so thought must be given to whether new development can be incorporated

Aerial view of Kinross House (1684) and gardens and Lochleven Castle, Perth and Kinross. The category A listed house and gardens which feature on the Inventory of Gardens and Designed Landscapes, designed by Sir William Bruce as his main residence, used the castle and the island as a picturesque focal point in the landscape.  
© Crown copyright: Historic Environment Scotland.  
Licensor canmore.org.uk



sensitively. Depending on the nature of the historic asset or place, relatively small changes in the wider landscape may affect its setting.

Certain types of development require an Environmental Impact Assessment (EIA), which might include assessing the impact on the setting of a historic asset or place. Further information and advice about EIA can be found on our [website](#).

Factors to be considered in assessing the impact of a change on the setting of a historic asset or place include:

- whether key views to or from the historic asset or place are interrupted
- whether the proposed change would dominate or detract in a way that affects our ability to understand and appreciate the historic asset
- the visual impact of the proposed change relative to the scale of the historic asset or place and its setting

- the visual impact of the proposed change relative to the current place of the historic asset in the landscape
- the presence, extent, character and scale of the existing built environment within the surroundings of the historic asset or place and how the proposed development compares to this
- the magnitude of the proposed change relative to the sensitivity of the setting of an asset – sometimes relatively small changes, or a series of small changes, can have a major impact on our ability to appreciate and understand a historic asset or place. Points to consider include:
  - the ability of the setting to absorb new development without eroding its key characteristics
  - the effect of the proposed change on qualities of the existing setting such as sense of remoteness, current noise levels, evocation of the historical past, sense of place, cultural identity, associated spiritual responses
  - cumulative impacts: individual developments may not cause significant impacts on their own, but may do so when they are combined



Rosyth Castle, Fife. Once located on an island in the River Forth, the site was incorporated into the naval dockyards in the 20th century resulting in significant change to the scheduled monument's original setting. Any changes, including enhancement, need to be considered against the current setting.

Many Geographical Information Systems (GIS) packages support useful interpretative models, such as wireframes, viewshed analyses and digital terrain models. Graphic presentations such as photomontages, and landscape data-sets such as Historic Land-use Assessment (HLA), may also assist in reaching an understanding of a historic asset or place in the landscape and how development may affect it.

## 4. MITIGATION OF IMPACTS AND ENHANCEMENT OF SETTING

Where the assessment indicates that there will be an adverse impact on the setting of a historic asset or place, even if this is perceived to be temporary or reversible, alterations to the siting or design of the new development should be considered to remove or reduce this impact.

The most effective way to prevent impacts on setting is during site selection and early design. Any mitigation and enhancement proposals should be discussed as part of the pre-application process.

Burghead Harbour, Moray. Early 19th century listed granaries line the quayside. Their even spacing, scale and relationship to the wet dock and to the grid-plan town are relevant to an understanding of the setting. © N. Haynes

Other mitigation measures include screening the development, for example with trees or bunding (enclosing structures). However, the screening itself needs careful consideration so that it does not cause an impact in its own right.

It is also important to bear in mind that vegetation such as trees are subject to environmental and other factors (e.g. wind blow, felling and seasonal changes which affect leaf cover) and cannot necessarily be relied upon to mitigate adverse impacts of a development. In some cases, there may be potential for improving the setting of a historic asset or place, for example by opening up views through removing vegetation.





The Inventory garden and designed landscape at Crathes Castle, Aberdeenshire. The formality of the late 18th and 19th century gardens contrasts with the farmland beyond. © N. Haynes

## 5. FURTHER INFORMATION AND ADVICE

Historic Environment Scotland is charged with ensuring that our historic environment provides a strong foundation in building a successful future for Scotland. One of its roles is to provide advice about managing change in the historic environment.

Information for designated heritage assets can be downloaded from Historic Environment Scotland's [spatial data warehouse](#) or viewed at [Pastmap](#).

The Hermitage. An 18th-century picturesque Inventory designed landscape, Perth and Kinross. Both William and Dorothy Wordsworth featured The Hermitage in their writing. Ossian's Hall (pictured) was placed to take advantage of views over the falls, and the sound created by them. These elements also contribute to an appreciation of the nearby woodland walks, and combine to form part of the setting.



Details of listed buildings and advice on the requirement for listed building consent, conservation area consent, building warrants and other permissions/consents should be sought from local authorities.

Most works at monuments scheduled under the Ancient Monuments and Archaeological Areas Act 1979 require scheduled monument consent. Where a structure is both scheduled and listed, the scheduling controls have precedence. Separate advice is available from Historic Environment Scotland's [website](#).

Planning authorities also have their own historic environment records and policies in local development plans and supplementary guidance.

### Other sources of information

Mitigation measures in Environmental Impact Assessment (EIA) terms are explained in [Planning Advice Note \(PAN\) 1/2013](#):

Aerial photography and other records of the settings of historic structures or places can be obtained from Historic Environment Scotland, John Sinclair House, 16 Bernard Terrace, Edinburgh, EH8 9NX

Tel: 0131 662 1456,  
Fax: 0131 662 1477  
Email: [info@rcahms.gov.uk](mailto:info@rcahms.gov.uk)  
Web: [www.historicenvironment.scot](http://www.historicenvironment.scot)

The setting of heritage structures, sites and areas is the subject of the [ICOMOS Xi'an Declaration on the Conservation of the Setting of Heritage Structures, Sites and Areas \(2005\)](#)

### Historic Land-use Assessment (HLA)

The HLA, developed by Historic Environment Scotland, is a GIS-based map that depicts the historic origin of land-use patterns, describing them by period, form and function. Its purpose is to enhance our knowledge and understanding of the historic dimension of the landscape and to inform management decisions relating to it. It highlights relict archaeological landscapes, aids understanding of the landscape context of individual sites and helps identify areas where further survey could be useful. It is available [here](#).

### Gardens and designed landscapes

The Gardens Trust has [Planning Conservation Advice Notes](#) on Development in the Setting of Historic Designed Landscape (Number 11 2008) and Briefs for Historic Landscape Assessments (Number 13 2008)

Scottish Natural Heritage (SNH) has also produced [landscape guidance](#):

### Wind energy development

The Scottish Government has produced [guidance for wind planning applications](#).

SNH has produced a [suite of documents](#) to assist in the process of assessing the potential impacts of wind farm proposals on Scotland's landscapes.

### Historic Marine Protected Areas

Guidance is located [here](#).



Balfarg henge and standing stones, Fife. An example of a scheduled monument now surrounded by a 1970s housing development: the two photos show the site before and after redevelopment. Upper image © Crown Copyright: HES. Licensor canmore.org.uk. Lower image © K. Brophy





Historic Environment Scotland  
Heritage Management Directorate  
Longmore House  
Salisbury Place  
Edinburgh EH9 1SH

Telephone 0131 668 8716  
Email [HMenquiries@hes.scot](mailto:HMenquiries@hes.scot)  
[www.historicenvironment.scot](http://www.historicenvironment.scot)

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# INTERIM GUIDANCE ON THE PRINCIPLES OF LISTED BUILDING CONSENT APRIL 2019



HISTORIC  
ENVIRONMENT  
SCOTLAND

ÀRAINNEACHD  
EACHDRAIDHEIL  
ALBA

This guidance was published by Historic Environment Scotland as part of the Historic Environment Scotland Policy Statement (2016). This edition is an interim document published by Historic Environment Scotland in 2019 to provide detailed guidance on the application of Historic Environment Policy for Scotland (HEPS, 2019). It sets out the principles HES recommends are followed in implementing the requirements of Scottish Planning Policy paragraphs 141 and 142 and is a material consideration in the planning process. It should be read alongside HEPS and the Managing Change Guidance Notes series. We will be reviewing and updating our Managing Change Guidance series and any new guidance will be subject to public consultation.

## **HISTORIC ENVIRONMENT SCOTLAND GUIDANCE ON LISTED BUILDING CONSENT**

1. Historic buildings and structures are a highly visible and accessible element of Scotland's rich heritage. They cover a wide range of uses and periods, which together chart a great part of the history of Scotland. They encompass all aspects of life, from education to recreation, to defense, industry, homes and worship. Much of Scotland's social and economic past and its present is expressed in these exceptional buildings. Listing recognises their importance.

2. Listed buildings are protected under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. This establishes that any work which affects the character of a listed building will require listed building consent. It is a criminal offence to carry out such work without listed building consent.

3. In assessing an application for listed building consent, the planning authority is required to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses (Scottish Planning Policy paragraph 141-142).

4. Works of like-for-like repair or other works which do not affect a building's character, would not normally require listed building consent. Such works could include repointing a wall or altering part of a building which does not contribute to the overall special interest.

5. Listed building consent is separate from the statutory planning process but there is a close relationship between them and this guidance should therefore be read in conjunction with current Scottish Government planning policy

for the historic environment. The two systems may run in parallel in cases where planning permission is also required, and such cases are normally dealt with most effectively if applications for planning permission and listed building consent are submitted at the same time. It is not possible to seek or to be given outline listed building consent.

6. The majority of listed buildings are adaptable and have met the needs of successive generations while retaining their character. Change should therefore be managed to protect a building's special interest while enabling it to remain in active use. Each case must be judged on its own merits but in general terms listing rarely prevents adaptation to modern requirements but ensures that work is done in a sensitive and informed manner.

7. In the context of listed buildings the sustainable use and management of the historic environment means recognising the advantages to be gained from retaining existing buildings and ensuring that their special interest is protected.

8. Once lost listed buildings cannot be replaced. They can be robbed of their special interest either by inappropriate alteration or by demolition. There is, therefore, a presumption against demolition or other works that adversely affect the special interest of a listed building or its setting.

9. Listed buildings will however, like other buildings, require alteration and adaptation from time to time if they are to remain in beneficial use, and will be at risk if such alteration and adaptation is unduly constrained. In most cases such change, if approached carefully, can be managed without adversely affecting the special interest of the building.

10. Knowing what is important about a building is central to an understanding of how to protect its special interest. Applications should demonstrate that in arriving at a strategy for intervention, the importance of the building has been clearly understood and those features which contribute to its special interest have been identified.

11. In general the more extensive the intervention which is proposed, the more supporting information applications should provide. Where proposals involve significant intervention, evidence that less intrusive options have been considered should be provided. Where the application would have a significantly adverse effect on the building's special interest, but is believed to offer significant benefits to economic growth or the wider community, applicants should prepare a statement which justifies the intervention in relation to these benefits. This statement should demonstrate that the benefits could not be realised without the intervention proposed.

12. Planning authorities should satisfy themselves, as soon as applications are received, that they include an appropriate level of supporting information.

13. Where a proposal protects or enhances the special interest of the building, for example through the like-for-like replacement of a window or door which is beyond repair or the reinstatement of important detailing, consent should normally be granted.

14. Where a proposal involves alteration or adaptation which will sustain or enhance the beneficial use of the building and does not adversely affect the special interest of the building, consent should normally be granted.

15. Where a proposal involves alteration or adaptation which will have an adverse or significantly adverse impact on the special interest of the building, planning authorities, in reaching decisions should consider carefully:

- a. the relative importance of the special interest of the building; and
- b. the scale of the impact of the proposals on that special interest; and
- c. whether there are other options which would ensure a continuing beneficial use for the building with less impact on its special interest; and
- d. whether there are significant benefits for economic growth or the wider community which justify a departure from the presumption set out in paragraph 8.





# Scottish Planning Policy

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# Scottish Planning Policy



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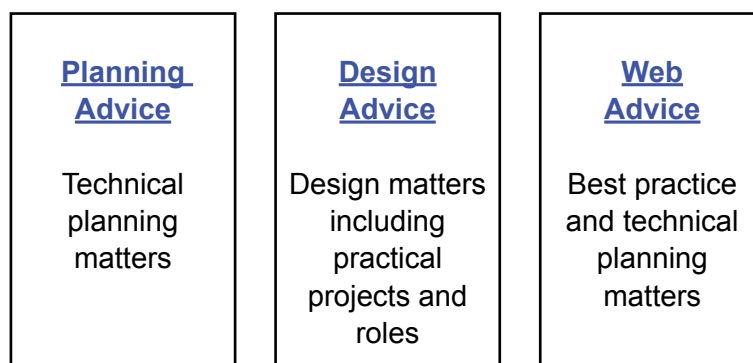
# Planning Series

The Scottish Government series of Planning and Architecture documents are material considerations in the planning system.

## Planning and Architecture Policy



## Planning and Design Advice and Guidance



Further information is available at: [www.scotland.gov.uk/planning](http://www.scotland.gov.uk/planning)

This SPP replaces SPP (2010) and Designing Places (2001)

statutory

non-statutory

# Scottish Planning Policy (SPP)

## Purpose

i. The purpose of the SPP is to set out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development<sup>1</sup> and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- the preparation of development plans;
- the design of development, from initial concept through to delivery; and
- the determination of planning applications and appeals.

## Status

ii. The SPP is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed across the country. It is non-statutory. However, Section 3D of the Town and Country Planning (Scotland) 1997 Act requires that functions relating to the preparation of the National Planning Framework by Scottish Ministers and development plans by planning authorities must be exercised with the objective of contributing to [sustainable development](#). Under the Act, Scottish Ministers are able to issue guidance on this requirement to which planning authorities must have regard. The Principal Policy on Sustainability is guidance under section 3E of the Act.

iii. The 1997 Act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. As a statement of Ministers' priorities the content of the SPP is a material consideration that carries significant weight, though it is for the decision-maker to determine the appropriate weight in each case. Where development plans and proposals accord with this SPP, their progress through the planning system should be smoother.

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<sup>1</sup> The Planning (Scotland) Act 2006 extends the definition of development to include marine fish farms out to 12 nautical miles.

**iv.** The SPP sits alongside the following Scottish Government planning policy documents:

- the [National Planning Framework](#) (NPF)<sup>2</sup>, which provides a statutory framework for Scotland's long-term spatial development. The NPF sets out the Scottish Government's spatial development priorities for the next 20 to 30 years. The SPP sets out policy that will help to deliver the objectives of the NPF;
- [Creating Places](#)<sup>3</sup>, the policy statement on architecture and place, which contains policies and guidance on the importance of architecture and design;
- [Designing Streets](#)<sup>4</sup>, which is a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance; and
- [Circulars](#)<sup>5</sup>, which contain policy on the implementation of legislation or procedures.

**v.** The SPP should be read and applied as a whole. Where 'must' is used it reflects a legislative requirement to take action. Where 'should' is used it reflects Scottish Ministers' expectations of an efficient and effective planning system. The Principal Policies on Sustainability and Placemaking are overarching and should be applied to all development. The key documents referred to provide contextual background or more detailed advice and guidance. Unless otherwise stated, reference to Strategic Development Plans (SDP) covers Local Development Plans outwith SDP areas. The SPP does not restate policy and guidance set out elsewhere. A [glossary](#) of terms is included at the end of this document.

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2 [www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Framework](http://www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Framework)

3 [www.scotland.gov.uk/Publications/2013/06/9811/0](http://www.scotland.gov.uk/Publications/2013/06/9811/0)

4 [www.scotland.gov.uk/Publications/2010/03/22120652/0](http://www.scotland.gov.uk/Publications/2010/03/22120652/0)

5 [www.scotland.gov.uk/Topics/Built-Environment/planning/publications/circulars](http://www.scotland.gov.uk/Topics/Built-Environment/planning/publications/circulars)

# Introduction

## The Planning System

1. The planning system has a vital role to play in delivering high-quality places for Scotland. Scottish Planning Policy (SPP) focuses plan making, planning decisions and development design on the Scottish Government's Purpose of creating a more successful country, with opportunities for all of Scotland to flourish, through increasing [sustainable economic growth](#).
2. Planning should take a positive approach to enabling high-quality development and making efficient use of land to deliver long-term benefits for the public while protecting and enhancing natural and cultural resources.
3. Further information and guidance on planning in Scotland is available at [www.scotland.gov.uk/planning](http://www.scotland.gov.uk/planning)<sup>6</sup>. An explanation of the planning system can be found in [A Guide to the Planning System in Scotland](#)<sup>7</sup>.

## Core Values of the Planning Service

4. Scottish Ministers expect the planning service to perform to a high standard and to pursue continuous improvement. The service should:
  - focus on outcomes, maximising benefits and balancing competing interests;
  - play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities;
  - be plan-led, with plans being up-to-date and relevant;
  - make decisions in a timely, transparent and fair way to provide a supportive business environment and engender public confidence in the system;
  - be inclusive, engaging all interests as early and effectively as possible;
  - be proportionate, only imposing conditions and obligations where necessary; and
  - uphold the law and enforce the terms of decisions made.

## People Make the System Work

5. The primary responsibility for the operation of the planning system lies with strategic development planning authorities, and local and national park authorities. However, all those involved with the system have a responsibility to engage and work together constructively and proportionately to achieve quality places for Scotland. This includes the Scottish Government and its agencies, public bodies, statutory consultees, elected members, communities, the general public, developers, applicants, agents, interest groups and representative organisations.

<sup>6</sup> [www.scotland.gov.uk/Topics/built-environment/planning](http://www.scotland.gov.uk/Topics/built-environment/planning)

<sup>7</sup> [www.scotland.gov.uk/Publications/2009/08/11133705/0](http://www.scotland.gov.uk/Publications/2009/08/11133705/0)

**6.** Throughout the planning system, opportunities are available for everyone to engage in the development decisions which affect them. Such engagement between stakeholders should be early, meaningful and proportionate. Innovative approaches, tailored to the unique circumstances are encouraged, for example charrettes or mediation initiatives. Support or concern expressed on matters material to planning should be given careful consideration in developing plans and proposals and in determining planning applications. Effective engagement can lead to better plans, better decisions and more satisfactory outcomes and can help to avoid delays in the planning process.

**7.** Planning authorities and developers should ensure that appropriate and proportionate steps are taken to engage with communities during the preparation of development plans, when development proposals are being formed and when applications for planning permission are made. Individuals and **community** groups should ensure that they focus on planning issues and use available opportunities for engaging constructively with developers and planning authorities.

**8.** Further information can be found in the following:

- [Town and Country Planning \(Scotland\) Act 1997](#)<sup>8</sup> as amended, plus associated legislation: sets out minimum requirements for consultation and engagement
- [Circular 6/2013: Development Planning](#)<sup>9</sup>
- [Circular 3/2013: Development Management Procedures](#)<sup>10</sup>
- [The Standards Commission for Scotland: Guidance on the Councillors' Code of Conduct](#)<sup>11</sup>
- [Planning Advice Note 3/2010: Community Engagement](#)<sup>12</sup>
- [A Guide to the Use of Mediation in the Planning System in Scotland \(2009\)](#)<sup>13</sup>

## Outcomes: How Planning Makes a Difference

**9.** The Scottish Government's Purpose of creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth is set out in the Government Economic Strategy. The aim is to ensure that the entire public sector is fully aligned to deliver the Purpose. The relationship of planning to the Purpose is shown on page 8.

**10.** The Scottish Government's [16 national outcomes](#)<sup>14</sup> articulate in more detail how the Purpose is to be achieved. Planning is broad in scope and cross cutting in nature and therefore contributes to the achievement of all of the national outcomes. The pursuit of these outcomes provides the impetus for other national plans, policies and strategies and many of the principles and policies set out in them are reflected in both the SPP and NPF3.

8 [www.legislation.gov.uk/ukpga/1997/8/contents](http://www.legislation.gov.uk/ukpga/1997/8/contents)

9 [www.scotland.gov.uk/Publications/2013/12/9924/0](http://www.scotland.gov.uk/Publications/2013/12/9924/0)

10 [www.scotland.gov.uk/Publications/2013/12/9882/0](http://www.scotland.gov.uk/Publications/2013/12/9882/0)

11 [www.standardscommissionscotland.org.uk/webfm\\_send/279](http://www.standardscommissionscotland.org.uk/webfm_send/279)

12 [www.scotland.gov.uk/Publications/2010/08/30094454/0](http://www.scotland.gov.uk/Publications/2010/08/30094454/0)

13 [www.scotland.gov.uk/Publications/2009/03/10154116/0](http://www.scotland.gov.uk/Publications/2009/03/10154116/0)

14 [www.scotland.gov.uk/About/Performance/scotPerforms/outcome](http://www.scotland.gov.uk/About/Performance/scotPerforms/outcome)

**11.** NPF3 and this SPP share a single vision for the planning system in Scotland:

We live in a Scotland with a growing, low-carbon economy with progressively narrowing disparities in well-being and opportunity. It is growth that can be achieved whilst reducing emissions and which respects the quality of environment, place and life which makes our country so special. It is growth which increases solidarity – reducing inequalities between our regions. We live in sustainable, well-designed places and homes which meet our needs. We enjoy excellent transport and digital connections, internally and with the rest of the world.

**12.** At the strategic and local level, planning can make a very important contribution to the delivery of [Single Outcome Agreements](#)<sup>15</sup>, through their shared focus on ‘place’. Effective integration between land use planning and community planning is crucial and development plans should reflect close working with [Community Planning Partnerships](#)<sup>16</sup>.

**13.** The following four planning outcomes explain how planning should support the vision. The outcomes are consistent across the NPF and SPP and focus on creating a successful sustainable place, a low carbon place, a natural, resilient place and a more connected place. For planning to make a positive difference, development plans and new development need to contribute to achieving these outcomes.

