

Konishi Gaffney Architects
FAO Kiernan Gaffney
88 Constitution Street
Edinburgh
EH6 6RP

Mr Alastair Hearsum.
5 Bath Street
Edinburgh
EH15 1EZ

Decision date: 5 November 2020

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

Ground floor single storey extension and internal alterations including conversion of 2 flats into 1 house.

At 5 Bath Street Edinburgh EH15 1EZ

Application No: 20/02308/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 9 June 2020, this has been decided by **EXT 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 Policy Env 4 as it would result in the diminution of the special interest of the listed building.

2. The proposal would have an adverse effect on the character of the conservation area by virtue of its over-dominant scale, contrary to Policy Env 6 of the Edinburgh Local Development Plan.

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:

The proposal does not comply with the Local Development plan or relevant associated guidance. The proposal is inappropriate in terms of scale and would adversely impact the special architectural and historic interest of the listed building. There are no material considerations which outweigh this decision.

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 Adam Gloser directly at adam.gloser@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

Report of Handling

**Application for Planning Permission 20/02308/FUL
At 5 Bath Street, Edinburgh, EH15 1EZ
Ground floor single storey extension and internal alterations
including conversion of 2 flats into 1 house.**

Item	EXT Local Delegated Decision
Application number	20/02308/FUL
Wards	B17 - Portobello/Craigmillar

Summary

The proposal does not comply with the Local Development plan or relevant associated guidance. The proposal is inappropriate in terms of scale and would adversely impact the special architectural and historic interest of the listed building. There are no material considerations which outweigh this decision.

Links

<u>Policies and guidance for this application</u>	LDPP, LEN04, LEN06, LDES12, HES, HESCON, HESEXT, OTH, CRPPOR,
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Report of handling

Recommendations

1.1 It is recommended that this application be Refused for the reasons below.

Background

2.1 Site description

Early 19th century two storey and attic stone built, terraced house. The extension to the rear dates from before 1856. The property is category C listed on 04 September 1995. (LB ref: 26728)

This application site is located within the Portobello Conservation Area.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description Of The Proposal

Planning permission is sought for the erection of a single storey extension to the rear and minor internal alterations to form one single house.

3.2 Determining Issues

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

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority 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 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Do the proposals comply with the development plan?

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

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

3.3 Assessment

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

- a) the proposals will harm the architectural or historic interest of the listed building;
- b) the proposals will adversely affect the special character or appearance of the conservation area;
- c) the proposals will impact on neighbouring amenity; and
- d) any issues raised in representations have been addressed.

a) Listed Building

The proposed scale and materials of the new extension will dominate the design qualities of the original building and it will not provide a positive contrast to the building. The new extension would span the entire width of the rear elevation extending more than 50% of the rear of the property. The new extension would incorporate the existing 19th century extension, failing to have regard to the asymmetrical design qualities that contributes to the architectural interests of the building.

The proposed extension is excessive in size and will read as an incongruous addition that does not have special regard to the architectural or historic interest of the listed building. The proposals harm the character and setting of this listed building and there is therefore a statutory presumption against consent being granted.

The proposals do not comply with the objectives of LDP policy Env 4 and are contrary to the Historic Environment Policy for Scotland and HES Managing Change guidance.

b) Conservation Area

The proposed extension would be hidden from public view and its impact on the appearance of the area is limited due to that factor. It is noted that the adjacent property has an existing extension of the same depth and similar width as the proposal.

However, that extension was approved in 2007 and the merits for approval are no longer considered relevant. The development of a further extension of that scale would erode the character of the conservation area, creating a pattern of excessive and over-dominant built forms.

The proposed design and scale of the extension would therefore have an adverse impact on the character of the conservation area.

c) Neighbouring Amenity

The proposal was assessed in terms of daylighting to both adjacent neighbouring properties. No areas of impact were identified.

The proposal would not result in an unreasonable loss of neighbouring residential amenity. The proposal complies with the non-statutory guidance with respect to daylight, sunlight and privacy and Local Plan Policy Des 12.

d) Comments

Two letters have been received. One letter was in support of the proposal and one in objection to the proposal. These comments have been addressed above and by the reasons for refusal.