**Outcome 1: A successful, sustainable place** – supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places.

**14.** NPF3 aims to strengthen the role of our city regions and towns, create more vibrant rural places, and realise the opportunities for sustainable growth and innovation in our coastal and island areas.

**15.** The SPP sets out how this should be delivered on the ground. By locating the right development in the right place, planning can provide opportunities for people to make sustainable choices and improve their quality of life. Well-planned places promote well-being, a sense of identity and pride, and greater opportunities for social interaction. Planning therefore has an important role in promoting strong, resilient and inclusive communities. Delivering high-quality buildings, infrastructure and spaces in the right locations helps provide choice over where to live and style of home, choice as to how to access amenities and services and choice to live more active, engaged, independent and healthy lifestyles.

**16.** Good planning creates opportunities for people to contribute to a growing, adaptable and productive economy. By allocating sites and creating places that are attractive to growing economic sectors, and enabling the delivery of necessary infrastructure, planning can help provide the confidence required to secure private sector investment, thus supporting innovation, creating employment and benefiting related businesses.

**Outcome 2: A low carbon place** – reducing our carbon emissions and adapting to climate change.

<sup>15</sup> [www.scotland.gov.uk/Topics/Government/PublicServiceReform/CP/SOA2012](http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/CP/SOA2012)

<sup>16</sup> [www.scotland.gov.uk/Topics/Government/PublicServiceReform/CP](http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/CP)

**17.** NPF3 will facilitate the transition to a low carbon economy, particularly by supporting diversification of the energy sector. The spatial strategy as a whole aims to reduce greenhouse gas emissions and facilitate **adaptation** to climate change.

**18.** The Climate Change (Scotland) Act 2009 sets a target of reducing greenhouse gas emissions by at least 80% by 2050, with an interim target of reducing emissions by at least 42% by 2020. Annual greenhouse gas emission targets are set in secondary legislation. Section 44 of the Act places a duty on every public body to act:

- in the way best calculated to contribute to the delivery of emissions targets in the Act;
- in the way best calculated to help deliver the Scottish Government’s climate change adaptation programme; and
- in a way that it considers is most sustainable.

**19.** The SPP sets out how this should be delivered on the ground. By seizing opportunities to encourage mitigation and adaptation measures, planning can support the transformational change required to meet emission reduction targets and influence climate change. Planning can also influence people’s choices to reduce the environmental impacts of consumption and production, particularly through energy efficiency and the reduction of waste.

**Outcome 3: A natural, resilient place** – helping to protect and enhance our natural and cultural assets, and facilitating their sustainable use.

**20.** NPF3 emphasises the importance of our environment as part of our cultural identity, an essential contributor to well-being and an economic opportunity. Our spatial strategy aims to build resilience and promotes protection and sustainable use of our world-class environmental assets.

**21.** The SPP sets out how this should be delivered on the ground. By protecting and making efficient use of Scotland’s existing resources and environmental assets, planning can help us to live within our environmental limits and to pass on healthy ecosystems to future generations. Planning can help to manage and improve the condition of our assets, supporting communities in realising their aspirations for their environment and facilitating their access to enjoyment of it. By enhancing our surroundings, planning can help make Scotland a uniquely attractive place to work, visit and invest and therefore support the generation of jobs, income and wider economic benefits.

**Outcome 4: A more connected place** – supporting better transport and digital connectivity.

**22.** NPF3 reflects our continuing investment in infrastructure, to strengthen transport links within Scotland and to the rest of the world. Improved digital connections will also play a key role in helping to deliver our spatial strategy for sustainable growth.

**23.** The SPP sets out how this should be delivered on the ground. By aligning development more closely with transport and digital infrastructure, planning can improve sustainability and connectivity. Improved connections facilitate accessibility within and between places – within Scotland and beyond – and support economic growth and an inclusive society.



|   |   |   |   |   |                       |  |   |   |   |  |                             |  |
|---|---|---|---|---|-----------------------|--|---|---|---|--|-----------------------------|--|
| <b>SG Purpose</b>                                   | To focus government and public services on creating a more successful country, with opportunities for all to flourish, through increasing sustainable economic growth.  |   |   |   |                       |  |   |   |   |  |                             |  |
| <b>SG National Outcomes</b>                         | The planning system and service contribute to all 16 National Outcomes  |   |   |   |                       |  |   |   |   |  |                             |  |
| <b>SG National Plans, Policies &amp; Strategies</b> | <b>Government Economic Strategy</b>   |   |   |   |                       |  |   |   |   |  |                             |  |
|   | Infrastructure Investment Plan  |   |   |   |                       |  |   |   |   |  |                             |  |
|   | Scotland's Digital Future   | Electricity & Heat Generation Policy Statements | 2020 Challenge for Scotland's Biodiversity      | Scottish Historic Environment Strategy and Policy   | Housing Strategy      | National Planning Framework & Scottish Planning Policy | Land Use Strategy   | Low Carbon Scotland: Report of Proposals and Policies | National Marine Plan  | Regeneration Strategy  | National Transport Strategy |  |
| <b>Planning Vision</b>                              | We live in a Scotland with a growing, low carbon economy with progressively narrowing disparities in well-being and opportunity. It is growth that can be achieved whilst reducing emissions and which respects the quality of environment, place and life which makes our country so special. It is growth which increases solidarity – reducing inequalities between our regions. We live in sustainable, well-designed places and homes which meet our needs. We enjoy excellent transport and digital connections, internally and with the rest of the world. |   |   |   |                       |  |   |   |   |  |                             |  |
| <b>Planning Outcomes</b>                            | Planning makes Scotland <b>a successful, sustainable place</b> – supporting sustainable economic growth and regeneration, and the creation of well-designed places.   |   |   | Planning makes Scotland <b>a low carbon place</b> – reducing our carbon emissions and adapting to climate change. |                       |  | Planning makes Scotland <b>a natural, resilient place</b> – helping to protect and enhance our natural and cultural assets, and facilitating their sustainable use. |   |   | Planning makes Scotland <b>a connected place</b> – supporting better transport and digital connectivity. |                             |  |
| <b>National Planning</b>                            | <b>Scottish Planning Policy (SPP)</b>   |   |   |   |                       |  |   |   |   |  |                             |  |
|   | Principal Policies  |   |   |   |                       |  |   |   |   |  |                             |  |
|   | Sustainability  |   |   |   |                       |  |   |   |   |  |                             |  |
|   | Placemaking   |   |   |   |                       |  |   |   |   |  |                             |  |
|   | Subject Policies  |   |   |   |                       |  |   |   |   |  |                             |  |
|   | Town Centres  | Heat and Electricity                            | Natural Environment<br>Green Infrastructure     | Travel  | Business & Employment | Zero Waste   | Aquacultural<br>Minerals<br>Flooding & Drainage   | Digital Connectivity                                  | Cities and Towns<br>Rural Areas<br>Coast and Islands<br>National Developments | National Planning Framework (NPF)  | National Transport Strategy |  |
| Rural Development                                   |   |   |   |   |                       |  |   |   |   |  |                             |  |
| Homes   |   |   |   |   |                       |  |   |   |   |  |                             |  |
|   | Business & Employment   | Zero Waste                                      | Aquacultural<br>Minerals<br>Flooding & Drainage | Digital Connectivity  |                       |  |   |   |   |  |                             |  |
|   | Historic Environment  |   |   |   |                       |  |   |   |   |  |                             |  |
|   | <b>COMMUNITY PLANNING</b>   |   |   |   |                       |  |   |   |   |  |                             |  |
| <b>Strategic</b>                                    | Strategic Development Plans   |   |   |   |                       |  |   |   |   |  |                             |  |
| <b>Local</b>  | Local Development Plans   |   |   |   |                       |  |   |   |   |  |                             |  |
| <b>Site</b>   | Master Plans  |   |   |   |                       |  |   |   |   |  |                             |  |

# Principal Policies

## Sustainability

### NPF and wider policy context

**24.** The Scottish Government's central purpose is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing **sustainable economic growth**.

**25.** The Scottish Government's commitment to the concept of **sustainable development** is reflected in its Purpose. It is also reflected in the continued support for the five guiding principles set out in the UK's shared framework for sustainable development. Achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits.

**26.** The NPF is the spatial expression of the Government Economic Strategy (2011) and sustainable economic growth forms the foundations of its strategy. The NPF sits at the top of the development plan hierarchy and must be taken into account in the preparation of strategic and local development plans.

**27.** The Government Economic Strategy indicates that sustainable economic growth is the key to unlocking Scotland's potential and outlines the multiple benefits of delivering the Government's purpose, including creating a supportive business environment, achieving a low carbon economy, tackling health and social problems, maintaining a high-quality environment and passing on a sustainable legacy for future generations.

### Policy Principles

**This SPP introduces a presumption in favour of development that contributes to sustainable development.**

**28.** The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

**29.** This means that policies and decisions should be guided by the following principles:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;

- supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- supporting [climate change mitigation](#) and [adaptation](#) including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the [historic environment](#);
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- reducing waste, facilitating its management and promoting resource recovery; and
- avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

## Key Documents

- [National Planning Framework](#)<sup>17</sup>
- [Government Economic Strategy](#)<sup>18</sup>
- [Planning Reform: Next Steps](#)<sup>19</sup>
- [Getting the Best from Our Land – A Land Use Strategy for Scotland](#)<sup>20</sup>
- [UK’s Shared Framework for Sustainable Development](#)<sup>21</sup>

## Delivery

### Development Planning

#### 30. Development plans should:

- be consistent with the policies set out in this SPP, including the presumption in favour of development that contributes to sustainable development;
- positively seek opportunities to meet the development needs of the plan area in a way which is flexible enough to adapt to changing circumstances over time;
- support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area;
- be up-to-date, place-based and enabling with a spatial strategy that is implemented through policies and proposals; and
- set out a spatial strategy which is both sustainable and deliverable, providing confidence to stakeholders that the outcomes can be achieved.

<sup>17</sup> [www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Framework](http://www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Framework)

<sup>18</sup> [www.scotland.gov.uk/Publications/2011/09/13091128/0](http://www.scotland.gov.uk/Publications/2011/09/13091128/0)

<sup>19</sup> [www.scotland.gov.uk/Publications/2012/03/3467](http://www.scotland.gov.uk/Publications/2012/03/3467)

<sup>20</sup> [www.scotland.gov.uk/Publications/2011/03/17091927/0](http://www.scotland.gov.uk/Publications/2011/03/17091927/0)

<sup>21</sup> <http://archive.defra.gov.uk/sustainable/government/documents/SDFramework.pdf>

**31.** Action programmes should be actively used to drive delivery of planned developments: to align stakeholders, phasing, financing and infrastructure investment over the long term.

## Development Management

**32.** The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising. For proposals that do not accord with up-to-date development plans, the primacy of the plan is maintained and this SPP and the presumption in favour of development that contributes to sustainable development will be material considerations.

**33.** Where relevant policies in a development plan are out-of-date<sup>22</sup> or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP. The same principle should be applied where a development plan is more than five years old.

**34.** Where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan. Such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.

**35.** To support the efficient and transparent handling of planning applications by planning authorities and consultees, applicants should provide good quality and timely supporting information that describes the economic, environmental and social implications of the proposal. In the spirit of planning reform, this should be proportionate to the scale of the application and planning authorities should avoid asking for additional impact appraisals, unless necessary to enable a decision to be made. Clarity on the information needed and the timetable for determining proposals can be assisted by good communication and project management, for example, use of processing agreements setting out the information required and covering the whole process including planning obligations.

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<sup>22</sup> Development plans or their policies should not be considered out-of-date solely on the grounds that they were adopted prior to the publication of this SPP. However, the policies in the SPP will be a material consideration which should be taken into account when determining applications.

# Placemaking

## NPF and wider policy context

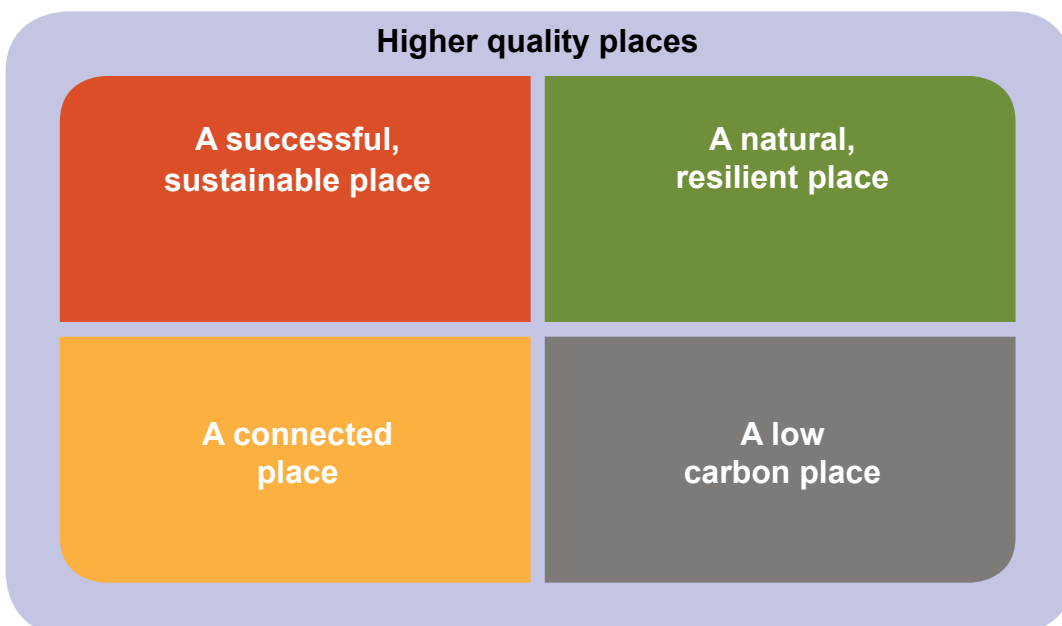
**36.** Planning’s purpose is to create better places. Placemaking is a creative, collaborative process that includes design, development, renewal or regeneration of our urban or rural built environments. The outcome should be sustainable, well-designed places and homes which meet people’s needs. The Government Economic Strategy supports an approach to place that recognises the unique contribution that every part of Scotland can make to achieving our shared outcomes. This means harnessing the distinct characteristics and strengths of each place to improve the overall quality of life for people. Reflecting this, NPF3 sets out an agenda for placemaking in our city regions, towns, rural areas, coast and islands.

**37.** The Government’s policy statement on architecture and place for Scotland, Creating Places, emphasises that quality places are successful places. It sets out the value that high-quality design can deliver for Scotland’s communities and the important role that good buildings and places play in promoting healthy, sustainable lifestyles; supporting the prevention agenda and efficiency in public services; promoting Scotland’s distinctive identity all over the world; attracting visitors, talent and investment; delivering our environmental ambitions; and providing a sense of belonging, a sense of identity and a sense of community. It is clear that places which have enduring appeal and functionality are more likely to be valued by people and therefore retained for generations to come.

## Policy Principles

**Planning should take every opportunity to create high quality places by taking a design-led approach.**

**38.** This means taking a holistic approach that responds to and enhances the existing place while balancing the costs and benefits of potential opportunities over the long term. This means considering the relationships between:



**39.** The design-led approach should be applied at all levels – at the national level in the NPF, at the regional level in strategic development plans, at the local level in local development plans and at site and individual building level within master plans that respond to how people use public spaces.

**Planning should direct the right development to the right place.**

**40.** This requires spatial strategies within development plans to promote a sustainable pattern of development appropriate to the area. To do this decisions should be guided by the following policy principles:

- optimising the use of existing resource capacities, particularly by co-ordinating housing and business development with infrastructure investment including transport, education facilities, water and drainage, energy, heat networks and digital infrastructure;
- using land within or adjacent to settlements for a mix of uses. This will also support the creation of more compact, higher density, accessible and more vibrant cores;
- considering the re-use or re-development of **brownfield land** before new development takes place on greenfield sites;
- considering whether the permanent, temporary or advanced greening of all or some of a site could make a valuable contribution to green and open space networks, particularly where it is unlikely to be developed for some time, or is unsuitable for development due to its location or viability issues; and
- locating development where investment in growth or improvement would have most benefit for the amenity of local people and the vitality of the local economy.

**Planning should support development that is designed to a high-quality, which demonstrates the six qualities of successful place.**

- ***Distinctive***

**41.** This is development that complements local features, for example landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

- ***Safe and Pleasant***

**42.** This is development that is attractive to use because it provides a sense of security through encouraging activity. It does this by giving consideration to crime rates and providing a clear distinction between private and public space, by having doors that face onto the street creating active frontages, and by having windows that overlook well-lit streets, paths and open spaces to create natural surveillance. A pleasant, positive sense of place can be achieved by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

- **Welcoming**

**43.** This is development that helps people to find their way around. This can be by providing or accentuating landmarks to create or improve views, it can be locating a distinctive work of art to mark places such as gateways, and it can include appropriate signage and distinctive lighting to improve safety and show off attractive buildings.

- **Adaptable**

**44.** This is development that can accommodate future changes of use because there is a mix of building densities, tenures and typologies where diverse but compatible uses can be integrated. It takes into account how people use places differently, for example depending on age, gender and degree of personal mobility and providing versatile greenspace.

- **Resource Efficient**

**45.** This is development that re-uses or shares existing resources, maximises efficiency of the use of resources through natural or technological means and prevents future resource depletion, for example by mitigating and adapting to climate change. This can mean denser development that shares infrastructure and amenity with adjacent sites. It could include siting development to take shelter from the prevailing wind; or orientating it to maximise solar gain. It could also include ensuring development can withstand more extreme weather, including prolonged wet or dry periods, by working with natural environmental processes such as using landscaping and natural shading to cool spaces in built areas during hotter periods and using sustainable drainage systems to conserve and enhance natural features whilst reducing the risk of flooding. It can include using durable materials for building and landscaping as well as low carbon technologies that manage heat and waste efficiently.

- **Easy to Move Around and Beyond**

**46.** This is development that considers place and the needs of people before the movement of motor vehicles. It could include using higher densities and a mix of uses that enhance accessibility by reducing reliance on private cars and prioritising sustainable and active travel choices, such as walking, cycling and public transport. It would include paths and routes which connect places directly and which are well-connected with the wider environment beyond the site boundary. This may include providing facilities that link different means of travel.

## Key Documents

- [National Planning Framework](#)<sup>23</sup>
- [Getting the Best from Our Land – A Land Use Strategy for Scotland](#)<sup>24</sup>
- [Creating Places –A Policy Statement on Architecture and Place for Scotland](#)<sup>25</sup>
- [Designing Streets](#)<sup>26</sup>
- [Planning Advice Note 77: Designing Safer Places](#)<sup>27</sup>
- [Green Infrastructure: Design and Placemaking](#)<sup>28</sup>

23 [www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Framework](http://www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Framework)

24 [www.scotland.gov.uk/Publications/2011/03/17091927/0](http://www.scotland.gov.uk/Publications/2011/03/17091927/0)

25 [www.scotland.gov.uk/Publications/2013/06/9811/0](http://www.scotland.gov.uk/Publications/2013/06/9811/0)

26 [www.scotland.gov.uk/Publications/2010/03/22120652/0](http://www.scotland.gov.uk/Publications/2010/03/22120652/0)

27 [www.scotland.gov.uk/Publications/2006/03/08094923/0](http://www.scotland.gov.uk/Publications/2006/03/08094923/0)

28 [www.scotland.gov.uk/Publications/2011/11/04140525/0](http://www.scotland.gov.uk/Publications/2011/11/04140525/0)

## Delivery

**47.** Planning should adopt a consistent and relevant approach to the assessment of design and place quality such as that set out in the forthcoming Scottish Government Place Standard.

## Development Planning

**48.** Strategic and local development plans should be based on spatial strategies that are deliverable, taking into account the scale and type of development pressure and the need for growth and regeneration. An urban capacity study, which assesses the scope for development within settlement boundaries, may usefully inform the spatial strategy, and local authorities should make use of land assembly, including the use of [compulsory purchase powers](#)<sup>29</sup> where appropriate. Early discussion should take place between local authorities, developers and relevant agencies to ensure that investment in necessary new infrastructure is addressed in a timely manner.

**49.** For most settlements, a green belt is not necessary as other policies can provide an appropriate basis for directing development to the right locations. However, where the planning authority considers it appropriate, the development plan may designate a green belt around a city or town to support the spatial strategy by:

- directing development to the most appropriate locations and supporting regeneration;
- protecting and enhancing the character, landscape setting and identity of the settlement; and
- protecting and providing access to open space.

**50.** In developing the spatial strategy, planning authorities should identify the most sustainable locations for longer-term development and, where necessary, review the boundaries of any green belt.

**51.** The spatial form of the green belt should be appropriate to the location. It may encircle a settlement or take the shape of a buffer, corridor, strip or wedge. Local development plans should show the detailed boundary of any green belt, giving consideration to:

- excluding existing settlements and major educational and research uses, major businesses and industrial operations, airports and Ministry of Defence establishments;
- the need for development in smaller settlements within the green belt, where appropriate leaving room for expansion;
- redirecting development pressure to more suitable locations; and
- establishing clearly identifiable visual boundary markers based on landscape features such as rivers, tree belts, railways or main roads<sup>30</sup>. Hedges and field enclosures will rarely provide a sufficiently robust boundary.