CONCLUSION

The proposed extension does not comply with policy Env 4, Env 6 and Des 12 in the Edinburgh Local Development Plan. The proposal is inappropriate in terms of scale and would adversely impact the special architectural and historic interest of the listed building. There are no material considerations which outweigh this decision

It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons/informatives

Reasons:-

1. The proposal is contrary to the non-statutory guidance on listed buildings and conservation areas in that it would cover more than 50% of the rear of the property.
2. The proposal is contrary to Policy Env 4 as it would result in the diminution of the special interest of the listed building.
3. The proposal would have an adverse effect on the character of the conservation area by virtue of its over-dominant scale, contrary to Policy Env 6 of the Edinburgh Local Development Plan.

Risk, Policy, compliance and governance impact

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

Equalities impact

5.1 The equalities impact has been assessed as follows:

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

Consultation and engagement

6.1 Pre-Application Process

There is no pre-application process history.

6.2 Publicity summary of representations and Community Council comments

Two letters of representation have been received.

Background reading / external references

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

Statutory Development**Plan Provision**

Edinburgh Local Development Plan

Date registered

9 June 2020

**Drawing
numbers/Scheme**

01-07,

Scheme 1

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

Contact: Adam Gloser, Assistant Planner
E-mail: adam.gloser@edinburgh.gov.uk

Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Env 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

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

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

Relevant Government Guidance on Historic Environment.

Planning Advice Note 71 on Conservation Area Management recognises conservation areas need to adapt and develop in response to the modern-day needs and aspirations of living and working communities.

Managing Change in the Historic Environment: Extensions sets out Government guidance on the principles that apply to extending listed buildings.

Other Relevant policy guidance

The Portobello Conservation Area Character Appraisal emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high quality architecture, and the predominant use of traditional building materials

Appendix 1

Consultations

No consultations undertaken.

END

Comments for Planning Application 20/02308/FUL

Application Summary

Application Number: 20/02308/FUL

Address: 5 Bath Street Edinburgh EH15 1EZ

Proposal: Ground floor single storey extension and internal alterations including conversion of 2 flats into 1 house.

Case Officer: Adam Gloser

Customer Details

Name: Ms Giselle Dye

Address: 11 Bath Street Portobello Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I am very happy to support this application. It is a well considered, elegant design that will enhance the property and does not interfere with anyone's amenity.

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Name: Not Available

Address: Not Available

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Proposal: Ground floor single storey extension and internal alterations including conversion of 2 flats into 1 house.

Case Officer: Adam Gloser

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: Thank you for the opportunity to comment on the above planning application. The proposals are for 5 Bath Street, a C-listed property which lies in the Portobello conservation area. The applicant seeks to create a new extension and make numerous internal changes to convert two flats into one house. The Forth & Borders Cases Panel of the AHSS has considered the proposal and wishes to make the following comments.

The existing extension will be demolished and replaced by a new structure. However, the existing extension is stated to date from before 1856 in the corresponding Historic Environment Scotland listing. Consequently, this demolition would entail a significant loss of historic material which the Panel feels is objectionable. Moreover, the proposed internal changes also lead to a significant loss of material, particularly what appears to be a fireplace in the ground floor study. This contravenes Page 20 of the Edinburgh Council's Guidance on Listed Buildings and Conservation Areas, as fireplaces are heavily protected under this Guidance.

In addition, the internal changes contain the removal of several doors. In accordance with Page 19 of the Guidance, these should not be removed, rather they should be locked shut and left in place. Consequently their removal is objectionable.

Furthermore, the Panel believes that the proposed design of the extension is objectionable, as the rooflights are of too great a size. The Panel believes these inclusions would be both detrimental to the character of the building, and harmful to the wider conservation area, and are thus in contravention of pages 6 and 24 of the Guidance.

Finally, the proposed new extension contravenes the Edinburgh Council's Householder Guidance,

as it takes up more than half of its parent elevation.

Accordingly, the AHSS wishes to object to the proposal.

Comments for Planning Application 20/02308/FUL

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Finally, the proposed new extension contravenes the Edinburgh Council's Householder Guidance,

as it takes up more than half of its parent elevation.

Accordingly, the AHSS wishes to object to the proposal.

From: rosie nimmo
Sent: Wed, 10 Feb 2021 10:03:27 +0000
To: Local Review Body
Subject: Planning Application: 20/02308/FUL

Hello

Name: Mr Alastair Hearsum.
Site: 5 Bath Street Edinburgh EH15 1EZ
Description: Ground floor single storey extension and internal alterations including conversion of 2 flats into 1 house.
Planning Application: 20/02308/FUL

With regard to the above planning application, we are the applicant's immediate neighbours at 7 Bath Street, EH15 1EZ. We didn't comment on the original application, mainly because we didn't realise we could put in a letter of support for it but also because we never considered that they wouldn't get planning permission. The proposal is very similar to our kitchen extension in that it is a full width of the house kitchen enlargement, so I'm really surprised it's been rejected. Our neighbours told us there was some 50% rule that they had fallen foul of, which is strange since our extension is relatively recent and passed planning. We tend to live in our kitchen as the increased area makes for a great entertaining and relaxing space. I'm sure they won't mind me saying this but our neighbour's kitchen is quite small and not really in proportion to a family home such as theirs and I know they are dying to spread out a bit.

To be honest I can see no good reason why their application should be refused as it is to the back of the house, a single storey and affects no-one but themselves. Since they bought their house two or three years ago they have made significant, high quality improvements to it, including repairing and painstakingly painting the astragal windows, making wooden shutters for the living room window, thereby saving fuel and being very eco-friendly. They have also employed skilled artisans to do repairs to their roof and garden. All of their efforts so far have hugely enhanced the look of the house from the street as well as benefitting their comfort levels. I've seen the plans for the proposed extension and consider them to be very much in line with their quality levels of improvement and believe that they will not impinge at all on anyone else's comfort or views.

In short I fully support the application and there is no reason from our point of view that it should be refused.

I look forward to hearing back from you.

Best wishes,

Rosie Nimmo
7 Bath Street,
EH15 1EZ

From: Giselle Dye
Sent: Tue, 9 Feb 2021 10:40:19 +0000
To: Local Review Body
Subject: 20/02308/FUL

Hello

ref 20/02308/FUL - 5 Bath Street, Portobello

I made a comment in support of the original application and was disappointed to hear that it had been refused. I was pleased, however, when I learned that it had been given listed building consent, on appeal. But I now understand that planning permission refusal is being looked at and I wish to add my voice of support, as a near neighbour.

I think the plans are well considered and have been prepared with care and diligence by an award-winning, local architect who is very familiar with back garden/back lane developments in this area and has successfully designed many similar extensions, sympathetic to their surroundings and the conservation zone.

The proposed extension will not interfere with anyone's amenity and will greatly improve the kitchen area/ internal living space for the occupants of number 5 which is currently configured as a series of small, 19thC rooms.

It is also clear from the plans that the extension will be barely visible by anyone walking past or down the lane, so I cannot see that it compromises the character of the conservation zone.

I urge you to grant this proposal permission to go ahead,

Giselle Dye
11 Bath Street, Edinburgh EH15 1EZ

From: Carolyn Frain
Sent: Tue, 9 Feb 2021 15:22:23 +0000
To: Local Review Body
Subject: Planning Application: 20/02308/FUL

To whom it may concern

Re: Planning Application: 20/02308/FUL

I wish to offer my full and unreserved support for the above application for planning permission.

It was surprising that this application did not go through the first time as it offers a substantial improvement.

I live in the top floor flat of the converted Royal Hotel on Bath Street. My home access is on Bath Street Lane and my flat looks directly onto this property.

Bath Street Lane is a mixed area of run down lockups, garages, workshops etc. This proposed improvement would greatly enhance the appearance of Bath Street Lane and I for one would be very grateful for this. I currently feel very embarrassed to live in this Lane as it is so run down and uncared for.

On review of the plans this would definitely be a substantial improvement to the Lane in which I live.

I do hope that you reconsider this application in a more favourable light.

If I can offer more support for this application I will very happily provide it.