**52.** Local development plans should describe the types and scales of development which would be appropriate within a green belt. These may include:

- development associated with agriculture, including the reuse of historic agricultural buildings;
- development associated with woodland and forestry, including community woodlands;
- horticulture, including market gardening and directly connected retailing;

<sup>29</sup> [www.scotland.gov.uk/Topics/archive/National-Planning-Policy/themes/ComPur](http://www.scotland.gov.uk/Topics/archive/National-Planning-Policy/themes/ComPur)

<sup>30</sup> Note: where a main road forms a green belt boundary, any proposed new accesses would still require to meet the usual criteria.



- recreational uses that are compatible with an agricultural or natural setting;
- essential infrastructure such as digital communications infrastructure and electricity grid connections;
- development meeting a national requirement or established need, if no other suitable site is available; and
- intensification of established uses subject to the new development being of a suitable scale and form.

**53.** The creation of a new settlement may occasionally be a necessary part of a spatial strategy, where it is justified either by the scale and nature of the housing land requirement and the existence of major constraints to the further growth of existing settlements, or by its essential role in promoting regeneration or rural development.

**54.** Where a development plan spatial strategy indicates that a new settlement is appropriate, it should specify its scale and location, and supporting infrastructure requirements, particularly where these are integral to the viability and deliverability of the proposed development. Supplementary guidance can address more detailed issues such as design and delivery.

**55.** Local development plans should contribute to high-quality places by setting out how they will embed a design-led approach. This should include:

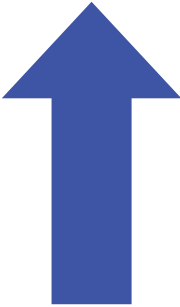

- reference to the six qualities of successful places which enable consideration of each place as distinctly different from other places and which should be evident in all development;
- using processes that harness and utilise the knowledge of communities and encourage active participation to deliver places with local integrity and relevance; and
- specifying when design tools, such as those at paragraph 57 should be used.

## **Development Management**

**56.** Design is a material consideration in determining planning applications. Planning permission may be refused and the refusal defended at appeal or local review solely on design grounds.

## **Tools for Making Better Places**

**57.** Design tools guide the quality of development in and across places to promote positive change. They can help to provide certainty for stakeholders as a contribution to sustainable economic growth. Whichever tools are appropriate to the task, they should focus on delivering the six qualities of successful places and could be adopted as supplementary guidance.

| Scale  | Tool   |
|--|--|
| <p style="text-align: center;"><b>STRATEGIC</b></p> <div style="text-align: center;">  </div> <div style="text-align: center; margin-top: 200px;">  </div> <p style="text-align: center;"><b>SITE SPECIFIC</b></p> | <p><b>Design Frameworks</b></p> <p>For larger areas of significant change, so must include some flexibility.</p> <p>To address major issues in a co-ordinated and viable way.</p> <p>May include general principles as well as maps and diagrams to show the importance of connections around and within a place.</p>  |
|  | <p><b>Development Briefs</b></p> <p>For a place or site, to form the basis of dialogue between the local authority and developers.</p> <p>To advise how policies should be implemented.</p> <p>May include detail on function, layout, plot sizes, building heights and lines, and materials.</p>  |
|  | <p><b>Master Plans</b></p> <p>For a specific site that may be phased so able to adapt over time.</p> <p>To describe and illustrate how a proposal will meet the vision and how it will work on the ground.</p> <p>May include images showing the relationship of people and place.</p> <p>See <a href="#">Planning Advice Note 83: Masterplanning</a><sup>31</sup></p> |
|  | <p><b>Design Guides</b></p> <p>For a particular subject, e.g. shop fronts.</p> <p>To show how development can be put into practice in line with policy.</p> <p>Includes detail, e.g. images of examples.</p>   |
|  | <p><b>Design Statements</b></p> <p>Required to accompany some planning applications.</p> <p>To explain how the application meets policy and guidance, for example by close reference to key considerations of street design with Designing Streets.</p> <p>See <a href="#">Planning Advice Note 68: Design Statements</a><sup>32</sup></p>                             |

31 [www.scotland.gov.uk/Publications/2008/11/10114526/0](http://www.scotland.gov.uk/Publications/2008/11/10114526/0)

32 [www.scotland.gov.uk/Publications/2003/08/18013/25389](http://www.scotland.gov.uk/Publications/2003/08/18013/25389)

# Subject Policies

## A Successful, Sustainable Place

### Promoting Town Centres

#### NPF and wider context

**58.** NPF3 reflects the importance of town centres as a key element of the economic and social fabric of Scotland. Much of Scotland’s population lives and works in towns, within city regions, in our rural areas and on our coasts and islands. Town centres are at the heart of their communities and can be hubs for a range of activities. It is important that planning supports the role of town centres to thrive and meet the needs of their residents, businesses and visitors for the 21st century.

**59.** The town centre first principle, stemming from the Town Centre Action Plan, promotes an approach to wider decision-making that considers the health and vibrancy of town centres.

#### Policy Principles

**60.** Planning for town centres should be flexible and proactive, enabling a wide range of uses which bring people into town centres. The planning system should:

- apply a town centre first policy<sup>33</sup> when planning for uses which attract significant numbers of people, including retail and commercial leisure, offices, community and cultural facilities;
- encourage a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening;
- ensure development plans, decision-making and monitoring support successful town centres; and
- consider opportunities for promoting residential use within town centres where this fits with local need and demand.

#### Key Documents

- [National Review of Town Centres External Advisory Group Report: Community and Enterprise in Scotland’s Town Centres](#)<sup>34</sup>
- [Town Centre Action Plan – the Scottish Government response](#)<sup>35</sup>
- [Planning Advice Note 59: Improving Town Centres](#)<sup>36</sup>
- [Planning Advice Note 52: Planning and Small Towns](#)<sup>37</sup>

33 A town centre first policy is intended to support town centres, where these exist, or new centres which are supported by the development plan. Where there are no town centres in the vicinity, for example in more remote rural and island areas, the expectation is that local centres will be supported. The town centre first policy is not intended to divert essential services and developments away from such rural areas. See section on Rural Development.

34 [www.scotland.gov.uk/Resource/0042/00426972.pdf](http://www.scotland.gov.uk/Resource/0042/00426972.pdf)

35 [www.scotland.gov.uk/Publications/2013/11/6415](http://www.scotland.gov.uk/Publications/2013/11/6415)

36 [www.scotland.gov.uk/Publications/1999/10/pan59-root/pan59](http://www.scotland.gov.uk/Publications/1999/10/pan59-root/pan59)

37 [www.scotland.gov.uk/Publications/1997/04/pan52](http://www.scotland.gov.uk/Publications/1997/04/pan52)

- [Town Centres Masterplanning Toolkit](#)<sup>38</sup>

## Development Plans

**61.** Plans should identify a network of centres and explain how they can complement each other. The network is likely to include city centres, town centres, local centres and commercial centres and may be organised as a hierarchy. Emerging or new centres designated within key new developments or land releases should also be shown within the network of centres. In remoter rural and island areas, it may not be necessary to identify a network.

**62.** Plans should identify as town centres those centres which display:

- a diverse mix of uses, including shopping;
- a high level of accessibility;
- qualities of character and identity which create a sense of place and further the well-being of communities;
- wider economic and social activity during the day and in the evening; and
- integration with residential areas.

**63.** Plans should identify as commercial centres those centres which have a more specific focus on retailing and/or leisure uses, such as shopping centres, commercial leisure developments, mixed retail and leisure developments, retail parks and factory outlet centres. Where necessary to protect the role of town centres, plans should specify the function of commercial centres, for example where retail activity may be restricted to the sale of bulky goods.

**64.** Local authorities, working with community planning partners, businesses and community groups as appropriate, should prepare a town centre health check. Annex A sets out a range of indicators which may be relevant. The purpose of a health check is to assess a town centre's strengths, vitality and viability, weaknesses and resilience. It will be used to inform development plans and decisions on planning applications. Health checks should be regularly updated, to monitor town centre performance, preferably every two years.

**65.** Local authorities, working with partners, should use the findings of the health check to develop a strategy to deliver improvements to the town centre. Annex A contains guidance on key elements in their preparation.

**66.** The spatial elements of town centre strategies should be included in the development plan or supplementary guidance. Plans should address any significant changes in the roles and functions of centres over time, where change is supported by the results of a health check. Plans should assess how centres can accommodate development and identify opportunities.

**67.** There are concerns about the number and clustering of some non-retail uses, such as betting offices and high interest money lending premises, in some town and local centres. Plans should include policies to support an appropriate mix of uses in town centres, local centres and high streets. Where a town centre strategy indicates that further provision of particular activities would undermine the character and amenity of centres or the well-being of communities, plans should include policies to prevent such over-provision and clustering.

<sup>38</sup> <http://creatingplacescotland.org/people-communities/policy/town-centre-masterplanning-toolkit#overlay-context=people-communities/policy>

**68.** Development plans should adopt a sequential town centre first approach when planning for uses which generate significant footfall, including retail and commercial leisure uses, offices, community and cultural facilities and, where appropriate, other public buildings such as libraries, and education and healthcare facilities. This requires that locations are considered in the following order of preference:

- town centres (including city centres and local centres);
- edge of town centre;
- other commercial centres identified in the development plan; and
- out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes.

**69.** Planning authorities, developers, owners and occupiers should be flexible and realistic in applying the sequential approach, to ensure that different uses are developed in the most appropriate locations. It is important that community, education and healthcare facilities are located where they are easily accessible to the communities that they are intended to serve.

## Development Management

**70.** Decisions on development proposals should have regard to the context provided by the network of centres identified in the development plan and the sequential approach outlined above. New development in a town centre should contribute to providing a range of uses and should be of a scale which is appropriate to that centre. The impact of new development on the character and amenity of town centres, local centres and high streets will be a material consideration in decision-making. The aim is to recognise and prioritise the importance of town centres and encourage a mix of developments which support their vibrancy, vitality and viability. This aim should also be taken into account in decisions concerning proposals to expand or change the use of existing development.

**71.** Where development proposals in edge of town centre, commercial centre or out-of-town locations are contrary to the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing town centres is acceptable. Where a new public building or office with a gross floorspace over 2,500m<sup>2</sup> is proposed outwith a town centre, and is contrary to the development plan, an assessment of the impact on the town centre should be carried out. Where a retail and leisure development with a gross floorspace over 2,500m<sup>2</sup> is proposed outwith a town centre, contrary to the development plan, a retail impact analysis should be undertaken. For smaller retail and leisure proposals which may have a significant impact on vitality and viability, planning authorities should advise when retail impact analysis is necessary.

**72.** This analysis should consider the relationship of the proposed development with the network of centres identified in the development plan. Where possible, authorities and developers should agree the data required and present information on areas of dispute in a succinct and comparable form. Planning authorities should consider the potential economic impact of development and take into account any possible displacement effect.

**73.** Out-of-centre locations should only be considered for uses which generate significant footfall<sup>39</sup> where:

- all town centre, edge of town centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable;

<sup>39</sup> As noted at paragraph 69, a flexible approach is required for community, education and healthcare facilities.

- the scale of development proposed is appropriate, and it has been shown that the proposal cannot reasonably be altered or reduced in scale to allow it to be accommodated at a sequentially preferable location;
- the proposal will help to meet qualitative or quantitative deficiencies; and
- there will be no significant adverse effect on the vitality and viability of existing town centres.

## Promoting Rural Development

### NPF Context

**74.** NPF3 sets out a vision for vibrant rural, coastal and island areas, with growing, sustainable communities supported by new opportunities for employment and education. The character of rural and island areas and the challenges they face vary greatly across the country, from pressurised areas of countryside around towns and cities to more remote and sparsely populated areas. Between these extremes are extensive intermediate areas under varying degrees of pressure and with different kinds of environmental assets meriting protection. Scotland's long coastline is an important resource both for development and for its particular environmental quality, especially in the areas of the three island councils.

### Policy Principles

**75.** The planning system should:

- in all rural and island areas promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces;
- encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality; and
- support an integrated approach to coastal planning.

### Key documents

- [Getting the Best from Our Land – A Land Use Strategy for Scotland](#)<sup>40</sup>
- National Marine Plan

### Delivery

**76.** In the pressurised areas easily accessible from Scotland's cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car-based commuting and the suburbanisation of the countryside, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land. Plans should make provision for most new urban development to take place within, or in planned extensions to, existing settlements.

**77.** In remote and fragile areas and island areas outwith defined small towns, the emphasis should be on maintaining and growing communities by encouraging development that provides suitable sustainable economic activity, while preserving important environmental assets such as landscape and wildlife habitats that underpin continuing tourism visits and quality of place.

**78.** In the areas of intermediate accessibility and pressure for development, plans should be tailored to local circumstances, seeking to provide a sustainable network of settlements and a

<sup>40</sup> [www.scotland.gov.uk/Publications/2011/03/17091927/0](http://www.scotland.gov.uk/Publications/2011/03/17091927/0)

range of policies that provide for additional housing requirements, economic development, and the varying proposals that may come forward, while taking account of the overarching objectives and other elements of the plan.

**79.** Plans should set out a spatial strategy which:

- reflects the development pressures, environmental assets, and economic needs of the area, reflecting the overarching aim of supporting diversification and growth of the rural economy;
- promotes economic activity and diversification, including, where appropriate, sustainable development linked to tourism and leisure, forestry, farm and croft diversification and aquaculture, nature conservation, and renewable energy developments, while ensuring that the distinctive character of the area, the service function of small towns and natural and cultural heritage are protected and enhanced;
- makes provision for housing in rural areas in accordance with the spatial strategy, taking account of the different development needs of local communities;
- where appropriate, sets out policies and proposals for leisure accommodation, such as holiday units, caravans, and huts;
- addresses the resource implications of the proposed pattern of development, including facilitating access to local community services and support for public transport; and
- considers the services provided by the natural environment, safeguarding land which is highly suitable for particular uses such as food production or flood management.

**80.** Where it is necessary to use good quality land for development, the layout and design should minimise the amount of such land that is required. Development on [prime agricultural land](#), or land of lesser quality that is locally important should not be permitted except where it is essential:

- as a component of the settlement strategy or necessary to meet an established need, for example for essential infrastructure, where no other suitable site is available; or
- for small-scale development directly linked to a rural business; or
- for the generation of energy from a renewable source or the extraction of minerals where this accords with other policy objectives and there is secure provision for restoration to return the land to its former status.

**81.** In accessible or pressured rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate, and plans and decision-making should generally:

- guide most new development to locations within or adjacent to settlements; and
- set out the circumstances in which new housing outwith settlements may be appropriate, avoiding use of occupancy restrictions.

**82.** In some most pressured areas, the designation of green belts may be appropriate.

**83.** In remote rural areas, where new development can often help to sustain fragile communities, plans and decision-making should generally:

- encourage sustainable development that will provide employment;
- support and sustain fragile and dispersed communities through provision for appropriate development, especially housing and community-owned energy;

- include provision for small-scale housing<sup>41</sup> and other development which supports sustainable economic growth in a range of locations, taking account of environmental protection policies and addressing issues of location, access, siting, design and environmental impact;
- where appropriate, allow the construction of single houses outwith settlements provided they are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies;
- not impose occupancy restrictions on housing.

## National Parks

**84.** National Parks are designated under the National Parks (Scotland) Act 2000 because they are areas of national importance for their natural and cultural heritage. The four aims of national parks are to:

- conserve and enhance the natural and cultural heritage of the area;
- promote sustainable use of the natural resources of the area;
- promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- promote sustainable economic and social development of the area's communities.

**85.** These aims are to be pursued collectively. However if there is a conflict between the first aim and any of the others then greater weight must be given to the first aim. Planning decisions should reflect this weighting. Paragraph 213 also applies to development outwith a National Park that affects the Park.

**86.** Development plans for National Parks are expected to be consistent with the National Park Plan, which sets out the management strategy for the Park. The authority preparing a development plan for a National Park, or which affects a National Park, is required to pay special attention to the desirability of consistency with the National Park Plan, having regard to the contents.

## Coastal Planning

**87.** The planning system should support an integrated approach to coastal planning to ensure that development plans and regional marine plans are complementary. Terrestrial planning by planning authorities overlaps with marine planning in the intertidal zone. On the terrestrial side, mainland planning authorities should work closely with neighbouring authorities, taking account of the needs of port authorities and aquaculture, where appropriate. On the marine side, planning authorities will need to ensure integration with policies and activities arising from the National Marine Plan, Marine Planning Partnerships, Regional Marine Plans, and Integrated Coastal Zone Management, as well as aquaculture.

## Development Plans

**88.** Plans should recognise that rising sea levels and more extreme weather events resulting from climate change will potentially have a significant impact on coastal and island areas, and that a precautionary approach to flood risk should be taken. They should confirm that new development requiring new defences against coastal erosion or coastal flooding will not be supported except where there is a clear justification for a departure from the general policy to

<sup>41</sup> including clusters and groups; extensions to existing clusters and groups; replacement housing; plots for self build; holiday homes; new build or conversion linked to rural business.



avoid development in areas at risk. Where appropriate, development plans should identify areas at risk and areas where a managed realignment of the coast would be beneficial.

**89.** Plans should identify areas of largely developed coast that are a major focus of economic or recreational activity that are likely to be suitable for further development; areas subject to significant constraints; and largely unspoiled areas of the coast that are generally unsuitable for development. It should be explained that this broad division does not exclude important local variations, for example where there are areas of environmental importance within developed estuaries, or necessary developments within the largely unspoiled coast where there is a specific locational need, for example for defence purposes, tourism developments of special significance, or essential onshore developments connected with offshore energy projects or (where appropriate) aquaculture.

**90.** Plans should promote the developed coast as the focus of developments requiring a coastal location or which contribute to the economic regeneration or well-being of communities whose livelihood is dependent on marine or coastal activities. They should provide for the development requirements of uses requiring a coastal location, including ports and harbours, tourism and recreation, fish farming, land-based development associated with offshore energy projects and specific defence establishments.

**91.** Plans should safeguard unspoiled sections of coast which possess special environmental or cultural qualities, such as wild land. The economic value of these areas should be considered and maximised, provided that environmental impact issues can be satisfactorily addressed.

## Supporting Business and Employment

### NPF Context

**92.** NPF3 supports the many and varied opportunities for planning to support business and employment. These range from a focus on the role of cities as key drivers of our economy, to the continuing need for diversification of our rural economy to strengthen communities and retain young people in remote areas. Planning should address the development requirements of businesses and enable key opportunities for investment to be realised. It can support sustainable economic growth by providing a positive policy context for development that delivers economic benefits.

### Policy Principles

**93.** The planning system should:

- promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;
- allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and
- give due weight to net economic benefit of proposed development.

### Key Documents

- [Government Economic Strategy](#)<sup>42</sup>

<sup>42</sup> [www.scotland.gov.uk/Topics/Economy/EconomicStrategy](http://www.scotland.gov.uk/Topics/Economy/EconomicStrategy)

- [Tourism Development Framework for Scotland](#)<sup>43</sup>
- [A Guide to Development Viability](#)<sup>44</sup>

## Delivery

### Development Planning

**94.** Plans should align with relevant local economic strategies. These will help planning authorities to meet the needs and opportunities of indigenous firms and inward investors, recognising the potential of key sectors for Scotland with particular opportunities for growth, including:

- energy;
- life sciences, universities and the creative industries;
- tourism and the food and drink sector;
- financial and business services.

**95.** Plans should encourage opportunities for home-working, live-work units, micro-businesses and community hubs.

**96.** Development plans should support opportunities for integrating efficient energy and waste innovations within business environments. Industry stakeholders should engage with planning authorities to help facilitate co-location, as set out in paragraph 179.

**97.** Strategic development plan policies should reflect a robust evidence base in relation to the existing principal economic characteristics of their areas, and any anticipated change in these.

**98.** Strategic development plans should identify an appropriate range of locations for significant business clusters. This could include sites identified in the [National Renewables Infrastructure Plan](#)<sup>45</sup>, [Enterprise Areas](#)<sup>46</sup>, business parks, science parks, large and medium-sized industrial sites and high amenity sites.

**99.** Strategic development plans and local development plans outwith SDP areas should identify any nationally important clusters of industries [handling hazardous substances](#) within their areas and safeguard them from development which, either on its own or in combination with other development, would compromise their continued operation or growth potential. This is in the context of the wider statutory requirements in the Town and Country Planning (Development Planning) (Scotland) Regulations 2009<sup>47</sup> to have regard to the need to maintain appropriate distances between sites with hazardous substances and areas where the public are likely to be present and areas of particular natural sensitivity or interest.

**100.** Development plans should be informed by the Tourism Development Framework for Scotland in order to maximise the sustainable growth of regional and local visitor economies. Strategic development plans should identify and safeguard any nationally or regionally important locations for tourism or recreation development within their areas.

43 [www.visitscotland.org/pdf/Tourism%20Development%20Framework%20-%20FINAL.pdf](http://www.visitscotland.org/pdf/Tourism%20Development%20Framework%20-%20FINAL.pdf)

44 [www.scotland.gov.uk/Resource/Doc/212607/0109620.pdf](http://www.scotland.gov.uk/Resource/Doc/212607/0109620.pdf)

45 [www.scottish-enterprise.com/~media/SE/Resources/Documents/Sectors/Energy/energy-renewables-reports/National-renewables-infrastructure-plan.ashx](http://www.scottish-enterprise.com/~media/SE/Resources/Documents/Sectors/Energy/energy-renewables-reports/National-renewables-infrastructure-plan.ashx)

46 [www.scotland.gov.uk/Topics/Economy/EconomicStrategy/Enterprise-Areas](http://www.scotland.gov.uk/Topics/Economy/EconomicStrategy/Enterprise-Areas)

47 These statutory requirements are due to be amended in 2015 as part of the implementation of Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances.

**101.** Local development plans should allocate a range of sites for business, taking account of current market demand; location, size, quality and infrastructure requirements; whether sites are serviced or serviceable within five years; the potential for a mix of uses; their accessibility to transport networks by walking, cycling and public transport and their integration with and access to existing transport networks. The allocation of such sites should be informed by relevant economic strategies and business land audits in respect of land use classes 4, 5 and 6.

**102.** Business land audits should be undertaken regularly by local authorities to inform reviews of development plans, and updated more frequently if relevant. Business land audits should monitor the location, size, planning status, existing use, neighbouring land uses and any significant land use issues (e.g. underused, vacant, derelict) of sites within the existing business land supply.

**103.** New sites should be identified where existing sites no longer meet current needs and market expectations. Where existing business sites are underused, for example where there has been an increase in vacancy rates, reallocation to enable a wider range of viable business or alternative uses should be considered, taking careful account of the potential impacts on existing businesses on the site.

**104.** Local development plans should locate development which generates significant freight movements, such as manufacturing, processing, distribution and warehousing, on sites accessible to suitable railheads or harbours or the strategic road network. Through appraisal, care should be taken in locating such development to minimise any impact on congested, inner urban and residential areas.

**105.** Planning authorities should consider the potential to promote opportunities for tourism and recreation facilities in their development plans. This may include new developments or the enhancement of existing facilities.

## Development Management

**106.** Efficient handling of planning applications should be a key priority, particularly where jobs and investment are involved. To assist with this, pre-application discussions are strongly encouraged to determine the information that should be submitted to support applications. Such information should be proportionate and relevant to the development and sufficient for the planning authority requirements on matters such as the number of jobs to be created, hours of working, transport requirements, environmental effects, noise levels and the layout and design of buildings. Decisions should be guided by the principles set out in paragraphs 28 to 35.

**107.** Proposals for development in the vicinity of [major-accident hazard sites](#) should take into account the potential impacts on the proposal and the major-accident hazard site of being located in proximity to one another. Decisions should be informed by the Health and Safety Executive's advice, based on the [PADHI](#) tool. Similar considerations apply in respect of development proposals near licensed explosive sites (including military explosive storage sites).

**108.** Proposals for business, industrial and service uses should take into account surrounding sensitive uses, areas of particular natural sensitivity or interest and local amenity, and make a positive contribution towards placemaking.

## Enabling Delivery of New Homes

### NPF Context

**109.** NPF3 aims to facilitate new housing development, particularly in areas within our cities network where there is continuing pressure for growth, and through innovative approaches to rural housing provision. House building makes an important contribution to the economy. Planning can help to address the challenges facing the housing sector by providing a positive and flexible approach to development. In particular, provision for new homes should be made in areas where economic investment is planned or there is a need for regeneration or to support population retention in rural and island areas.

### Policy Principles

**110.** The planning system should:

- identify a generous supply of land for each housing market area within the plan area to support the achievement of the housing land requirement across all tenures, maintaining at least a 5-year supply of effective housing land at all times;
- enable provision of a range of attractive, well-designed, energy efficient, good quality housing, contributing to the creation of successful and sustainable places; and
- have a sharp focus on the delivery of allocated sites embedded in action programmes, informed by strong engagement with stakeholders.

### Key Documents

- [The Housing \(Scotland\) Act 2001](#)<sup>48</sup> requires local authorities to prepare a local housing strategy supported by an assessment of housing need and demand
- [Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits](#)<sup>49</sup>

### Delivery

**111.** Local authorities should identify functional housing market areas, i.e. geographical areas where the demand for housing is relatively self-contained. These areas may significantly overlap and will rarely coincide with local authority boundaries. They can be dynamic and complex, and can contain different tiers of sub-market area, overlain by mobile demand, particularly in city regions.

**112.** Planning for housing should be undertaken through joint working by housing market partnerships, involving both housing and planning officials within local authorities, and cooperation between authorities where strategic planning responsibilities and/or housing market areas are shared, including national park authorities. Registered social landlords, developers, other specialist interests, and local communities should also be encouraged to engage with housing market partnerships. In rural or island areas where there is no functional housing market area, the development plan should set out the most appropriate approach for the area.

48 [www.legislation.gov.uk/asp/2001/10/contents](http://www.legislation.gov.uk/asp/2001/10/contents)

49 [www.scotland.gov.uk/Publications/2010/08/31111624/0](http://www.scotland.gov.uk/Publications/2010/08/31111624/0)

## Development Planning

**113.** Plans should be informed by a robust housing need and demand assessment (HNDA), prepared in line with the Scottish Government's HNDA Guidance<sup>50</sup>. This assessment provides part of the evidence base to inform both local housing strategies and development plans (including the main issues report). It should produce results both at the level of the functional housing market area and at local authority level, and cover all tenures. Where the Scottish Government is satisfied that the HNDA is robust and credible, the approach used will not normally be considered further at a development plan examination.

**114.** The HNDA, development plan, and local housing strategy processes should be closely aligned, with joint working between housing and planning teams. Local authorities may wish to wait until the strategic development plan is approved in city regions, and the local development plan adopted elsewhere, before finalising the local housing strategy, to ensure that any modifications to the plans can be reflected in local housing strategies, and in local development plans in the city regions.

**115.** Plans should address the supply of land for all housing. They should set out the **housing supply target** (separated into affordable and market sector) for each functional housing market area, based on evidence from the HNDA. The housing supply target is a policy view of the number of homes the authority has agreed will be delivered in each housing market area over the periods of the development plan and local housing strategy, taking into account wider economic, social and environmental factors, issues of capacity, resource and deliverability, and other important requirements such as the aims of National Parks. The target should be reasonable, should properly reflect the HNDA estimate of housing demand in the market sector, and should be supported by compelling evidence. The authority's housing supply target should also be reflected in the local housing strategy.

**116.** Within the overall housing supply target<sup>51</sup>, plans should indicate the number of new homes to be built over the plan period. This figure should be increased by a margin of 10 to 20% to establish the housing land requirement, in order to ensure that a generous supply of land for housing is provided. The exact extent of the margin will depend on local circumstances, but a robust explanation for it should be provided in the plan.

**117.** The housing land requirement can be met from a number of sources, most notably sites from the established supply which are effective or expected to become effective in the plan period, sites with planning permission, proposed new land allocations, and in some cases a proportion of windfall development. Any assessment of the expected contribution to the housing land requirement from **windfall sites** must be realistic and based on clear evidence of past completions and sound assumptions about likely future trends. In urban areas this should be informed by an urban capacity study.

**118.** Strategic development plans should set out the **housing supply target** and the housing land requirement for the plan area, each local authority area, and each functional housing market area. They should also state the amount and broad locations of land which should be allocated in local development plans to meet the housing land requirement up to year 12 from the expected year of plan approval, making sure that the requirement for each housing market area is met in full. Beyond year 12 and up to year 20, the strategic development plan should provide an indication of the possible scale and location of housing land, including by local development plan area.

<sup>50</sup> [www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/chma/hnda](http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/chma/hnda)

<sup>51</sup> Note: the housing supply target may in some cases include a contribution from other forms of delivery, for example a programme to bring empty properties back into use.

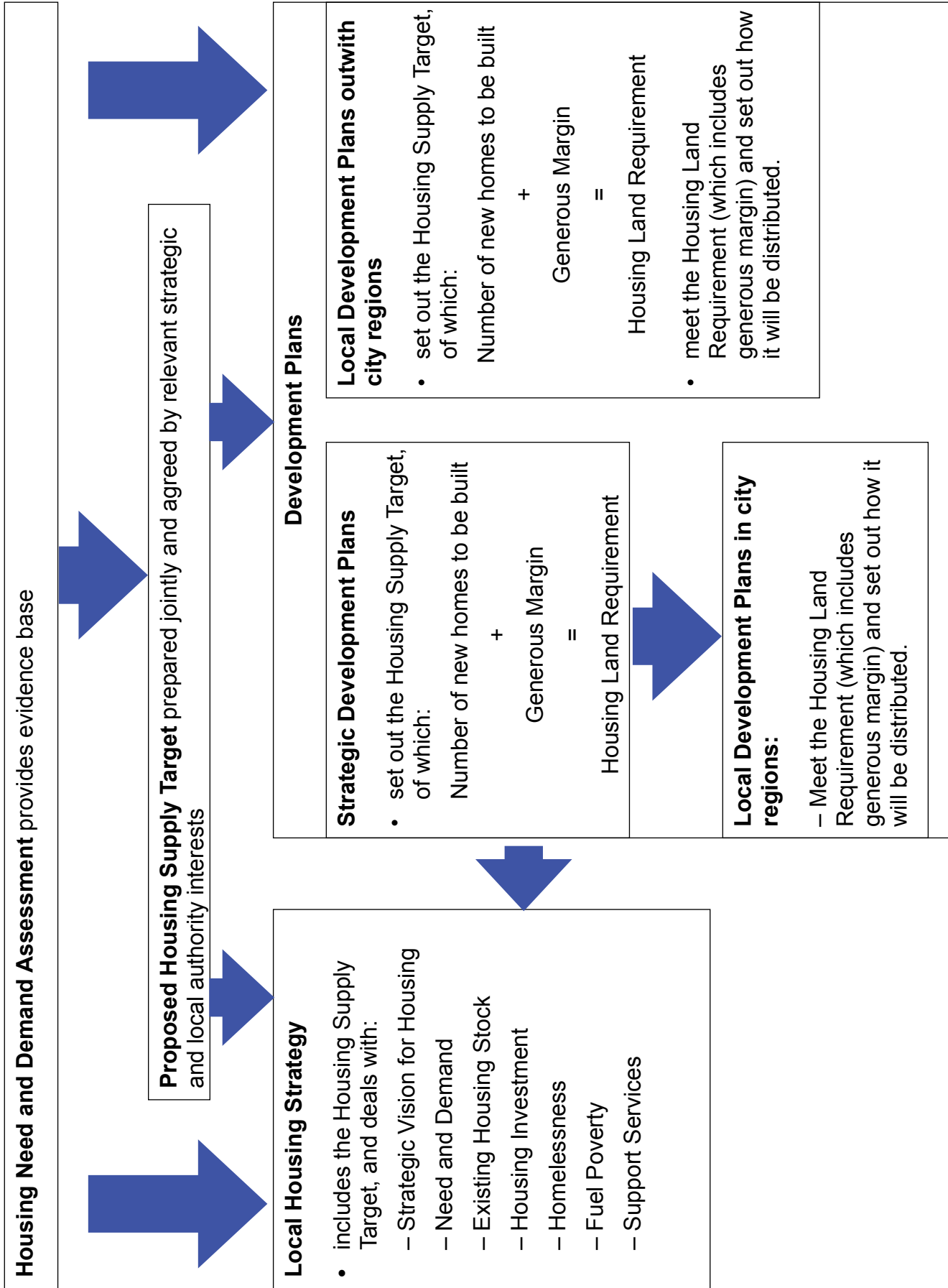
**119.** Local development plans in city regions should allocate a range of sites which are effective or expected to become effective in the plan period to meet the housing land requirement of the strategic development plan up to year 10 from the expected year of adoption. They should provide for a minimum of 5 years effective land supply at all times. In allocating sites, planning authorities should be confident that land can be brought forward for development within the plan period and that the range of sites allocated will enable the housing supply target to be met.

**120.** Outwith city regions, local development plans should set out the housing supply target (separated into affordable and market sector) and the housing land requirement for each housing market area in the plan area up to year 10 from the expected year of adoption. They should allocate a range of sites which are effective or expected to become effective in the plan period to meet the housing land requirement in full. They should provide a minimum of 5 years effective land supply at all times. Beyond year 10 and up to year 20, the local development plan should provide an indication of the possible scale and location of the housing land requirement.

**121.** In the National Parks, local development plans should draw on the evidence provided by the HNDAs of the constituent housing authorities. National Park authorities should aim to meet the housing land requirement in full in their area. However, they are not required to do so, and they should liaise closely with neighbouring planning authorities to ensure that any remaining part of the housing land requirement for the National Parks is met in immediately adjoining housing market areas, and that a 5-year supply of effective land is maintained.

**122.** Local development plans should allocate appropriate sites to support the creation of sustainable mixed communities and successful places and help to ensure the continued delivery of new housing.

**Diagram 1: Housing Land, Development Planning and the Local Housing Strategy**



## Maintaining a 5-year Effective Land Supply

**123.** Planning authorities should actively manage the housing land supply. They should work with housing and infrastructure providers to prepare an annual housing land audit as a tool to critically review and monitor the availability of effective housing land, the progress of sites through the planning process, and housing completions, to ensure a generous supply of land for house building is maintained and there is always enough effective land for at least five years. A site is only considered effective where it can be demonstrated that within five years it will be free of constraints<sup>52</sup> and can be developed for housing. In remoter rural areas and island communities, where the housing land requirement and market activity are of a more limited scale, the housing land audit process may be adapted to suit local circumstances.

**124.** The development plan action programme, prepared in tandem with the plan, should set out the key actions necessary to bring each site forward for housing development and identify the lead partner. It is a key tool, and should be used alongside the housing land audit to help planning authorities manage the land supply.

**125.** Planning authorities, developers, service providers and other partners in housing provision should work together to ensure a continuing supply of effective land and to deliver housing, taking a flexible and realistic approach. Where a shortfall in the 5-year effective housing land supply emerges, development plan policies for the supply of housing land will not be considered up-to-date, and paragraphs 32-35 will be relevant.

## Affordable Housing

**126.** Affordable housing is defined broadly as housing of a reasonable quality that is affordable to people on modest incomes. Affordable housing may be provided in the form of social rented accommodation, mid-market rented accommodation, shared ownership housing, shared equity housing, housing sold at a discount (including plots for self-build), and low cost housing without subsidy.

**127.** Where the housing supply target requires provision for affordable housing, strategic development plans should state how much of the total housing land requirement this represents.

**128.** Local development plans should clearly set out the scale and distribution of the affordable housing requirement for their area. Where the HNDA and local housing strategy process identify a shortage of affordable housing, the plan should set out the role that planning will take in addressing this. Planning authorities should consider whether it is appropriate to allocate some small sites specifically for affordable housing. Advice on the range of possible options for provision of affordable housing is set out in PAN 2/2010.

**129.** Plans should identify any expected developer contributions towards delivery of affordable housing. Where a contribution is required, this should generally be for a specified proportion of the serviced land within a development site to be made available for affordable housing. Planning authorities should consider the level of affordable housing contribution which is likely to be deliverable in the current economic climate, as part of a viable housing development. The level of affordable housing required as a contribution within a market site should generally be no more than 25% of the total number of houses. Consideration should also be given to the nature of the affordable housing required and the extent to which this can be met by proposals capable of development with little or no public subsidy. Where permission is sought for specialist housing, as described in paragraphs 132-134, a contribution to affordable housing may not always be required.

<sup>52</sup> Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits sets out more fully the measure of effective sites [www.scotland.gov.uk/Publications/2010/08/31111624/5](http://www.scotland.gov.uk/Publications/2010/08/31111624/5)



**130.** Plans should consider how affordable housing requirements will be met over the period of the plan. Planning and housing officials should work together closely to ensure that the phasing of land allocations and the operation of affordable housing policies combine to deliver housing across the range of tenures. In rural areas, where significant unmet local need for affordable housing has been shown, it may be appropriate to introduce a 'rural exceptions' policy which allows planning permission to be granted for affordable housing on small sites that would not normally be used for housing, for example because they lie outwith the adjacent built-up area and are subject to policies of restraint.

**131.** Any detailed policies on how the affordable housing requirement is expected to be delivered, including any differences in approach for urban and rural areas, should be set out in supplementary guidance. Where it is considered that housing built to meet an identified need for affordable housing should remain available to meet such needs in perpetuity, supplementary guidance should set out the measures to achieve this. Any specific requirements on design may also be addressed in supplementary guidance.

### **Specialist Housing Provision and Other Specific Needs**

**132.** As part of the HNDA, local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. This supports independent living for elderly people and those with a disability. Where a need is identified, planning authorities should prepare policies to support the delivery of appropriate housing and consider allocating specific sites.

**133.** HNDAs will also evidence need for sites for Gypsy/Travellers and Travelling Showpeople. Development plans and local housing strategies should address any need identified, taking into account their mobile lifestyles. In city regions, the strategic development plan should have a role in addressing cross-boundary considerations. If there is a need, local development plans should identify suitable sites for these communities. They should also consider whether policies are required for small privately-owned sites for Gypsy/Travellers, and for handling applications for permanent sites for Travelling Showpeople (where account should be taken of the need for storage and maintenance of equipment as well as accommodation). These communities should be appropriately involved in identifying sites for their use.

**134.** Local development plans should address any need for houses in multiple occupation (HMO). More information is provided in Circular 2/2012 Houses in Multiple Occupation<sup>53</sup>. Planning authorities should also consider the housing requirements of service personnel and sites for people seeking self-build plots. Where authorities believe it appropriate to allocate suitable sites for self-build plots, the sites may contribute to meeting the housing land requirement.

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<sup>53</sup> [www.scotland.gov.uk/Publications/2012/06/4191](http://www.scotland.gov.uk/Publications/2012/06/4191)

## Valuing the Historic Environment

### NPF and wider policy context

**135.** NPF3 recognises the contribution made by our cultural heritage to our economy, cultural identity and quality of life. Planning has an important role to play in maintaining and enhancing the distinctive and high-quality, irreplaceable historic places which enrich our lives, contribute to our sense of identity and are an important resource for our tourism and leisure industry.

**136.** The [historic environment](#) is a key cultural and economic asset and a source of inspiration that should be seen as integral to creating successful places. Culture-led regeneration can have a profound impact on the well-being of a community in terms of the physical look and feel of a place and can also attract visitors, which in turn can bolster the local economy and sense of pride or ownership.

### Policy Principles

**137.** The planning system should:

- promote the care and protection of the designated and non-designated historic environment (including individual assets, related [settings](#) and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning; and
- enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced.

### Key Documents

- [Scottish Historic Environment Policy](#)<sup>54</sup>
- [Historic Environment Strategy for Scotland](#)<sup>55</sup>
- [Managing Change in the Historic Environment – Historic Scotland’s guidance note series](#)<sup>56</sup>
- [Planning Advice Note 2/2011: Planning and Archaeology](#)<sup>57</sup>
- [Planning Advice Note 71: Conservation Area Management](#)<sup>58</sup>
- [Scottish Historic Environment Databases](#)<sup>59</sup>

<sup>54</sup> [www.historic-scotland.gov.uk/index/heritage/policy/shep.htm](http://www.historic-scotland.gov.uk/index/heritage/policy/shep.htm)

<sup>55</sup> [www.scotland.gov.uk/Publications/2014/03/8522](http://www.scotland.gov.uk/Publications/2014/03/8522)

<sup>56</sup> [www.historic-scotland.gov.uk/managingchange](http://www.historic-scotland.gov.uk/managingchange)

<sup>57</sup> [www.scotland.gov.uk/Publications/2011/08/04132003/0](http://www.scotland.gov.uk/Publications/2011/08/04132003/0)

<sup>58</sup> [www.scotland.gov.uk/Publications/2004/12/20450/49052](http://www.scotland.gov.uk/Publications/2004/12/20450/49052)

<sup>59</sup> <http://smrforum-scotland.org.uk/wp-content/uploads/2014/03/SHED-Strategy-Final-April-2014.pdf>

## Delivery

### Development Planning

**138.** Strategic development plans should protect and promote their significant historic environment assets. They should take account of the capacity of settlements and surrounding areas to accommodate development without damage to their historic significance.

**139.** Local development plans and supplementary guidance should provide a framework for protecting and, where appropriate, enhancing all elements of the historic environment. Local planning authorities should designate and review existing and potential conservation areas and identify existing and proposed [Article 4 Directions](#). This should be supported by Conservation Area Appraisals and Management Plans.

### Development Management

**140.** The siting and design of development should take account of all aspects of the historic environment. In support of this, planning authorities should have access to a Sites and Monuments Record (SMR) and/or a Historic Environment Record (HER) that contains necessary information about known historic environment features and finds in their area.

### Listed Buildings

**141.** Change to a listed building should be managed to protect its special interest while enabling it to remain in active use. Where planning permission and listed building consent are sought for development to, or affecting, a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting. Listed buildings should be protected from demolition or other work that would adversely affect it or its setting.

**142.** Enabling development may be acceptable where it can be clearly shown to be the only means of preventing the loss of the asset and securing its long-term future. Any development should be the minimum necessary to achieve these aims. The resultant development should be designed and sited carefully to preserve or enhance the character and setting of the historic asset.

### Conservation Areas

**143.** Proposals for development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character or appearance. Where the demolition of an unlisted building is proposed through Conservation Area Consent, consideration should be given to the contribution the building makes to the character and appearance of the conservation area. Where a building makes a positive contribution the presumption should be to retain it.

**144.** Proposed works to trees in conservation areas require prior notice to the planning authority and statutory Tree Preservation Orders<sup>60</sup> can increase the protection given to such trees. Conservation Area Appraisals should inform development management decisions.