Kind regards,

Carolyn Frain
20/3 Bath Street Lane
Edinburgh EH15 1HA



Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: 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 100323340-002

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

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number: You must enter a Building Name or Number, or both: *

First Name: * Building Name:

Last Name: * Building Number:

Telephone Number: * Address 1 (Street): *

Extension Number: Address 2:

Mobile Number: Town/City: *

Fax Number: Country: *

Postcode: *

Email Address: *

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" value="5"/>
First Name: *	<input type="text" value="Alastair"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Hearsum"/>	Address 1 (Street): * <input type="text" value="Bath Street"/>
Company/Organisation	<input type="text" value="c/o Agent"/>	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="EH15 1EZ"/>
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="5 BATH STREET"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH15 1EZ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="673888"/>	Easting	<input type="text" value="330565"/>
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Description of Proposal

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

Ground floor single storey extension and internal alterations including conversion of 2 flats into 1 house.

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 see attached Local Review 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)

Please see attached Local Review Documents List.

Application Details

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

20/02308/FUL

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

09/06/2020

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

05/11/2020

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)

Public views of the site are limited. Entry through existing garden gate required to access and fully view the review site.

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 Rhiannon Martin

Declaration Date: 03/02/2021

Proposal Details

Proposal Name	100323340
Proposal Description	Appeal against non-determination of listed building consent, Local Review against refusal of planning permission.
Address	5 BATH STREET, EDINBURGH, EH15 1EZ
Local Authority	City of Edinburgh Council
Application Online Reference	100323340-002

Application Status

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

Attachment Details

Notice of Review	System	A4
Bath Street Local Review Documents List	Attached	A4
Document 1 Local Review Statement	Attached	A4
Document 2 LBA-230-2205 Decision	Attached	A4
Document 3 LBA-230-2205 Statement and Grounds of Appeal	Attached	A4
Document 4 2002308FUL Design Statement	Attached	A4
Document 5 2002308FUL Handling Report	Attached	A4
Document 6 2002308FUL Refusal	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-002.xml	Attached	A0



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24a Stafford Street
Edinburgh, EH3 7BD

3 February 2021

5 Bath Street, Portobello

Local Review Documents List

Doc No.	Title
1	Local Review Statement
2	LBA-230-2205 Decision
3	LBA-230-2205 Statement and Grounds of Appeal
4	20/02308/FUL Design Statement
5	20/02308/FUL Handling Report
6	20/02308/FUL Decision Notice

3 February 2021

Summary Statement

20/02308/FUL Notice of Review

5 Bath Street, Portobello

1. This Summary Statement is prepared on behalf of Mr & Mrs Hearsum ('the Applicant') and relates to a Notice of Review for planning application reference 20/02308/FUL, which was refused by City of Edinburgh Council ('CEC') on 5 November 2020. The description of development for the planning application is as follows:

'Ground floor single storey extension and internal alterations including conversion of 2 flats into 1 house.'

2. The DPEA have allowed an appeal against the non-determination (reference LBA-230-2205) of the corresponding application for listed building consent (reference 20/02309/LBC). The submitted Statement and Grounds of Appeal are enclosed for ease of reference. By granting listed building consent, the DPEA have wholly addressed the two reasons for refusal provided for application reference 20/02308/FUL.

Table 1: Reasons for Refusal Comparison

CEC Reason for Refusal	DPEA Decision Notice Extract	Page & Paragraph Numbers
1. The proposal is contrary to Policy Env 4 as it would result in the diminution of the special interest of the listed building.	<i>'I do not consider that the special architectural interest of the property would be compromised by the proposed development'.</i>	Page 3, Paragraph 15.
2. The proposal would have an adverse effect on the character of the conservation area by virtue of its over-dominant scale, contrary to Policy Env 6 of the Edinburgh Local Development Plan.	<i>'As the proposed extension would be largely unseen, except for oblique views from a small number of upper property windows, I consider its impact on the appearance and character of the area would be neutral'.</i>	Page 3, Paragraph 18.

3. The property is C listed, and previously extended. In relation to the Listed Building, the following paragraphs are also noteworthy:
- Paragraph 10 states: *'I am in no doubt that the principal front elevation is the defining feature of the architectural significance of the building'*, and that *'The rear, with its low-pitched roof extension contains poor quality replacement windows, is plain and does not match the relative grandeur of the front of the property'*.
 - In Paragraph 3 the Reporter confirms that the existing extension already occupies more than 70% of the width of the existing rear elevation.
 - In Paragraph 9 it is stated that the proposed works will not affect the interior of the building.