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<sup>60</sup> [www.scotland.gov.uk/Publications/2011/01/28152314/0](http://www.scotland.gov.uk/Publications/2011/01/28152314/0)

## Scheduled Monuments

**145.** Where there is potential for a proposed development to have an adverse effect on a [scheduled monument](#) or on the integrity of its setting, permission should only be granted where there are exceptional circumstances. Where a proposal would have a direct impact on a scheduled monument, the written consent of Scottish Ministers via a separate process is required in addition to any other consents required for the development.

## Historic Marine Protected Areas

**146.** Where planning control extends offshore, planning authorities should ensure that development will not significantly hinder the preservation objectives of [Historic Marine Protected Areas](#).

## World Heritage Sites

**147.** World Heritage Sites are of international importance. Where a development proposal has the potential to affect a World Heritage Site, or its setting, the planning authority must protect and preserve its [Outstanding Universal Value](#).

## Gardens and Designed Landscapes

**148.** Planning authorities should protect and, where appropriate, seek to enhance gardens and designed landscapes included in the Inventory of Gardens and Designed Landscapes and designed landscapes of regional and local importance.

## Battlefields

**149.** Planning authorities should seek to protect, conserve and, where appropriate, enhance the key landscape characteristics and special qualities of sites in the Inventory of Historic Battlefields.

## Archaeology and Other Historic Environment Assets

**150.** Planning authorities should protect archaeological sites and monuments as an important, finite and non-renewable resource and preserve them in situ wherever possible. Where in situ preservation is not possible, planning authorities should, through the use of conditions or a legal obligation, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made, they should be reported to the planning authority to enable discussion on appropriate measures, such as inspection and recording.

**151.** There is also a range of non-designated historic assets and areas of historical interest, including historic landscapes, other gardens and designed landscapes, woodlands and routes such as drove roads which do not have statutory protection. These resources are, however, an important part of Scotland's heritage and planning authorities should protect and preserve significant resources as far as possible, in situ wherever feasible.

# A Low Carbon Place

## Delivering Heat and Electricity

### NPF Context

**152.** NPF3 is clear that planning must facilitate the transition to a low carbon economy, and help to deliver the aims of the [Scottish Government's Report on Proposals and Policies](#)<sup>61</sup>. Our spatial strategy facilitates the development of generation technologies that will help to reduce greenhouse gas emissions from the energy sector. Scotland has significant renewable energy resources, both onshore and offshore. Spatial priorities range from extending heat networks in our cities and towns to realising the potential for renewable energy generation in our coastal and island areas.

**153.** Terrestrial and marine planning facilitate development of renewable energy technologies, link generation with consumers and guide new infrastructure to appropriate locations. Efficient supply of low carbon and low cost heat and generation of heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities. Renewable energy also presents a significant opportunity for associated development, investment and growth of the supply chain, particularly for ports and harbours identified in the [National Renewables Infrastructure Plan](#)<sup>62</sup>. Communities can also gain new opportunities from increased local ownership and associated benefits.

### Policy Principles

**154.** The planning system should:

- support the transformational change to a low carbon economy, consistent with national objectives and targets<sup>63</sup>, including deriving:
  - 30% of overall energy demand from renewable sources by 2020;
  - 11% of heat demand from renewable sources by 2020; and
  - the equivalent of 100% of electricity demand from renewable sources by 2020;
- support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks;
- guide development to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed;
- help to reduce emissions and energy use in new buildings and from new infrastructure by enabling development at appropriate locations that contributes to:
  - Energy efficiency;
  - Heat recovery;
  - Efficient energy supply and storage;

61 [www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/lowcarbon/meetingthetargets](http://www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/lowcarbon/meetingthetargets)

62 [www.scottish-enterprise.com/~media/SE/Resources/Documents/Sectors/Energy/energy-renewables-reports/National-renewables-infrastructure-plan.ashx](http://www.scottish-enterprise.com/~media/SE/Resources/Documents/Sectors/Energy/energy-renewables-reports/National-renewables-infrastructure-plan.ashx)

63 Further targets may be set in due course, for example district heating targets have been proposed.

- Electricity and heat from renewable sources; and
- Electricity and heat from non-renewable sources where greenhouse gas emissions can be significantly reduced.

## Key Documents

- [Electricity Generation Policy Statement](#)<sup>64</sup>
- [2020 Routemap for Renewable Energy in Scotland](#)<sup>65</sup>
- [Towards Decarbonising Heat: Maximising the opportunities for Scotland, Draft Heat Generation Policy Statement](#)<sup>66</sup>
- [Low Carbon Scotland: Meeting Our Emissions Reductions Targets 2013 - 2027](#)<sup>67</sup>

## Delivery

### Development Planning

**155.** Development plans should seek to ensure an area's full potential for electricity and heat from renewable sources is achieved, in line with national climate change targets, giving due regard to relevant environmental, community and **cumulative impact** considerations.

**156.** Strategic development plans should support national priorities for the construction or improvement of strategic energy infrastructure, including generation, storage, transmission and distribution networks. They should address cross-boundary issues, promoting an approach to electricity and heat that supports the transition to a low carbon economy.

**157.** Local development plans should support new build developments, infrastructure or retrofit projects which deliver energy efficiency and the recovery of energy that would otherwise be wasted both in the specific development and surrounding area. They should set out the factors to be taken into account in considering proposals for energy developments. These will depend on the scale of the proposal and its relationship to the surrounding area and are likely to include the considerations set out at paragraph 169.

### Heat

**158.** Local development plans should use heat mapping to identify the potential for co-locating developments with a high heat demand with sources of heat supply. Heat supply sources include harvestable woodlands, sawmills producing biomass, biogas production sites and developments producing unused excess heat, as well as geothermal systems, heat recoverable from mine waters, aquifers, other bodies of water and heat storage systems. Heat demand sites for particular consideration include high density developments, communities off the gas grid, fuel poor areas and **anchor developments** such as hospitals, schools, leisure centres and heat intensive industry.

**159.** Local development plans should support the development of heat networks in as many locations as possible, even where they are initially reliant on carbon-based fuels if there is potential to convert them to run on renewable or low carbon sources of heat in the future. Local development plans should identify where heat networks, heat storage and **energy centres** exist or would be appropriate and include policies to support their implementation. Policies should support

64 [www.scotland.gov.uk/Topics/Business-Industry/Energy/EGPSMain](http://www.scotland.gov.uk/Topics/Business-Industry/Energy/EGPSMain)

65 [www.scotland.gov.uk/Publications/2011/08/04110353/0](http://www.scotland.gov.uk/Publications/2011/08/04110353/0)

66 [www.scotland.gov.uk/Publications/2014/03/2778](http://www.scotland.gov.uk/Publications/2014/03/2778)

67 [www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/lowcarbon/meetingthetargets](http://www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/lowcarbon/meetingthetargets)

safeguarding of piperuns within developments for later connection and pipework to the curtilage of development. Policies should also give consideration to the provision of energy centres within new development. Where a district network exists, or is planned, or in areas identified as appropriate for district heating, policies may include a requirement for new development to include infrastructure for connection, providing the option to use heat from the network.

**160.** Where heat networks are not viable, microgeneration and heat recovery technologies associated with individual properties should be encouraged.

### Onshore Wind

**161.** Planning authorities should set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities, following the approach set out below in Table 1. Development plans should indicate the minimum scale<sup>68</sup> of onshore wind development that their spatial framework is intended to apply to. Development plans should also set out the criteria that will be considered in deciding all applications for wind farms of different scales – including extensions and re-powering – taking account of the considerations set out at paragraph 169.

**162.** Both strategic and local development planning authorities, working together where required, should identify where there is strategic capacity for wind farms, and areas with the greatest potential for wind development, considering cross-boundary constraints and opportunities. Strategic development planning authorities are expected to take the lead in dealing with cross-boundary constraints and opportunities and will coordinate activity with constituent planning authorities.

**163.** The approach to spatial framework preparation set out in the SPP should be followed in order to deliver consistency nationally and additional constraints should not be applied at this stage. The spatial framework is complemented by a more detailed and exacting development management process where the merits of an individual proposal will be carefully considered against the full range of environmental, community, and [cumulative impacts](#) (see paragraph 169).

**164.** Individual properties and those settlements not identified within the development plan will be protected by the safeguards set out in the local development plan policy criteria for determining wind farms and the development management considerations accounted for when determining individual applications.

**165.** Grid capacity should not be used as a reason to constrain the areas identified for wind farm development or decisions on individual applications for wind farms. It is for wind farm developers to discuss connections to the grid with the relevant transmission network operator. Consideration should be given to underground grid connections where possible.

**166.** Proposals for onshore wind turbine developments should continue to be determined while spatial frameworks and local policies are being prepared and updated. Moratoria on onshore wind development are not appropriate.

<sup>68</sup> For example, Loch Lomond and The Trossachs and Cairngorms National Parks refer to developments of more than one turbine and over 30 metres in height as large-scale commercial wind turbines.

## Table 1: Spatial Frameworks

|   |   |  |
|---|---|--|
| <p><b>Group 1: Areas where wind farms will not be acceptable:</b></p> <p>National Parks and National Scenic Areas.</p>  |   |  |
| <p><b>Group 2: Areas of significant protection:</b></p> <p>Recognising the need for significant protection, in these areas wind farms may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.</p>   |   |  |
| <p><b>National and international designations:</b></p> <ul style="list-style-type: none"> <li>• World Heritage Sites;</li> <li>• Natura 2000 and Ramsar sites;</li> <li>• Sites of Special Scientific Interest;</li> <li>• National Nature Reserves;</li> <li>• Sites identified in the Inventory of Gardens and Designed Landscapes;</li> <li>• Sites identified in the Inventory of Historic Battlefields.</li> </ul> | <p><b>Other nationally important mapped environmental interests:</b></p> <ul style="list-style-type: none"> <li>• areas of wild land as shown on the 2014 SNH map of wild land areas;</li> <li>• carbon rich soils, deep peat and priority peatland habitat.</li> </ul> | <p><b>Community separation for consideration of visual impact:</b></p> <ul style="list-style-type: none"> <li>• an area not exceeding 2km around cities, towns and villages identified on the local development plan with an identified settlement envelope or edge. The extent of the area will be determined by the planning authority based on landform and other features which restrict views out from the settlement.</li> </ul> |
| <p><b>Group 3: Areas with potential for wind farm development:</b></p> <p>Beyond groups 1 and 2, wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.</p>  |   |  |



## Other Renewable Electricity Generating Technologies and Storage

**167.** Development plans should identify areas capable of accommodating renewable electricity projects in addition to wind generation, including hydro-electricity generation related to river or tidal flows or energy storage projects of a range of scales.

**168.** Development plans should identify areas which are weakly connected or unconnected to the national electricity network and facilitate development of decentralised and mobile energy storage installations. Energy storage schemes help to support development of renewable energy and maintain stability of the electricity network in areas where reinforcement is needed to manage congestion. Strategic development planning authorities are expected to take the lead in dealing with cross-boundary constraints and opportunities and will coordinate activity between constituent planning authorities.

## Development Management

**169.** Proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms and heat maps where these are relevant. Considerations will vary relative to the scale of the proposal and area characteristics but are likely to include:

- net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;
- the scale of contribution to renewable energy generation targets;
- effect on greenhouse gas emissions;
- **cumulative impacts** – planning authorities should be clear about likely cumulative impacts arising from all of the considerations below, recognising that in some areas the cumulative impact of existing and consented energy development may limit the capacity for further development;
- impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;
- landscape and visual impacts, including effects on wild land;
- effects on the natural heritage, including birds;
- impacts on carbon rich soils, using the carbon calculator;
- public access, including impact on long distance walking and cycling routes and scenic routes identified in the NPF;
- impacts on the historic environment, including scheduled monuments, listed buildings and their settings;
- impacts on tourism and recreation;
- impacts on aviation and defence interests and seismological recording;
- impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
- impacts on road traffic;
- impacts on adjacent trunk roads;
- effects on hydrology, the water environment and flood risk;
- the need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration;

- opportunities for energy storage; and
- the need for a robust planning obligation to ensure that operators achieve site restoration.

**170.** Areas identified for wind farms should be suitable for use in perpetuity. Consents may be time-limited but wind farms should nevertheless be sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities.

**171.** Proposals for energy generation from non-renewable sources may be acceptable where carbon capture and storage or other emissions reduction infrastructure is either already in place or committed within the development's lifetime and proposals must ensure protection of good environmental standards.

**172.** Where new energy generation or storage proposals are being considered, the potential to connect those projects to off-grid areas should be considered.

### Community Benefit

**173.** Where a proposal is acceptable in land use terms, and consent is being granted, local authorities may wish to engage in negotiations to secure community benefit in line with the [Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments](#)<sup>69</sup>.

### Existing Wind Farm Sites

**174.** Proposals to repower existing wind farms which are already in suitable sites where environmental and other impacts have been shown to be capable of mitigation can help to maintain or enhance installed capacity, underpinning renewable energy generation targets. The current use of the site as a wind farm will be a material consideration in any such proposals.

## Planning for Zero Waste

### NPF and Wider Context

**175.** NPF3 recognises that waste is a resource and an opportunity, rather than a burden. Scotland has a Zero Waste Policy, which means wasting as little as possible and recognising that every item and material we use, either natural or manufactured, is a resource which has value for our economy. Planning plays a vital role in supporting the provision of facilities and infrastructure for future business development, investment and employment.

### Policy Principles

**176.** The planning system should:

- promote developments that minimise the unnecessary use of primary materials and promote efficient use of secondary materials;
- support the emergence of a diverse range of new technologies and investment opportunities to secure economic value from secondary resources, including reuse, refurbishment, remanufacturing and reprocessing;
- support achievement of Scotland's zero waste targets: recycling 70% of household waste and sending no more than 5% of Scotland's annual waste arisings to landfill by 2025; and
- help deliver infrastructure at appropriate locations, prioritising development in line with the waste hierarchy: waste prevention, reuse, recycling, energy recovery and waste disposal.

69 [www.scotland.gov.uk/Publications/2013/11/8279](http://www.scotland.gov.uk/Publications/2013/11/8279)

## Key Documents

- [EU revised Waste Framework Directive](#)<sup>70</sup> (2008/98/EC)
- [Waste \(Scotland\) Regulations 2012](#)<sup>71</sup>: a statutory framework to maximise the quantity and quality of materials available for recycling and minimise the need for residual waste infrastructure;
- [Zero Waste Plan](#)<sup>72</sup> and accompanying regulations and supporting documents;
- Safeguarding Scotland's Resources: A blueprint for a more resource efficient and circular economy;
- [Circular 6/2013 Development Planning](#)<sup>73</sup>;
- SEPA waste data sources: including [Waste Data Digests](#)<sup>74</sup> and [Waste Infrastructure Maps](#)<sup>75</sup>;
- [SEPA Thermal Treatment of Waste Guidelines 2013](#)<sup>76</sup>;
- [Waste capacity tables](#)<sup>77</sup> (formerly Zero Waste Plan Annex B capacity tables)

## Delivery

**177.** Planning authorities and SEPA should work collaboratively to achieve zero waste objectives, having regard to the Zero Waste Plan, through development plans and development management. A revised version of PAN 63: Planning and Waste Management will be published in due course.

## Development Planning

**178.** Plans should give effect to the aims of the Zero Waste Plan and promote the waste hierarchy.

**179.** For new developments, including industrial, commercial, and residential, plans should promote resource efficiency and the minimisation of waste during construction and operation.

**180.** Plans should enable investment opportunities in a range of technologies and industries to maximise the value of secondary resources and waste to the economy, including composting facilities, transfer stations, materials recycling facilities, anaerobic digestion, mechanical, biological and thermal treatment plants. In line with the waste hierarchy, particular attention should be given to encouraging opportunities for reuse, refurbishment, remanufacturing and reprocessing of high value materials and products. Industry and business should engage with planning authorities to help identify sites which would enable co-location with end users of outputs where appropriate.

**181.** Planning authorities should have regard to the annual update of required capacity for source segregated and unsorted waste, mindful of the need to achieve the all-Scotland operational capacity. However, this should not be regarded as a cap and planning authorities should generally facilitate growth in sustainable resource management.

70 <http://ec.europa.eu/environment/waste/framework/revision.htm>

71 [www.legislation.gov.uk/sdsi/2012/9780111016657/contents](http://www.legislation.gov.uk/sdsi/2012/9780111016657/contents)

72 [www.scotland.gov.uk/Topics/Environment/waste-and-pollution/Waste-1/wastestrategy](http://www.scotland.gov.uk/Topics/Environment/waste-and-pollution/Waste-1/wastestrategy)

73 [www.scotland.gov.uk/Publications/2013/12/9924/0](http://www.scotland.gov.uk/Publications/2013/12/9924/0)

74 [www.sepa.org.uk/waste/waste\\_data/waste\\_data\\_digest.aspx](http://www.sepa.org.uk/waste/waste_data/waste_data_digest.aspx)

75 [www.sepa.org.uk/waste/waste\\_infrastructure\\_maps.aspx](http://www.sepa.org.uk/waste/waste_infrastructure_maps.aspx)

76 [www.sepa.org.uk/waste/waste\\_regulation/energy\\_from\\_waste.aspx](http://www.sepa.org.uk/waste/waste_regulation/energy_from_waste.aspx)

77 [www.scotland.gov.uk/Topics/Environment/waste-and-pollution/Waste-1/wastestrategy/annexb](http://www.scotland.gov.uk/Topics/Environment/waste-and-pollution/Waste-1/wastestrategy/annexb)

**182.** The planning system should support the provision of a network of infrastructure to allow Scotland's waste and secondary resources to be managed in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to protect the environment and public health. While a significant shortfall of waste management infrastructure exists, emphasis should be placed on need over proximity. The achievement of a sustainable strategy may involve waste crossing planning boundaries. However, as the national network of installations becomes more fully developed, there will be scope for giving greater weight to proximity in identifying suitable locations for new waste facilities.

**183.** Any sites identified specifically for energy from waste facilities should enable links to be made to potential users of renewable heat and energy. Such schemes are particularly suitable in locations where there are premises nearby with a long-term demand for heat. Paragraphs 158 to 160 set out policy on heat networks and mapping.

**184.** Plans should safeguard existing waste management installations and ensure that the allocation of land on adjacent sites does not compromise waste handling operations, which may operate 24 hours a day and partly outside buildings.

**185.** Strategic development plans and local development plans outwith city regions should set out spatial strategies which make provision for new infrastructure, indicating clearly that it can generally be accommodated on land designated for employment, industrial or storage and distribution uses.

**186.** Local development plans should identify appropriate locations for new infrastructure, allocating specific sites where possible, and should provide a policy framework which facilitates delivery. Suitable sites will include those which have been identified for employment, industry or storage and distribution. Updated Scottish Government planning advice on identifying sites and assessing their suitability will be provided in due course.

**187.** Local development plans should identify where masterplans or development briefs will be required to guide the development of waste installations for major sites.

## **Development Management**

**188.** In determining applications for new installations, authorities should take full account of the policy set out at paragraph 176. Planning authorities should determine whether proposed developments would constitute appropriate uses of the land, leaving the regulation of permitted installations to SEPA.

**189.** SEPA's Thermal Treatment of Waste Guidelines 2013 and addendum sets out policy on thermal treatment plants.

**190.** All new development including residential, commercial and industrial properties should include provision for waste separation and collection to meet the requirements of the Waste (Scotland) Regulations.

**191.** Planning authorities should consider the need for buffer zones between dwellings or other **sensitive receptors** and some waste management facilities. As a guide, appropriate buffer distances may be:

- 100m between sensitive receptors and recycling facilities, small-scale thermal treatment or leachate treatment plant;
- 250m between sensitive receptors and operations such as outdoor composting, anaerobic digestion, mixed waste processing, thermal treatment or landfill gas plant; and
- greater between sensitive receptors and landfill sites.

**192.** Planning authorities should:

- consider requiring the preparation of site waste management plans for construction sites;
- secure decommissioning or restoration (including landfill) to agreed standards as a condition of planning permission for waste management facilities; and
- ensure that landfill consents are subject to an appropriate financial bond unless the operator can demonstrate that their programme of restoration, including the necessary financing, phasing and aftercare of sites, is sufficient.

# A Natural, Resilient Place

## Valuing the Natural Environment

### NPF Context

**193.** The natural environment forms the foundation of the spatial strategy set out in NPF3. The environment is a valued national asset offering a wide range of opportunities for enjoyment, recreation and sustainable economic activity. Planning plays an important role in protecting, enhancing and promoting access to our key environmental resources, whilst supporting their sustainable use.

### Policy Principles

**194.** The planning system should:

- facilitate positive change while maintaining and enhancing distinctive landscape character;
- conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities;
- promote protection and improvement of the water environment, including rivers, lochs, estuaries, wetlands, coastal waters and groundwater, in a sustainable and co-ordinated way;
- seek to protect soils from damage such as erosion or compaction;
- protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value;
- seek benefits for **biodiversity** from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats; and
- support opportunities for enjoying and learning about the natural environment.