- Paragraph 15 states: *‘Taking all this into account and considering its appearance in relation to the rear of the adjoining number 7, I do not consider that the special architectural interest of the property would be compromised by the proposed development. Its setting is focussed primarily on the street frontage and this would not be affected by the proposed development within a restricted area of garden ground.’*

4. In relation to the conservation area, the following comments of the Reporter are noteworthy:

- Paragraph 16 states: *‘Numbers 5 and 7 contribute to that quality but in that respect the proposed extension would have no impact as it cannot be seen from the street other than a fleeting glimpse of the timber façade above the garden wall down Bath Street Lane’.*
- In Paragraph 17, the Reporter notes that: *‘The overall character of buildings along the lane is mixed..... None are of any architectural significance. Many are in a poor state of repair and one disfigured by external air conditioning units. Overall, the lanes contribution to the overall quality of the conservation areas is very low’.*

Conclusion

5. The Reporter concludes in the Decision Notice that:

‘Drawing everything together I find that any impact on the setting of the building or any features of special architectural interest which it possesses would be minimal and not of such significance as to justify refusing consent. The impact on the character and appearance of the conservation area would be neutral.’ (Page 4, Paragraph 22).

6. Considering the above, it is clear that planning permission should be granted for the proposed development as there will be no unacceptable impact on the listed building or conservation area.



Decision by Trevor A Croft, a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-230-2205
- Site address: 5 Bath Street, Portobello, Edinburgh, EH15 1EZ
- Appeal by Mr Alastair Hearsum against the non-determination of the application by City of Edinburgh Council within the prescribed period
- Application for listed building consent 20/02309/LBC dated 9 June 2020
- The works proposed: Ground floor single storey extension and internal alterations including the conversion of two flats to one house
- Application drawings - see schedule at end of notice

Date of appeal decision: 25 January 2021

Decision

I allow the appeal and grant listed building consent. Attention is also drawn to the advisory note at the end of this notice.

Preliminary matters

1. Due to restrictions imposed because of the Covid pandemic a site inspection was not possible in this case. With the agreement of parties the appeal is being determined on the basis of the submissions before me, including photographic evidence and the use of Google Streetview images.
2. This appeal is against the non-determination by the council of the application for listed building consent. Once such an appeal has been made the power to determine the application falls to the Scottish Ministers or, as in this case, a person appointed by them. Under the terms of section 18(4) of the Listed Buildings and Conservation Areas (Scotland) Act 1997 (the Act), once such an appeal has been made the authority shall be treated as having refused the application in question, known as a deemed refusal.
3. In this case the appeal was made on 2 November 2020 yet the council submitted a decision notice on 5 November 2020 when it no longer had the power to do so. As the notice was for the refusal of permission, in practical terms its issue makes little difference and I have therefore treated it as statement of the council's intent had it been in a position to determine the application. This does not prejudice any party.



Reasoning

4. In determining this appeal I have a duty imposed by section 14(2) of Act 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. As the site lies within the Portobello Conservation Area, I have a duty under section 64(1) of the Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. In the event of the council being able to determine the application its reasons for refusal would have focused on these duties.

5. The determining issues in this appeal are therefore the impact of the proposed development on the listed building and its setting and any features of special architectural interest it possesses, and on the character and appearance of the conservation area.

6. Historic Enterprise Scotland's listing description, in category C, applies to the two terraced properties 5 and 7 Bath Street and include 5A, the flat within number 5. They are described as early 19th century with later additions to the rear. The north-west, Bath Street elevation is described as the principal elevation. Number 5 is described as having a shop front at the time of listing in 1995 but this has since had its frontage restored to its original form with a new domestic window and replacement stonework. They are part of a broader terrace adjoining number 7 dating from before 1824. Adjacent to number 5 is an access to Bath Street Lane which runs behind the terrace.

7. The extension to number 5 is considered to date from before 1856. It is of two storeys, dry dash rendered, under a pitched slated roof and covers some 70% of the width of the main building. There is also a two storey extension to the rear of number seven, with a flat roof and which was enlarged under a consent granted in 2007.

8. The proposed development would form a single storey flat roofed extension wrapping around the existing one and extending further into the garden. It would occupy the full width of the garden, which is the same as the back of the house. Its height would be lower than the dividing wall with number 7's garden but 0.64 metres higher than the Bath Street Lane wall. This elevation would be finished in horizontal timber cladding above the lane wall. There would be new glazed timber framed patio style windows to the garden. The existing render on the rear extension would be removed and replaced with stucco to match the rest of the rear wall of the building. An existing gate into the garden from Bath Street Lane would be removed and a new one inserted further down the wall.

9. The interior of the building is not covered by the listing description. The proposed internal alterations would return it to a single house and the council acknowledges they would not have any impact on the architectural features of the building. I accept this view.

10. From the photographs supplied and the Streetview footage I am in no doubt that the principal front elevation is the defining feature of the architectural significance of the building. Along with number 7 its stonework in particular, together with the fine windows and general detail provide a frontage that is undoubtedly important within the wider street scene. The visible side of the property is a blank wall. The rear, with its low pitched roof extension contains poor quality replacement windows, is plain and does not match the relative grandeur of the front of the property.

11. As this is a listed building appeal the relevant development plan policies do not have the primacy that section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, has in relation to a planning permission appeal. Their main value in this case is in assisting the interpretation of duties in relation to the Act.
12. Other policy guidance to be taken into account includes Scottish Planning Policy, which states at paragraph 141 that changes to a listed building should be managed to protect its special interest while enabling it to remain in active use.
13. Historic Environment Policy for Scotland Document 17 gives guidance on alterations to listed buildings. The most relevant part, policy HEP4, states that changes to specific assets and their context should be managed in a way that protects the historic environment. Opportunities for enhancement should be identified where appropriate.
14. In this case I am satisfied that the return to a single dwelling will encourage the maintenance of the property and the proposed development would help provide such a residence with the space and provision for modern living without compromising the integrity of the property. The council disagrees with this view, considering that it would provide a disjointed and unsympathetic development with a loss of fabric to the extension. This loss would involve the modern replacement windows. These do not respect the age of the building and are ill fitting and not seen from any prominent viewpoint. Whilst undoubtedly of modern appearance, the extension would utilise high quality materials, acknowledged by the council, and provide a contemporary solution to the provision of additional space.
15. Taking all this into account, and considering its appearance in relation to the rear of the adjoining number 7, I do not consider that the special architectural interest of the property would be compromised by the proposed development. Its setting is focussed primarily on the street frontage and this would not be affected by the proposed development within a restricted area of garden ground.
16. With regard to the conservation area the council has published a character appraisal. This concentrates on the wide variety of building types and examines specific streets. Bath Street as a whole gets little mention although there are references to specific buildings on it. It is also mentioned with regard to the number of and variety high architectural quality buildings along its length. Numbers 5 and 7 contribute to that quality but in that respect the proposed extension would have no impact as it cannot be seen from the street other than a fleeting glimpse of the timber façade above the garden wall down Bath Street Lane.
17. The overall character of buildings along the lane is mixed. There are a number of mews type structures, predominantly garages in both private and commercial use with one or two offices. None are of any architectural significance. Many are in a poor state of repair and one disfigured by external air conditioning units. The lane behind the Bath Street buildings is used extensively for parking with a number of vehicles appearing to be little used. Overall the lane's contribution to the overall quality of the conservation areas is very low. A number of other buildings in the terrace have extensions of a nondescript nature that similarly do not contribute to the quality of the conservation area.
18. As the proposed extension would be largely unseen, except for oblique views from a small number of upper property windows, I consider its impact on the appearance and character of the area would be neutral.

19. The appellant has referred to a number of other appeals and applications where permission was granted for rear extensions to listed buildings and in conservation areas. Although some of these concern similar principles to the appeal case each must be considered on its own merit and I do not consider any of them to be setting a precedent.

20. No consultations were made by the council regarding the proposal. One objection was received which stated inaccurately that the rear extension would be demolished, which is not the case as only parts of the lower wall, including the windows referred to above, would be removed. A number of inaccurate comments were made about the internal modifications. Other comments regarding the impact on the listed building and conservation area have been dealt with above.

21. The council has not asked for any conditions to be imposed in the event of consent being granted. I accept that none are necessary.