### Key Documents

- [Getting the Best from Our Land – A Land Use Strategy for Scotland](#)<sup>78</sup>
- [The 2020 Challenge for Scotland’s Biodiversity](#)<sup>79</sup>
- [European Landscape Convention](#)<sup>80</sup>
- [Nature Conservation \(Scotland\) Act 2004](#)<sup>81</sup>
- [The Conservation \(Natural Habitats etc\) Regulations](#)<sup>82</sup>
- [The Wildlife and Countryside Act 1981](#)<sup>83</sup>

<sup>78</sup> [www.scotland.gov.uk/Topics/Environment/Countryside/Landusestrategy](http://www.scotland.gov.uk/Topics/Environment/Countryside/Landusestrategy)

<sup>79</sup> [www.scotland.gov.uk/Publications/2013/06/5538](http://www.scotland.gov.uk/Publications/2013/06/5538)

<sup>80</sup> [www.coe.int/t/dg4/cultureheritage/heritage/landscape/default\\_en.asp](http://www.coe.int/t/dg4/cultureheritage/heritage/landscape/default_en.asp)

<sup>81</sup> [www.legislation.gov.uk/asp/2004/6/contents](http://www.legislation.gov.uk/asp/2004/6/contents)

<sup>82</sup> [www.legislation.gov.uk/uksi/1994/2716/contents/made](http://www.legislation.gov.uk/uksi/1994/2716/contents/made)

<sup>83</sup> [www.legislation.gov.uk/ukpga/1981/69](http://www.legislation.gov.uk/ukpga/1981/69)

- [EU Birds Directive – 2009/147/EC](#)<sup>84</sup>
- [EU Habitats Directive – 92/43/EEC](#)<sup>85</sup>
- [Ramsar Convention on Wetlands of International Importance](#)<sup>86</sup>
- [National Parks \(Scotland\) Act 2000](#)<sup>87</sup>
- [River Basin Management Plans](#)<sup>88</sup>

## Delivery

**195.** Planning authorities, and all public bodies, have a duty under the Nature Conservation (Scotland) Act 2004 to further the conservation of **biodiversity**. This duty must be reflected in development plans and development management decisions. They also have a duty under the Water Environment and Water Services (Scotland) Act 2003 to protect and improve Scotland’s water environment. The Scottish Government expects public bodies to apply the Principles for Sustainable Land Use, as set out in the Land Use Strategy, when taking significant decisions affecting the use of land.

## Development Plans

**196.** International, national and locally designated areas and sites should be identified and afforded the appropriate level of protection in development plans. Reasons for local designation should be clearly explained and their function and continuing relevance considered when preparing plans. Buffer zones should not be established around areas designated for their natural heritage importance. Plans should set out the factors which will be taken into account in development management. The level of protection given to local designations should not be as high as that given to international or national designations.

**197.** Planning authorities are encouraged to limit non-statutory local designations to areas designated for their local landscape or nature conservation value:

- the purpose of areas of local landscape value should be to:
  - safeguard and enhance the character and quality of a landscape which is important or particularly valued locally or regionally; or
  - promote understanding and awareness of the distinctive character and special qualities of local landscapes; or
  - safeguard and promote important local settings for outdoor recreation and tourism.
- local nature conservation sites should seek to accommodate the following factors:
  - species diversity, species or habitat rarity, naturalness and extent of habitat;
  - contribution to national and local **biodiversity** objectives;
  - potential contribution to the protection or enhancement of connectivity between habitats or the development of **green networks**; and
  - potential to facilitate enjoyment and understanding of natural heritage.

84 [ec.europa.eu/environment/nature/legislation/birdsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm)

85 [ec.europa.eu/environment/nature/legislation/habitatsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm)

86 [www.ramsar.org/cda/en/ramsar-home/main/ramsar/1\\_4000\\_0](http://www.ramsar.org/cda/en/ramsar-home/main/ramsar/1_4000_0)

87 [www.legislation.gov.uk/asp/2000/10/contents](http://www.legislation.gov.uk/asp/2000/10/contents)

88 [www.sepa.org.uk/water/river\\_basin\\_planning.aspx](http://www.sepa.org.uk/water/river_basin_planning.aspx)

**198.** Local nature conservation sites designated for their geodiversity should be selected for their value for scientific study and education, their historical significance and cultural and aesthetic value, and for their potential to promote public awareness and enjoyment.

**199.** Plans should address the potential effects of development on the natural environment, including proposals for [major-accident hazard sites](#) and the cumulative effects of incremental changes. They should consider the natural and cultural components together, and promote opportunities for the enhancement of degraded landscapes, particularly where this helps to restore or strengthen the natural processes which underpin the well-being and resilience of communities.

**200.** Wild land character is displayed in some of Scotland's remoter upland, mountain and coastal areas, which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development. Plans should identify and safeguard the character of areas of wild land as identified on the 2014 SNH map of wild land areas.

**201.** Plans should identify woodlands of high nature conservation value and include policies for protecting them and enhancing their condition and resilience to climate change. Forestry Commission Scotland's [Native Woodland Survey of Scotland](#)<sup>89</sup> provides information and guidance. Planning authorities should consider preparing forestry and woodland strategies as supplementary guidance to inform the development of forestry and woodland in their area, including the expansion of woodland of a range of types to provide multiple benefits. Scottish Government advice on planning for forestry and woodlands is set out in [The Right Tree in the Right Place](#)<sup>90</sup>.

## Development Management

**202.** The siting and design of development should take account of local landscape character. Development management decisions should take account of potential effects on landscapes and the natural and water environment, including cumulative effects. Developers should seek to minimise adverse impacts through careful planning and design, considering the services that the natural environment is providing and maximising the potential for enhancement.

**203.** Planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment. Direct or indirect effects on statutorily protected sites will be an important consideration, but designation does not impose an automatic prohibition on development.

**204.** Planning authorities should apply the precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence indicating that significant irreversible damage could occur. The precautionary principle should not be used to impede development without justification. If there is any likelihood that significant irreversible damage could occur, modifications to the proposal to eliminate the risk of such damage should be considered. If there is uncertainty, the potential for research, surveys or assessments to remove or reduce uncertainty should be considered.

**205.** Where peat and other carbon rich soils are present, applicants should assess the likely effects of development on carbon dioxide (CO<sub>2</sub>) emissions. Where peatland is drained or otherwise disturbed, there is liable to be a release of CO<sub>2</sub> to the atmosphere. Developments should aim to minimise this release.

89 [www.forestry.gov.uk/nwss](http://www.forestry.gov.uk/nwss)

90 [www.forestry.gov.uk/pdf/fcfc129.pdf/\\$file/fcfc129.pdf](http://www.forestry.gov.uk/pdf/fcfc129.pdf/$file/fcfc129.pdf)



**206.** Where non-native species are present on site, or where planting is planned as part of a development, developers should take into account the provisions of the Wildlife and Countryside Act 1981 relating to non-native species.

## International Designations

### Natura 2000 Sites

**207.** Sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 network of protected areas. Any development plan or proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an “appropriate assessment” of the implications for the conservation objectives. Such plans or proposals may only be approved if the competent authority has ascertained by means of an “appropriate assessment” that there will be no adverse effect on the integrity of the site.

**208.** A derogation is available for authorities to approve plans or projects which could adversely affect the integrity of a Natura site if:

- there are no alternative solutions;
- there are imperative reasons of overriding public interest, including those of a social or economic nature; and
- compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

**209.** If an authority wishes to use this derogation, Scottish Ministers must be notified. For sites hosting a priority habitat or species (as defined in Article 1 of the Habitats Directive), prior consultation with the European Commission via Scottish Ministers is required unless either the proposal is necessary for public health or safety reasons or it will have beneficial consequences of primary importance to the environment.

**210.** Authorities should afford the same level of protection to proposed SACs and SPAs (i.e. sites which have been approved by Scottish Ministers for formal consultation but which have not yet been designated) as they do to sites which have been designated.

### Ramsar Sites

**211.** All [Ramsar sites](#) are also Natura 2000 sites and/or Sites of Special Scientific Interest and are protected under the relevant statutory regimes.

## National Designations

**212.** Development that affects a National Park, [National Scenic Area](#), [Site of Special Scientific Interest](#) or a [National Nature Reserve](#) should only be permitted where:

- the objectives of designation and the overall integrity of the area will not be compromised; or
- any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

**213.** Planning decisions for development within National Parks must be consistent with paragraphs 84-85.

## Protected Species

**214.** The presence (or potential presence) of a legally protected species is an important consideration in decisions on planning applications. If there is evidence to suggest that a protected species is present on site or may be affected by a proposed development, steps must be taken to establish their presence. The level of protection afforded by legislation must be factored into the planning and design of the development and any impacts must be fully considered prior to the determination of the application. Certain activities – for example those involving European Protected Species as specified in the Conservation (Natural Habitats, &c.) Regulations 1994 and wild birds, protected animals and plants under the Wildlife and Countryside Act 1981 – may only be undertaken under licence. Following the introduction of the Wildlife and Natural Environment (Scotland) Act 2011, Scottish Natural Heritage is now responsible for the majority of wildlife licensing in Scotland.

## Areas of Wild Land

**215.** In areas of wild land (see paragraph 200), development may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

## Woodland

**216.** Ancient semi-natural woodland is an irreplaceable resource and, along with other woodlands, hedgerows and individual trees, especially veteran trees of high nature conservation and landscape value, should be protected from adverse impacts resulting from development. [Tree Preservation Orders](#)<sup>91</sup> can be used to protect individual trees and groups of trees considered important for amenity or their cultural or historic interest.

**217.** Where appropriate, planning authorities should seek opportunities to create new woodland and plant native trees in association with development. If a development would result in the severing or impairment of connectivity between important woodland habitats, workable mitigation measures should be identified and implemented, preferably linked to a wider green network (see also the section on green infrastructure).

**218.** The Scottish Government's [Control of Woodland Removal Policy](#)<sup>92</sup> includes a presumption in favour of protecting woodland. Removal should only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The criteria for determining the acceptability of woodland removal and further information on the implementation of the policy is explained in the Control of Woodland Removal Policy, and this should be taken into account when preparing development plans and determining planning applications.

91 [www.scotland.gov.uk/Publications/2011/01/28152314/0](http://www.scotland.gov.uk/Publications/2011/01/28152314/0)

92 [www.forestry.gov.uk/pdf/fcfc125.pdf/%24FILE/fcfc125.pdf](http://www.forestry.gov.uk/pdf/fcfc125.pdf/%24FILE/fcfc125.pdf)

## Maximising the Benefits of Green Infrastructure

### NPF Context

**219.** NPF3 aims to significantly enhance green infrastructure networks, particularly in and around our cities and towns. [Green infrastructure](#) and improved access to [open space](#) can help to build stronger, healthier communities. It is an essential part of our long-term environmental performance and climate resilience. Improving the quality of our places and spaces through integrated green infrastructure networks can also encourage investment and development.

### Policy Principles

**220.** Planning should protect, enhance and promote green infrastructure, including open space and green networks, as an integral component of successful placemaking.

**221.** The planning system should:

- consider green infrastructure as an integral element of places from the outset of the planning process;
- assess current and future needs and opportunities for green infrastructure to provide multiple benefits;
- facilitate the provision and long-term, integrated management of green infrastructure and prevent fragmentation; and
- provide for easy and safe access to and within green infrastructure, including core paths and other important routes, within the context of statutory access rights under the Land Reform (Scotland) Act 2003.

### Key Documents

- [Green Infrastructure: Design and Placemaking](#)<sup>93</sup>
- [Getting the Best from Our Land – A Land Use Strategy for Scotland](#)<sup>94</sup>
- [Planning Advice Note 65: Planning and Open Space](#)<sup>95</sup>
- [Reaching Higher – Scotland’s National Strategy for Sport](#)<sup>96</sup>
- [The Play Strategy for Scotland and Action Plan](#)<sup>97</sup>
- [Let’s Get Scotland Walking: The National Walking Strategy](#)<sup>98</sup>

### Delivery

#### Development Planning

**222.** Development plans should be based on a holistic, integrated and cross-sectoral approach to green infrastructure. They should be informed by relevant, up-to-date audits, strategies and action plans covering green infrastructure’s multiple functions, for example open space, playing fields, pitches, outdoor access, core paths, active travel strategies, the historic environment, [biodiversity](#), forestry and woodland, river basins, flood management, coastal zones and the marine environment.

93 [www.scotland.gov.uk/Publications/2011/11/04140525/0](http://www.scotland.gov.uk/Publications/2011/11/04140525/0)

94 [www.scotland.gov.uk/Publications/2011/03/17091927/0](http://www.scotland.gov.uk/Publications/2011/03/17091927/0)

95 [www.scotland.gov.uk/Publications/2008/05/30100623/0](http://www.scotland.gov.uk/Publications/2008/05/30100623/0)

96 [www.scotland.gov.uk/Topics/ArtsCultureSport/Sport/NationalStrategies/Sport-21](http://www.scotland.gov.uk/Topics/ArtsCultureSport/Sport/NationalStrategies/Sport-21)

97 [www.scotland.gov.uk/Publications/2013/10/9424](http://www.scotland.gov.uk/Publications/2013/10/9424)

98 [www.scotland.gov.uk/Publications/2014/06/5743](http://www.scotland.gov.uk/Publications/2014/06/5743)

Plans should promote consistency with these and reflect their priorities and spatial implications.

**223.** Strategic development plans should safeguard existing strategic or regionally important assets and identify strategic priorities for green infrastructure addressing cross-boundary needs and opportunities.

**224.** Local development plans should identify and protect open space identified in the open space audit and strategy as valued and functional or capable of being brought into use to meet local needs.

**225.** Local development plans should seek to enhance existing and promote the creation of new green infrastructure, which may include retrofitting. They should do this through a design-led approach, applying standards which facilitate appropriate provision, addressing deficits or surpluses within the local context. The standards delivered through a design-led approach should result in a proposal that is appropriate to place, including connections to other green infrastructure assets. Supplementary guidance or master plans may be used to achieve this.

**226.** Local development plans should identify sites for new indoor or outdoor sports, recreation or play facilities where a need has been identified in a local facility strategy, playing field strategy or similar document. They should provide for good quality, accessible facilities in sufficient quantity to satisfy current and likely future community demand. [Outdoor sports facilities](#) should be safeguarded from development except where:

- the proposed development is ancillary to the principal use of the site as an outdoor sports facility;
- the proposed development involves only a minor part of the outdoor sports facility and would not affect its use and potential for sport and training;
- the outdoor sports facility which would be lost would be replaced either by a new facility of comparable or greater benefit for sport in a location that is convenient for users, or by the upgrading of an existing outdoor sports facility to provide a facility of better quality on the same site or at another location that is convenient for users and maintains or improves the overall playing capacity in the area; or
- the relevant strategy (see paragraph 224) and consultation with **sportscotland** show that there is a clear excess of provision to meet current and anticipated demand in the area, and that the site would be developed without detriment to the overall quality of provision.

**227.** Local development plans should safeguard existing and potential allotment sites to ensure that local authorities meet their statutory duty to provide allotments where there is proven demand. Plans should also encourage opportunities for a range of community growing spaces.

**228.** Local development plans should safeguard access rights and core paths, and encourage new and enhanced opportunities for access linked to wider networks.

**229.** Local development plans should encourage the temporary use of unused or underused land as green infrastructure while making clear that this will not prevent any future development potential which has been identified from being realised. This type of greening may provide the advance structure planting to create the landscape framework for any future development.

## Development Management

**230.** Development of land allocated as green infrastructure for an unrelated purpose should have a strong justification. This should be based on evidence from relevant audits and strategies that the proposal will not result in a deficit of that type of provision within the local area and that alternative sites have been considered. Poor maintenance and neglect should not be used as a justification for development for other purposes.

**231.** Development proposals that would result in or exacerbate a deficit of green infrastructure should include provision to remedy that deficit with accessible infrastructure of an appropriate type, quantity and quality.

**232.** In the design of green infrastructure, consideration should be given to the qualities of successful places. Green infrastructure should be treated as an integral element in how the proposal responds to local circumstances, including being well-integrated into the overall design layout and multi-functional. Arrangements for the long-term management and maintenance of green infrastructure, and associated water features, including common facilities, should be incorporated into any planning permission.

**233.** Proposals that affect regional and country parks must have regard to their statutory purpose of providing recreational access to the countryside close to centres of population, and should take account of their wider objectives as set out in their management plans and strategies.

## Promoting Responsible Extraction of Resources

### NPF Context

**234.** Minerals make an important contribution to the economy, providing materials for construction, energy supply and other uses, and supporting employment. NPF3 notes that minerals will be required as construction materials to support our ambition for diversification of the energy mix. Planning should safeguard mineral resources and facilitate their responsible use. Our spatial strategy underlines the need to address restoration of past minerals extraction sites in and around the Central Belt.

### Policy Principles

**235.** The planning system should:

- recognise the national benefit of indigenous coal, oil and gas production in maintaining a diverse energy mix and improving energy security;
- safeguard workable resources and ensure that an adequate and steady supply is available to meet the needs of the construction, energy and other sectors;
- minimise the impacts of extraction on local communities, the environment and the built and natural heritage; and
- secure the sustainable restoration of sites to beneficial afteruse after working has ceased.

## Key Documents

- [Electricity Generation Policy Statement](#)<sup>99</sup>
- [Management of Extractive Waste \(Scotland\) Regulations 2010](#)<sup>100</sup>
- [PAN 50: Controlling the Environmental Effects of Surface Mineral Workings](#)<sup>101</sup>
- [Planning Advice Note 64: Reclamation of Surface Mineral Workings](#)<sup>102</sup>
- [Circular 2/2003: Safeguarding of Aerodromes, Technical Sites and Military Explosive Storage Areas](#)<sup>103</sup>
- [Circular 34/1996: Environment Act 1995 Section 96](#)<sup>104</sup>

## Delivery

### Development Planning

**236.** Strategic development plans should ensure that adequate supplies of construction aggregates can be made available from within the plan area to meet the likely development needs of the city region over the plan period.

**237.** Local development plans should safeguard all workable mineral resources which are of economic or conservation value and ensure that these are not sterilised by other development. Plans should set out the factors that specific proposals will need to address, including:

- disturbance, disruption and noise, blasting and vibration, and potential pollution of land, air and water;
- impacts on local communities, individual houses, [sensitive receptors](#) and economic sectors important to the local economy;
- benefits to the local and national economy;
- [cumulative impact](#) with other mineral and landfill sites in the area;
- effects on natural heritage, habitats and the historic environment;
- landscape and visual impacts, including cumulative effects;
- transport impacts; and
- restoration and aftercare (including any benefits in terms of the remediation of existing areas of dereliction or instability).

**238.** Plans should support the maintenance of a landbank of permitted reserves for construction aggregates of at least 10 years at all times in all market areas through the identification of areas of search. Such areas can be promoted by developers or landowners as part of the plan preparation process or by planning authorities where they wish to guide development to particular areas. As an alternative, a criteria-based approach may be taken, particularly where a sufficient landbank already exists or substantial unconstrained deposits are available.

99 [www.scotland.gov.uk/Publications/2013/06/5757](http://www.scotland.gov.uk/Publications/2013/06/5757)

100 [www.legislation.gov.uk/ssi/2010/60/contents/made](http://www.legislation.gov.uk/ssi/2010/60/contents/made)

101 [www.scotland.gov.uk/Publications/1996/10/17729/23424](http://www.scotland.gov.uk/Publications/1996/10/17729/23424)

102 [www.scotland.gov.uk/Publications/2003/01/16122/16256](http://www.scotland.gov.uk/Publications/2003/01/16122/16256)

103 [www.scotland.gov.uk/Publications/2003/01/16204/17030](http://www.scotland.gov.uk/Publications/2003/01/16204/17030)

104 [www.scotland.gov.uk/Publications/1996/11/circular-34-1996-root/circular-34-1996-guidance](http://www.scotland.gov.uk/Publications/1996/11/circular-34-1996-root/circular-34-1996-guidance)

**239.** Local development plans should identify areas of search where surface coal extraction is most likely to be acceptable during the plan period and set out the preferred programme for the development of other safeguarded areas beyond the plan period, with particular emphasis on protecting local communities from significant cumulative impacts. Where possible, plans should secure extraction prior to permanent development above workable coal reserves.

**240.** For areas covered by a Petroleum Exploration and Development Licence (PEDL), local development plans should also:

- identify licence areas;
- encourage operators to be as clear as possible about the minimum and maximum extent of operations (e.g. number of wells and duration) at the exploration phase whilst recognising that the factors to be addressed by applications should be relevant and proportionate to the appropriate exploration, appraisal and production phases of operations;
- confirm that applicants should engage with local communities, residents and other stakeholders at each stage of operations, beginning in advance of any application for planning permission and in advance of any operations;
- ensure that when developing proposals, applicants should consider, where possible, transport of the end product by pipeline, rail or water rather than road; and
- provide a consistent approach to extraction where licences extend across local authority boundaries.

**241.** Policies should protect areas of peatland and only permit commercial extraction in areas suffering historic, significant damage through human activity and where the conservation value is low and restoration is impossible.

## Development Management

**242.** Operators should provide sufficient information to enable a full assessment to be made of the likely effects of development together with appropriate control, mitigation and monitoring measures. This should include the provision of an adequate buffer zone between sites and settlements, taking account of the specific circumstances of individual proposals, including size, duration, location, method of working, topography, the characteristics of the various environmental effects likely to arise and the mitigation that can be provided.

**243.** Borrow pits should only be permitted if there are significant environmental or economic benefits compared to obtaining material from local quarries; they are time-limited; tied to a particular project and appropriate reclamation measures are in place.

**244.** Consent should only be granted for surface coal extraction proposals which are either environmentally acceptable (or can be made so by planning conditions) or provide local or community benefits which clearly outweigh the likely impacts of extraction. Site boundaries within 500 metres of the edge of settlements will only be environmentally acceptable where local circumstances, such as the removal of dereliction, small-scale prior extraction or the stabilisation of mining legacy, justify a lesser distance. Non-engineering works and mitigation measures within 500 metres may be acceptable.

**245.** To assist planning authorities with their consideration of impacts on local communities, neighbouring uses and the environment, applicants should undertake a risk assessment for all proposals for shale gas and coal bed methane extraction. The assessment can, where appropriate, be undertaken as part of any environmental impact assessment and should also be developed in consultation with statutory consultees and local communities so that it informs the design of the proposal. The assessment should clearly identify those onsite activities (i.e. emission of pollutants, the creation and disposal of waste) that pose a potential risk using a source–pathway–receptor model and explain how measures, including those under environmental and other legislation, will be used to monitor, manage and mitigate any identified risks to health, amenity and the environment. The evidence from, and outcome of, the assessment should lead to buffer zones being proposed in the application which will protect all **sensitive receptors** from unacceptable risks. When considering applications, planning authorities and statutory consultees must assess the distances proposed by the applicant. Where proposed distances are considered inadequate the Scottish Government expects planning permission to be refused.

**246.** Conditions should be drafted in a way which ensures that hydraulic fracturing does not take place where permission for such operations is not sought and that any subsequent application to do so is subject to appropriate consultation. If such operations are subsequently proposed, they should, as a matter of planning policy, be regarded as a substantial change in the description of the development for which planning permission is sought or a material variation to the existing planning permission. Where PEDL and Underground Coal licences are granted for the same or overlapping areas, consideration should be given to the most efficient sequencing of extraction.

**247.** The Scottish Government is currently exploring a range of options relating to the effective regulation of surface coal mining. This is likely to result in further guidance on effective restoration measures in due course. In the meantime, planning authorities should, through planning conditions and legal agreements, continue to ensure that a high standard of restoration and aftercare is managed effectively and that such work is undertaken at the earliest opportunity. A range of financial guarantee options is currently available and planning authorities should consider the most effective solution on a site-by-site basis. All solutions should provide assurance and clarity over the amount and period of the guarantee and in particular, where it is a bond, the risks covered (including operator failure) and the triggers for calling in a bond, including payment terms. In the aggregates sector, an operator may be able to demonstrate adequate provision under an industry-funded guarantee scheme.

**248.** Planning authorities should ensure that rigorous procedures are in place to monitor consents, including restoration arrangements, at appropriate intervals, and ensure that appropriate action is taken when necessary. The review of mineral permissions every 15 years should be used to apply up-to-date operating and environmental standards although requests from operators to postpone reviews should be considered favourably if existing conditions are already achieving acceptable standards. Conditions should not impose undue restrictions on consents at quarries for building or roofing stone to reflect the likely intermittent or low rate of working at such sites.



## Supporting Aquaculture

### NPF Context

**249.** Aquaculture makes a significant contribution to the Scottish economy, particularly for coastal and island communities. Planning can help facilitate sustainable aquaculture whilst protecting and maintaining the ecosystem upon which it depends. Planning can play a role in supporting the sectoral growth targets to grow marine finfish (including farmed Atlantic salmon) production sustainably to 210,000 tonnes; and shellfish, particularly mussels, sustainably to 13,000 tonnes with due regard to the marine environment by 2020.

### Policy Principles

**250.** The planning system should:

- play a supporting role in the sustainable growth of the finfish and shellfish sectors to ensure that the aquaculture industry is diverse, competitive and economically viable;
- guide development to coastal locations that best suit industry needs with due regard to the marine environment;
- maintain a presumption against further marine finfish farm developments on the north and east coasts to safeguard migratory fish species.

### Key Documents

- National Marine Plan

### Delivery

### Development Planning

**251.** Local development plans should make positive provision for aquaculture developments. Plans, or supplementary guidance, should take account of Marine Scotland's locational policies when identifying areas potentially suitable for new development and sensitive areas which are unlikely to be appropriate for such development. They should also set out the issues that will be considered when assessing specific proposals, which could include:

- impacts on, and benefits for, local communities;
- economic benefits of the sustainable development of the aquaculture industry;
- landscape, seascape and visual impact;
- biological carrying capacity;
- effects on coastal and marine species (including wild salmonids) and habitats;
- impacts on the historic environment and the sea or loch bed;
- interaction with other users of the marine environment (including commercial fisheries, Ministry of Defence, navigational routes, ports and harbours, anchorages, tourism, recreational and leisure activities); and
- cumulative effects on all of the above factors.

## Development Management

**252.** Applications should be supported, where necessary, by sufficient information to demonstrate:

- operational arrangements (including noise, light, access, waste and odour) are satisfactory and sufficient mitigation plans are in place; and
- the siting and design of cages, lines and associated facilities are appropriate for the location. This should be done through the provision of information on the extent of the site; the type, number and physical scale of structures; the distribution of the structures across the planning area; on-shore facilities; and ancillary equipment.

**253.** Any land-based facilities required for the proposal should, where possible, be considered at the same time. The planning system should not duplicate other control regimes such as controlled activities regulation licences from SEPA or fish health, sea lice and containment regulation by Marine Scotland.

## Managing Flood Risk and Drainage

### NPF Context

**254.** NPF3 supports a catchment-scale approach to sustainable flood risk management. The spatial strategy aims to build the resilience of our cities and towns, encourage sustainable land management in our rural areas, and to address the long-term vulnerability of parts of our coasts and islands. Flooding can impact on people and businesses. Climate change will increase the risk of flooding in some parts of the country. Planning can play an important part in reducing the vulnerability of existing and future development to flooding.

### Policy Principles

**255.** The planning system should promote:

- a precautionary approach to **flood risk** from all sources, including coastal, water course (fluvial), surface water (**pluvial**), groundwater, reservoirs and drainage systems (sewers and culverts), taking account of the predicted effects of climate change;
- **flood** avoidance: by safeguarding flood storage and conveying capacity, and locating development away from **functional flood plains** and medium to high risk areas;
- flood reduction: assessing flood risk and, where appropriate, undertaking natural and structural flood management measures, including flood protection, restoring natural features and characteristics, enhancing flood storage capacity, avoiding the construction of new culverts and opening existing culverts where possible; and
- avoidance of increased surface water flooding through requirements for Sustainable Drainage Systems (SuDS) and minimising the area of impermeable surface.

**256.** To achieve this the planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere. Piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing storage capacity.

**257.** Alterations and small-scale extensions to existing buildings are outwith the scope of this policy, provided that they would not have a significant effect on the storage capacity of the functional floodplain or local flooding problems.

## Key Documents

- [Flood Risk Management \(Scotland\) Act 2009](#)<sup>105</sup>
- Updated Planning Advice Note on Flooding
- [Delivering Sustainable Flood Risk Management](#)<sup>106</sup> (Scottish Government, 2011).
- [Surface Water Management Planning Guidance](#)<sup>107</sup> (Scottish Government, 2013).

## Delivery

**258.** Planning authorities should have regard to the probability of flooding from all sources and take flood risk into account when preparing development plans and determining planning applications. The calculated probability of flooding should be regarded as a best estimate and not a precise forecast. Authorities should avoid giving any indication that a grant of planning permission implies the absence of flood risk.

**259.** Developers should take into account flood risk and the ability of future occupiers to insure development before committing themselves to a site or project, as applicants and occupiers have ultimate responsibility for safeguarding their property.

## Development Planning

**260.** Plans should use [strategic flood risk assessment](#) (SFRA) to inform choices about the location of development and policies for flood risk management. They should have regard to the flood maps prepared by Scottish Environment Protection Agency (SEPA), and take account of finalised and approved Flood Risk Management Strategies and Plans and River Basin Management Plans.

**261.** Strategic and local development plans should address any significant cross boundary flooding issues. This may include identifying major areas of the [flood plain](#) and storage capacity which should be protected from inappropriate development, major flood protection scheme requirements or proposals, and relevant drainage capacity issues.

**262.** Local development plans should protect land with the potential to contribute to managing flood risk, for instance through natural flood management, managed coastal realignment, [washland](#) or green infrastructure creation, or as part of a scheme to manage flood risk.

**263.** Local development plans should use the following flood risk framework to guide development. This sets out three categories of coastal and watercourse flood risk, together with guidance on surface water flooding, and the appropriate planning approach for each (the annual probabilities referred to in the framework relate to the land at the time a plan is being prepared or a planning application is made):

- **Little or No Risk** – annual probability of coastal or [watercourse](#) flooding is less than 0.1% (1:1000 years)
  - No constraints due to coastal or watercourse flooding.

105 [www.legislation.gov.uk/asp/2009/6/contents](http://www.legislation.gov.uk/asp/2009/6/contents)

106 [www.scotland.gov.uk/Publications/2011/06/15150211/0](http://www.scotland.gov.uk/Publications/2011/06/15150211/0)

107 <http://www.scotland.gov.uk/Publications/2013/02/7909/0>

- **Low to Medium Risk** – annual probability of coastal or watercourse flooding is between 0.1% and 0.5% (1:1000 to 1:200 years)
  - Suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for **essential infrastructure** and the **most vulnerable uses**. Water resistant materials and construction may be required.
  - Generally not suitable for **civil infrastructure**. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flood events.
- **Medium to High Risk** – annual probability of coastal or watercourse flooding is greater than 0.5% (1:200 years)
  - May be suitable for:
    - residential, institutional, commercial and industrial development within built-up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood risk management plan;
    - essential infrastructure within built-up areas, designed and constructed to remain operational during floods and not impede water flow;
    - some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place; and
    - job-related accommodation, e.g. for caretakers or operational staff.
  - Generally not suitable for:
    - civil infrastructure and the most vulnerable uses;
    - additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water-based recreation, agriculture, transport or utilities infrastructure (which should be designed and constructed to be operational during floods and not impede water flow), and an alternative, lower risk location is not available; and
    - new caravan and camping sites.
  - Where built development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome.
  - Water-resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

## Surface Water Flooding

- Infrastructure and buildings should generally be designed to be free from surface water flooding in rainfall events where the annual probability of occurrence is greater than 0.5% (1:200 years).
- Surface water drainage measures should have a neutral or better effect on the risk of flooding both on and off the site, taking account of rain falling on the site and run-off from adjacent areas.

## Development Management

**264.** It is not possible to plan for development solely according to the calculated probability of flooding. In applying the risk framework to proposed development, the following should therefore be taken into account:

- the characteristics of the site;
- the design and use of the proposed development;
- the size of the area likely to flood;
- depth of flood water, likely flow rate and path, and rate of rise and duration;
- the vulnerability and risk of wave action for coastal sites;
- committed and existing flood protection methods: extent, standard and maintenance regime;
- the effects of climate change, including an [allowance for freeboard](#);
- surface water run-off from adjoining land;
- culverted watercourses, drains and field drainage;
- cumulative effects, especially the loss of storage capacity;
- cross-boundary effects and the need for consultation with adjacent authorities;
- effects of flood on access including by emergency services; and
- effects of flood on proposed open spaces including gardens.

**265.** Land raising should only be considered in exceptional circumstances, where it is shown to have a neutral or better impact on flood risk outside the raised area. Compensatory storage may be required.

**266.** The flood risk framework set out above should be applied to development management decisions. Flood Risk Assessments (FRA) should be required for development in the medium to high category of flood risk, and may be required in the low to medium category in the circumstances described in the framework above, or where other factors indicate heightened risk. FRA will generally be required for applications within areas identified at high or medium likelihood of flooding/flood risk in SEPA's flood maps.

**267.** Drainage Assessments, proportionate to the development proposal and covering both surface and foul water, will be required for areas where drainage is already constrained or otherwise problematic, or if there would be off-site effects.

**268.** Proposed arrangements for SuDS should be adequate for the development and appropriate long-term maintenance arrangements should be put in place.

# A Connected Place

## Promoting Sustainable Transport and Active Travel

### NPF Context

**269.** The spatial strategy set out in NPF3 is complemented by an ongoing programme of investment in transport infrastructure. The economy relies on efficient transport connections, within Scotland and to international markets. Planning can play an important role in improving connectivity and promoting more sustainable patterns of transport and travel as part of the transition to a low carbon economy.

### Policy Principles

**270.** The planning system should support patterns of development which:

- optimise the use of existing infrastructure;
- reduce the need to travel;
- provide safe and convenient opportunities for walking and cycling for both active travel and recreation, and facilitate travel by public transport;
- enable the integration of transport modes; and
- facilitate freight movement by rail or water.

**271.** Development plans and development management decisions should take account of the implications of development proposals on traffic, patterns of travel and road safety.

### Key Documents

- [National Transport Strategy](#)<sup>108</sup>
- [Climate Change \(Scotland\) Act 2009](#)<sup>109</sup>
- [Low Carbon Scotland: Meeting the Emissions Reduction Targets 2013-2027](#)<sup>110</sup>
- [Infrastructure Investment Plan](#)<sup>111</sup>
- [Strategic Transport Projects Review](#)<sup>112</sup>
- [Transport Assessment Guidance](#)<sup>113</sup>
- [Development Planning and Management Transport Appraisal Guidance \(DPMTAG\)](#)<sup>114</sup>
- [PAN 66: Best Practice in Handling Applications Affecting Trunk Roads](#)<sup>115</sup>

108 [www.scotland.gov.uk/Publications/2006/12/04104414/0](http://www.scotland.gov.uk/Publications/2006/12/04104414/0)

109 [www.legislation.gov.uk/asp/2009/12/contents](http://www.legislation.gov.uk/asp/2009/12/contents)

110 [www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/lowcarbon/meetingthetargets](http://www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/lowcarbon/meetingthetargets)

111 [www.scotland.gov.uk/Publications/2011/12/05141922/0](http://www.scotland.gov.uk/Publications/2011/12/05141922/0)

112 [www.transportscotland.gov.uk/strategic-transport-projects-review](http://www.transportscotland.gov.uk/strategic-transport-projects-review)

113 [www.transportscotland.gov.uk/system/files/documents/tsc-basic-pages/Planning\\_Reform\\_-\\_DPMTAG\\_-\\_Development\\_Management\\_DPMTAG\\_Ref\\_17\\_-\\_Transport\\_Assessment\\_Guidance\\_FINAL\\_-\\_June\\_2012.pdf](http://www.transportscotland.gov.uk/system/files/documents/tsc-basic-pages/Planning_Reform_-_DPMTAG_-_Development_Management_DPMTAG_Ref_17_-_Transport_Assessment_Guidance_FINAL_-_June_2012.pdf)

114 [www.transportscotland.gov.uk/development-planning-and-management-transport-appraisal-guidance-dpmtag](http://www.transportscotland.gov.uk/development-planning-and-management-transport-appraisal-guidance-dpmtag)

115 [www.scotland.gov.uk/Resource/Doc/47021/0026434.pdf](http://www.scotland.gov.uk/Resource/Doc/47021/0026434.pdf)

- [Design Manual for Roads and Bridges](#)<sup>116</sup>
- [Designing Streets](#)<sup>117</sup>
- [Roads for All](#)<sup>118</sup>
- [Cycling Action Plan in Scotland](#)<sup>119</sup> (CAPS)
- [Let's Get Scotland Walking: The National Walking Strategy](#)<sup>120</sup>
- [A More Active Scotland – Building a Legacy from the Commonwealth Games](#)<sup>121</sup>
- [Switched On Scotland: A Roadmap to Widespread Adoption of Plug-in Vehicles](#)<sup>122</sup>
- [Tourism Development Framework for Scotland](#)<sup>123</sup>

## Delivery

### Development Planning

**272.** Development plans should take account of the relationship between land use and transport and particularly the capacity of the existing transport network, environmental and operational constraints, and proposed or committed transport projects.

**273.** The spatial strategies set out in plans should support development in locations that allow walkable access to local amenities and are also accessible by cycling and public transport. Plans should identify active travel networks and promote opportunities for travel by more sustainable modes in the following order of priority: walking, cycling, public transport, cars. The aim is to promote development which maximises the extent to which its travel demands are met first through walking, then cycling, then public transport and finally through use of private cars. Plans should facilitate integration between transport modes.

**274.** In preparing development plans, planning authorities are expected to appraise the impact of the spatial strategy and its reasonable alternatives on the transport network, in line with Transport Scotland's DPMTAG guidance. This should include consideration of previously allocated sites, transport opportunities and constraints, current capacity and committed improvements to the transport network. Planning authorities should ensure that a transport appraisal is undertaken at a scale and level of detail proportionate to the nature of the issues and proposals being considered, including funding requirements. Appraisals should be carried out in time to inform the spatial strategy and the strategic environmental assessment. Where there are potential issues for the [strategic transport network](#), the appraisal should be discussed with Transport Scotland at the earliest opportunity.

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116 [www.dft.gov.uk/ha/standards/dmr/index.htm](http://www.dft.gov.uk/ha/standards/dmr/index.htm)

117 [www.scotland.gov.uk/Publications/2010/03/22120652/0](http://www.scotland.gov.uk/Publications/2010/03/22120652/0)

118 <http://www.transportscotland.gov.uk/guides/j256264-00.htm>

116 [www.transportscotland.gov.uk/strategy-and-research/publications-and-consultations/cycling-action-plan-2013](http://www.transportscotland.gov.uk/strategy-and-research/publications-and-consultations/cycling-action-plan-2013)

120 [www.scotland.gov.uk/Publications/2014/06/5743](http://www.scotland.gov.uk/Publications/2014/06/5743)

121 [www.scotland.gov.uk/Publications/2014/02/8239/0](http://www.scotland.gov.uk/Publications/2014/02/8239/0)

122 [www.transportscotland.gov.uk/report/j272736-00.htm](http://www.transportscotland.gov.uk/report/j272736-00.htm)

123 [www.visitscotland.org/pdf/Tourism%20Development%20Framework%20-%20FINAL.pdf](http://www.visitscotland.org/pdf/Tourism%20Development%20Framework%20-%20FINAL.pdf)

**275.** Development plans should identify any required new transport infrastructure or public transport services, including cycle and pedestrian routes, trunk road and rail infrastructure. The deliverability of this infrastructure, and by whom it will be delivered, should be key considerations in identifying the preferred and alternative land use strategies. Plans and associated documents, such as supplementary guidance and the action programme, should indicate how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made. These should be prepared in consultation with all of the parties responsible for approving and delivering the infrastructure. Development plans should support the provision of infrastructure necessary to support positive changes in transport technologies, such as charging points for electric vehicles.

**276.** Where public transport services required to serve a new development cannot be provided commercially, a contribution from the developer towards an agreed level of service may be appropriate. The development plan action programme should set out how this will be delivered, and the planning authority should coordinate discussions with the public transport provider, developer, Transport Scotland where appropriate, and relevant regional transport partnerships at an early stage in the process. In rural areas the plan should be realistic about the likely viability of public transport services and innovative solutions such as demand-responsive public transport and small-scale park and ride facilities at nodes on rural bus corridors should be considered.

**277.** Disused railway lines with a reasonable prospect of being reused as rail, tram, bus rapid transit or active travel routes should be safeguarded in development plans. The strategic case for a new station should emerge from a complete and robust multimodal transport appraisal in line with Scottish Transport Appraisal Guidance. Any appraisal should include consideration of making best use of current rail services; and should demonstrate that the needs of local communities, workers or visitors are sufficient to generate a high level of demand, and that there would be no adverse impact on the operation of the rail service franchise. Funding partners must be identified. Agreement should be reached with Transport Scotland and Network Rail before rail proposals are included in a development plan or planning application and it should be noted that further technical assessment and design work will be required before any proposed new station can be confirmed as viable.

**278.** While new junctions on trunk roads are not normally acceptable, the case for a new junction will be considered where the planning authority considers that significant economic growth or regeneration benefits can be demonstrated. New junctions will only be considered if they are designed in accordance with DMRB and where there would be no adverse impact on road safety or operational performance.

**279.** Significant travel-generating uses should be sited at locations which are well served by public transport, subject to parking restraint policies, and supported by measures to promote the availability of high-quality public transport services. New development areas should be served by public transport providing access to a range of destinations. Development plans should indicate when a travel plan will be required to accompany a proposal for a development which will generate significant travel.

**280.** Along with sound choices on the location of new development, appropriate street layout and design are key to achieving the policy principles at paragraph 270. The design of all new development should follow the placemaking approach set out in this SPP and the principles of Designing Streets, to ensure the creation of places which are distinctive, welcoming, adaptable, resource efficient, safe and pleasant and easy to move around and beyond.



**281.** National maximum parking standards for certain types and scales of development have been set to promote consistency (see [Annex B: Parking Policies and Standards](#)). Where an area is well served by sustainable transport modes, planning authorities may set more restrictive standards, and where public transport provision is limited, planning authorities may set less restrictive standards. Local authorities should also take account of relevant town centre strategies when considering appropriate parking provision (see paragraphs 64-65 and [Annex A: Town Centre Health Checks and Strategies](#)).

**282.** When preparing development plans, planning authorities should consider the need for improved and additional freight transfer facilities. Strategic freight sites should be safeguarded in development plans. Existing roadside facilities and provision for lorry parking should be safeguarded and, where required, development plans should make additional provision for the overnight parking of lorries at appropriate locations on routes with a high volume of lorry traffic. Where appropriate, development plans should also identify suitable locations for new or expanded rail freight interchanges to support increased movement of freight by rail. Facilities allowing the transfer of freight from road to rail or water should also be considered.

**283.** Planning authorities and port operators should work together to address the planning and transport needs of ports and opportunities for rail access should be safeguarded in development plans. Planning authorities should ensure that there is appropriate road access to ferry terminals for cars and freight, and support the provision of bus and train interchange facilities.

**284.** Planning authorities, airport operators and other stakeholders should work together to prepare airport masterplans and address other planning and transport issues relating to airports. Relevant issues include public safety zone safeguarding, surface transport access for supplies, air freight, staff and passengers, related on- and off-site development such as transport interchanges, offices, hotels, car parks, warehousing and distribution services, and other development benefiting from good access to the airport.

**285.** Canals, which are scheduled monuments, should be safeguarded as assets which can contribute to sustainable economic growth through sensitive development and regeneration. Consideration should be given to planning for new uses for canals, where appropriate.

## Development Management

**286.** Where a new development or a change of use is likely to generate a significant increase in the number of trips, a transport assessment should be carried out. This should identify any potential [cumulative effects](#) which need to be addressed.

**287.** Planning permission should not be granted for significant travel-generating uses at locations which would increase reliance on the car and where:

- direct links to local facilities via walking and cycling networks are not available or cannot be made available;
- access to local facilities via public transport networks would involve walking more than 400m; or
- the transport assessment does not identify satisfactory ways of meeting sustainable transport requirements.

Guidance is available in [Transport Assessment and Implementation: A Guide](#)<sup>124</sup>

<sup>124</sup> [www.scotland.gov.uk/Publications/2005/08/1792325/23264](http://www.scotland.gov.uk/Publications/2005/08/1792325/23264)

**288.** Buildings and facilities should be accessible by foot and bicycle and have appropriate operational and servicing access for large vehicles. Cycle routes, cycle parking and storage should be safeguarded and enhanced wherever possible.

**289.** Consideration should be given to how proposed development will contribute to fulfilling the objectives of Switched On Scotland – A Roadmap to Widespread Adoption of Plug-in Vehicles. Electric vehicle charge points should always be considered as part of any new development and provided where appropriate.

**290.** Development proposals that have the potential to affect the performance or safety of the strategic transport network need to be fully assessed to determine their impact. Where existing infrastructure has the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, further investment in the network is not likely to be required. Where such investment is required, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network will have to be met by the developer.

**291.** Consideration should be given to appropriate planning restrictions on construction and operation related transport modes when granting planning permission, especially where bulk material movements are expected, for example freight from extraction operations.

## Supporting Digital Connectivity

### NPF Context

**292.** NPF3 highlights the importance of our digital infrastructure, across towns and cities, and in particular our more remote rural and island areas. Our economy and social networks depend heavily on high-quality digital infrastructure. To facilitate investment across Scotland, planning has an important role to play in strengthening digital communications capacity and coverage across Scotland.

### Policy Principles

**293.** The planning system should support:

- development which helps deliver the Scottish Government’s commitment to world-class digital connectivity;
- the need for networks to evolve and respond to technology improvements and new services;
- inclusion of digital infrastructure in new homes and business premises; and
- infrastructure provision which is sited and designed to keep environmental impacts to a minimum.

### Key Documents

- [Scotland’s Digital Future](#)<sup>125</sup> and associated [Infrastructure Action Plan](#)<sup>126</sup>
- [Scotland’s Cities: Delivering for Scotland](#)<sup>127</sup>
- [A National Telehealth and Telecare Delivery Plan for Scotland to 2015](#)<sup>128</sup>

<sup>125</sup> [www.scotland.gov.uk/Resource/Doc/981/0114237.pdf](http://www.scotland.gov.uk/Resource/Doc/981/0114237.pdf)

<sup>126</sup> [www.scotland.gov.uk/Publications/2012/01/1487](http://www.scotland.gov.uk/Publications/2012/01/1487)

<sup>127</sup> [www.scotland.gov.uk/Publications/2012/01/05104741/0](http://www.scotland.gov.uk/Publications/2012/01/05104741/0)

<sup>128</sup> [www.scotland.gov.uk/Resource/0041/00411586.pdf](http://www.scotland.gov.uk/Resource/0041/00411586.pdf)

- [Planning Advice Note 62, Radio Telecommunications provides advice on siting and design](#)<sup>129</sup>
- [Circular 2/2003: Safeguarding of Aerodromes, Technical Sites and Military Explosives Storage Areas](#)<sup>130</sup>

## Delivery

### Development Planning

**294.** Local development plans should reflect the infrastructure roll-out plans of digital communications operators, community groups and others, such as the Scottish Government, the UK Government and local authorities.

**295.** Local development plans should provide a consistent basis for decision-making by setting out the criteria which will be applied when determining planning applications for communications equipment. They should ensure that the following options are considered when selecting sites and designing base stations:

- mast or site sharing;
- installation on buildings or other existing structures;
- installing the smallest suitable equipment, commensurate with technological requirements;
- concealing or disguising masts, antennas, equipment housing and cable runs using design and camouflage techniques where appropriate; and
- installation of ground-based masts.

**296.** Local development plans should set out the matters to be addressed in planning applications for specific developments, including:

- an explanation of how the proposed equipment fits into the wider network;
- a description of the siting options (primarily for new sites) and design options which satisfy operational requirements, alternatives considered, and the reasons for the chosen solution;
- details of the design, including height, materials and all components of the proposal;
- details of any proposed landscaping and screen planting, where appropriate;
- an assessment of the cumulative effects of the proposed development in combination with existing equipment in the area;
- a declaration that the equipment and installation is designed to be in full compliance with the appropriate ICNIRP guidelines for public exposure to radiofrequency radiation<sup>131</sup>; and
- an assessment of visual impact, if relevant.

**297.** Policies should encourage developers to explore opportunities for the provision of digital infrastructure to new homes and business premises as an integral part of development. This should be done in consultation with service providers so that appropriate, universal and future-proofed infrastructure is installed and utilised.

<sup>129</sup> [www.scotland.gov.uk/Publications/2001/09/pan62/pan62-](http://www.scotland.gov.uk/Publications/2001/09/pan62/pan62-)

<sup>130</sup> [www.scotland.gov.uk/Publications/2003/01/16204/17030](http://www.scotland.gov.uk/Publications/2003/01/16204/17030)

<sup>131</sup> The radiofrequency public exposure guidelines of the International Commission on Non-Ionising Radiation Protection, as expressed in EU Council recommendation 1999/519/ EC on the limitation of exposure of the general public to electromagnetic fields.

## Development Management

**298.** Consideration should be given to how proposals for infrastructure to deliver new services or infrastructure to improve existing services will contribute to fulfilling the objectives for digital connectivity set out in the Scottish Government's World Class 2020 document. For developments that will deliver entirely new connectivity – for example, mobile connectivity in a “not spot” – consideration should be given to the benefits of this connectivity for communities and the local economy.

**299.** All components of equipment should be considered together and designed and positioned as sensitively as possible, though technical requirements and constraints may limit the possibilities. Developments should not physically obstruct aerodrome operations, technical sites or existing transmitter/receiver facilities. The cumulative visual effects of equipment should be taken into account.

**300.** Planning authorities should not question the need for the service to be provided nor seek to prevent competition between operators. The planning system should not be used to secure objectives that are more properly achieved under other legislation. Emissions of radiofrequency radiation are controlled and regulated under other legislation and it is therefore not necessary for planning authorities to treat radiofrequency radiation as a material consideration.

# Annex A – Town Centre Health Checks and Strategies

**Town centre health checks should cover a range of indicators, such as:**

## **Activities**

- retailer representation and intentions (multiples and independents);
- employment;
- cultural and social activity;
- community activity;
- leisure and tourism facilities;
- resident population; and
- evening/night-time economy.

## **Physical environment**

- space in use for the range of town centre functions and how it has changed;
- physical structure of the centre, condition and appearance including constraints and opportunities and assets;
- historic environment; and
- public realm and green infrastructure.

## **Property**

- vacancy rates, particularly at street level in prime retail areas;
- vacant sites;
- committed developments;
- commercial yield; and
- prime rental values.

## **Accessibility**

- pedestrian footfall;
- accessibility;
- cycling facilities and ease of movement;
- public transport infrastructure and facilities;
- parking offer; and
- signage and ease of navigation.

## **Community**

- attitudes, perceptions and aspirations.

### Town centre strategies should:

- be prepared collaboratively with community planning partners, businesses and the local community;
- recognise the changing roles of town centres and networks, and the effect of trends in consumer activity;
- establish an agreed long-term vision for the town centre;
- seek to maintain and improve accessibility to and within the town centre;
- seek to reduce the centre's environmental footprint, through, for example, the development or extension of sustainable urban drainage or district heating networks;
- identify how green infrastructure can enhance air quality, open space, landscape/settings, reduce urban heat island effects, increase capacity of drainage systems, and attenuate noise;
- indicate the potential for change through redevelopment, renewal, alternative uses and diversification based on an analysis of the role and function of the centre;
- promote opportunities for new development, using master planning and design, while seeking to safeguard and enhance built and natural heritage;
- consider constraints such as fragmented site ownership, unit size and funding availability, and recognise the rapidly changing nature of retail formats;
- identify actions, tools and delivery mechanisms to overcome these constraints, for example improved management, Town Teams, Business Improvement Districts or the use of [compulsory purchase powers](#)<sup>132</sup>; and
- include monitoring against the baseline provided by the health check to assess the extent to which it has delivered improvements.

More detailed advice on town centre health checks and strategies can be found in the Town Centre Masterplanning Toolkit.

<sup>132</sup> [www.scotland.gov.uk/Topics/archive/National-Planning-Policy/themes/ComPur](http://www.scotland.gov.uk/Topics/archive/National-Planning-Policy/themes/ComPur)

## Annex B – Parking Policies and Standards

### **Parking Restraint Policy – National Maximum Parking Standards for New Development**

In order to achieve consistency in the levels of parking provision for specific types and scales of development, the following national standards have been set:

- retail (food) (Use Class 1) 1000m<sup>2</sup> and above – up to 1 space per 14m<sup>2</sup>;
- retail (non-food) (Use Class 1) 1000m<sup>2</sup> and above – up to 1 space per 20m<sup>2</sup>;
- business (Use Class 4) 2500m<sup>2</sup> and above – up to 1 space per 30m<sup>2</sup>;
- cinemas (Use Class 11a) 1000m<sup>2</sup> and above – up to 1 space per 5 seats;
- conference facilities 1000m<sup>2</sup> and above – up to 1 space per 5 seats;
- stadia 1500 seats and above – up to 1 space per 15 seats;
- leisure (other than cinemas and stadia) 1000m<sup>2</sup> and above – up to 1 space per 22m<sup>2</sup>; and
- higher and further education (non-residential elements) 2500m<sup>2</sup> and above – up to 1 space per 2 staff plus 1 space per 15 students.

Local standards should support the viability of town centres. Developers of individual sites within town centres may be required to contribute to the overall parking requirement for the centre in lieu of individual parking provision.

### **Parking for Disabled People – Minimum Provision Standards for New Development**

Specific provision should be made for parking for disabled people in addition to general provision. In retail, recreation and leisure developments, the minimum number of car parking spaces for disabled people should be:

- 3 spaces or 6% (whichever is greater) in car parks with up to 200 spaces; or
- 4 spaces plus 4% in car parks with more than 200 spaces.

Employers have a duty under employment law to consider the disabilities of their employees and visitors to their premises. The minimum number of car parking spaces for disabled people at places of employment should be:

- 1 space per disabled employee plus 2 spaces or 5% (whichever is greater) in car parks with up to 200 spaces; or
- 6 spaces plus 2% in car parks with more than 200 spaces.

# Glossary

|  |  |
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| Affordable housing   | Housing of a reasonable quality that is affordable to people on modest incomes.  |
| Anchor development (in the context of heat demand)                     | A large scale development which has a constant high demand for heat.   |
| Article 4 Direction  | Article 4 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 gives the Scottish Government and planning authorities the power to remove permitted development rights by issuing a direction.   |
| Biodiversity   | The variability in living organisms and the ecological complexes of which they are part. This includes diversity within species, between species and of ecosystems (UN Convention on Biological Diversity, 1992).  |
| Brownfield land  | Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused building and developed land within the settlement boundary where further intensification of use is considered acceptable.   |
| Civil infrastructure (in the context of flood risk)                    | Hospitals, fire stations, emergency depots, schools, care homes, ground-based electrical and telecommunications equipment.   |
| Climate change adaptation  | The adjustment in economic, social or natural systems in response to actual or expected climatic change, to limit harmful consequences and exploit beneficial opportunities.   |
| Climate change mitigation  | Reducing the amount of greenhouse gases in the atmosphere and reducing activities which emit greenhouse gases to help slow down or make less severe the impacts of future climate change.  |
| Community  | A body of people. A community can be based on location (for example people who live or work in or use an area) or common interest (for example the business community, sports or heritage groups).   |
| Cumulative impact  | Impact in combination with other development. That includes existing developments of the kind proposed, those which have permission, and valid applications which have not been determined. The weight attached to undetermined applications should reflect their position in the application process. |
| Cumulative effects (in the context of the strategic transport network) | The effect on the operational performance of transport networks of a number of developments in combination, recognising that the effects of a group of sites, or development over an area may need different mitigation when considered together than when considered individually.                    |



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|---|--|
| Ecosystems services   | The benefits people obtain from ecosystems; these include provisioning services such as food, water, timber and fibre; regulating services that affect climate, floods, disease, waste and water quality; cultural services with recreational, aesthetic, and spiritual benefits; and supporting services such as soil formation, photosynthesis and nutrient cycling.   |
| Effective housing land supply   | The part of the established housing land supply which is free or expected to be free of development constraints in the period under consideration and will therefore be available for the construction of housing.   |
| Energy Centre   | A stand alone building or part of an existing or proposed building where heat or combined heat and electricity generating plant can be installed to service a district network.  |
| Essential infrastructure (in a flood risk area for operational reasons) | Defined in SEPA guidance on vulnerability as 'essential transport infrastructure and essential utility infrastructure which may have to be located in a flood risk area for operational reasons. This includes electricity generating stations, power stations and grid and primary sub stations, water treatments works and sewage treatment works and wind turbines'.  |
| Flood   | The temporary covering by water from any source of land not normally covered by water, but not including the overflow of a sewage system.  |
| Flood plain   | The generally flat areas adjacent to a watercourse or the sea where water flows in time of flood or would flow but for the presence of flood prevention measures. The limits of a flood plain are defined by the peak water level of an appropriate return period event. See also 'Functional flood plain'.  |
| Flood risk  | The combination of the probability of a flood and the potential adverse consequences associated with a flood, for human health, the environment, cultural heritage and economic activity.  |
| Freeboard allowance   | A height added to the predicted level of a flood to take account of the height of waves or turbulence and uncertainty in estimating the probability of the flooding.   |
| Functional flood plain  | The areas of land where water flows in times of flood which should be safeguarded from further development because of their function as flood water storage areas. For planning purposes the functional floodplain will generally have a greater than 0.5% (1:200) probability of flooding in any year. See also 'Washland'.   |
| Green infrastructure  | Includes the 'green' and 'blue' (water environment) features of the natural and built environments that can provide benefits without being connected.<br><br>Green features include parks, woodlands, trees, play spaces, allotments, community growing spaces, outdoor sports facilities, churchyards and cemeteries, swales, hedges, verges and gardens.<br><br>Blue features include rivers, lochs, wetlands, canals, other water courses, ponds, coastal and marine areas including beaches, porous paving and sustainable urban drainage systems. |

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|--|--|
| Green networks   | Connected areas of green infrastructure and open space that together form an integrated and multi-functional network.  |
| Hazardous substances   | Substances and quantities as currently specified in and requiring consent under the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 as amended (due to be replaced in 2015 as part of the implementation of Directive 2012/18/EU).  |
| Historic environment   | Scotland's historic environment is the physical evidence for human activity that connects people with place, linked with the associations we can see, feel and understand.   |
| Historic Marine Protected Areas                                  | Areas designated in Scottish territorial waters (0-12 miles) under the Marine (Scotland) Act 2010 for the purpose of preserving marine historic assets of national importance.   |
| Housing supply target  | The total number of homes that will be delivered.  |
| Hut  | A simple building used intermittently as recreational accommodation (ie. not a principal residence); having an internal floor area of no more than 30m <sup>2</sup> ; constructed from low impact materials; generally not connected to mains water, electricity or sewerage; and built in such a way that it is removable with little or no trace at the end of its life. Huts may be built singly or in groups.                          |
| Major-accident hazard site                                       | Site with or requiring hazardous substances consent.   |
| Most vulnerable uses (in the context of flood risk and drainage) | Basement dwellings, isolated dwellings in sparsely populated areas, dwelling houses behind informal embankments, residential institutions such as residential care homes/prisons, nurseries, children's homes and educational establishments, caravans, mobile homes and park homes intended for permanent residential use, sites used for holiday or short-let caravans and camping, installations requiring hazardous substance consent. |
| National Nature Reserve (NNR)                                    | An area considered to be of national importance for its nature conservation interests.   |
| National Scenic Area (NSA)                                       | An area which is nationally important for its scenic quality.  |
| Open space   | Space within and on the edge of settlements comprising green infrastructure and/or civic areas such as squares, market places and other paved or hard landscaped areas with a civic function.<br><br>Detailed typologies of open space are included in PAN65.  |

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| <p>Outdoor sports facilities</p>         | <p>Uses where <b>sportscotland</b> is a statutory consultee under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, which establishes ‘outdoor sports facilities’ as land used as:</p> <p>(a) an outdoor playing field extending to not less than 0.2ha used for any sport played on a pitch;</p> <p>(b) an outdoor athletics track;</p> <p>(c) a golf course;</p> <p>(d) an outdoor tennis court, other than those within a private dwelling, hotel or other tourist accommodation; and</p> <p>(e) an outdoor bowling green.</p> |
| <p>Outstanding Universal Value (OUV)</p> | <p>The Operational Guidelines for the Implementation of the World Heritage Convention, provided by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) states that OUV means cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity. The Statement of OUV is the key reference for the future effective protection and management of the World Heritage Site.</p>   |
| <p>PADHI</p>                             | <p>Planning Advice for Development near Hazardous Installations, issued by the Health and Safety Executive.</p>   |
| <p>Prime agricultural land</p>           | <p>Agricultural land identified as being Class 1, 2 or 3.1 in the land capability classification for agriculture developed by Macaulay Land Use Research Institute (now the James Hutton Institute).</p>  |
| <p>Place</p>                             | <p>The environment in which we live; the people that inhabit these spaces; and the quality of life that comes from the interaction of people and their surroundings. Architecture, public space and landscape are central to this.</p>  |
| <p>Pluvial flooding</p>                  | <p>Flooding as a result of rainfall runoff flowing or ponding over the ground before it enters a natural (e.g. watercourse) or artificial (e.g. sewer) drainage system or when it cannot enter a drainage system (e.g. because the system is already full to capacity or the drainage inlets have a limited capacity).</p>  |
| <p>Ramsar sites</p>                      | <p>Wetlands designated under the Ramsar Convention on Wetlands of International Importance.</p>   |
| <p>Scheduled monument</p>                | <p>Archaeological sites, buildings or structures of national or international importance. The purpose of scheduling is to secure the long-term legal protection of the monument in the national interest, in situ and as far as possible in its existing state and within an appropriate setting.</p>   |
| <p>Sensitive receptor</p>                | <p>Aspect of the environment likely to be significantly affected by a development, which may include for example, population, fauna, flora, soil, water, air, climatic factors, material assets, landscape and the inter-relationship between these factors.</p> <p>In the context of planning for Zero Waste, sensitive receptors may include aerodromes and military air weapon ranges.</p>   |

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| Setting                                    | Is more than the immediate surroundings of a site or building, and may be related to the function or use of a place, or how it was intended to fit into the landscape of townscape, the view from it or how it is seen from areas round about, or areas that are important to the protection of the place, site or building.  |
| Site of Special Scientific Interest (SSSI) | An area which is designated for the special interest of its flora, fauna, geology or geomorphological features.   |
| Strategic Flood Risk Assessment            | Provides an overview of flood risk in the area proposed for development. An assessment involves the collection, analysis and presentation of all existing available and readily derivable information on flood risk from all sources. SFRA applies a risk-based approach to identifying land for development and can help inform development plan flood risk policy and supplementary guidance. |
| Strategic Transport Network                | Includes the trunk road and rail networks. Its primary purpose is to provide the safe and efficient movement of strategic long-distance traffic between major centres, although in rural areas it also performs important local functions.  |
| Sustainable Development                    | Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.<br><br>The Brundtland Definition. Our Common Future, The World Commission on Environment and Development, 1987.   |
| Sustainable Economic Growth                | Building a dynamic and growing economy that will provide prosperity and opportunities for all, while ensuring that future generations can enjoy a better quality of life too.   |
| Washland                                   | An alternative term for the functional flood plain which carries the connotation that it floods very frequently.  |
| Watercourse                                | All means of conveying water except a water main or sewer.  |
| Windfall Sites                             | Sites which become available for development unexpectedly during the life of the development plan and so are not identified individually in the plan.   |





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The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

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