22. Drawing everything together I find that any impact on the setting of the building or any features of special architectural interest which it possesses would be minimal and not of such significance as to justify refusing consent. The impact on the character and appearance of the conservation area would be neutral.

23. I have considered all other matters raised but found none that suggest making a different decision.



Reporter

Advisory note

The length of the consent: This listed building consent will last only for three years from the date of this decision notice, unless the works have been started within that period. (See section 16 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended))

Application plans

- 01 - Location plan
 - 02 - Existing plans
 - 03 - Proposed plans
 - 04 - Front and side elevations
 - 05 - Rear elevations
 - 06 – South-west elevations
 - 07 - Section aa
- Design statement

Scott Hobbs Planning

Planning Statement on behalf of:

Mr Alastair Hearsum

Date:

02 November 2020

Statement and Grounds of Appeal

5 Bath Street, Portobello



Info

Ground floor single storey extension and internal alterations including the conversion of 2 flats to 1 house.

Statement and Grounds of Appeal

Appeal against non-determination by City of Edinburgh Council of listed building consent (20/02309/LBC), at 5 Bath Street, Portobello.



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3.0 The Appeal Proposal

4.0 Relevant Legislative, Policy and Other Considerations:
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Executive Summary

This Statement and Ground of Appeal identifies the reasons why it is considered that listed building consent should be granted for the proposed ground floor single storey extension and internal alterations including the conversion of 2 flats to 1 house at 5 Bath Street, Portobello.

The appeal site forms part of a C Listed pair of 2-storey, 4-bay terraced houses comprising 5 and 7 Bath Street. The Listing notes it is an early 19th century building, with later 2-storey extensions to the rear centre bays. The north west elevation is identified by the Listing as being the principal elevation, with modern panelled doors grouped closely at centre and rectangular plate glass fanlights above, moulded architrave doorpieces with cornicing and windows at the 1st floors. The site also lies within the Portobello Conservation Area. There is a mix of uses in the area including residential, retail, leisure, and visitor accommodation. The site is well connected to public transport, with bus stops a short walk from the site on Portobello High Street.

In summary, the proposed development seeks to convert the ground floor rooms into living spaces and allow the shower room to be accessed from the hallway. The proposed single storey extension to the rear will provide an open plan kitchen / living area. Access and views to the rear garden will also be improved by the proposed development. The proposed L-shaped, single storey extension is a contemporary addition to the listed building and will wrap around the existing two storey extension. A rooflight is proposed along the south west of the extension. To facilitate the proposed development, the existing opening in the stone boundary wall will be closed and the gate removed. A new opening will be created at the rear end of the site and a new gate installed to allow the continued secure access to the rear garden from Bath Street Lane. Repairs to the stone boundary wall will be carried out where necessary. A contemporary approach is proposed to the appearance of the extension using horizontal timber cladding with double glazed timber framed windows. The new garden gate will also be timber, in keeping with the new additions. The existing dry dash render to the existing extension will be removed and re-rendered to match the rear elevation of the main house.

The extension will be lower than the boundary walls to 7 Bath Street and it will be largely screened from view by the boundary walls at the Bath Street Lane elevation. The roof only will be partially visible from upper windows of the appeal site and obliquely from neighbouring properties. The design of the proposal will ensure the extension is sympathetic, subservient, and subordinate to the listed building, preserving all features of special architectural and historic importance. The intrinsic quality of the listed building will be preserved. The proposed development is in accordance with the Edinburgh Local Development Plan, Historic Environment Policy for Scotland, Scottish Planning Policy and the CEC non-statutory guidance for Listed Buildings and Conservation Areas, and will meet the requirements of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, as amended, as all features of special importance to the building will be preserved.

The proposed extension and alterations preserve the essential quality of the building, retain features of architectural and historic importance and are subservient to the original building. The proposal complies with the Development Plan and other non-statutory guidance, and accordingly, the Reporter is respectfully requested to allow the Appeal and grant listed building consent for the proposed development.

1.0 Introduction

- 1.0 This Statement of Grounds of Appeal ('the Statement') relates to an Appeal under Section 18 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended) to the DPEA against the decision of the City of Edinburgh Council ('CEC') to not determine Listed Building Consent application reference 20/02309/LBC ('the Application').
- 1.1 For ease of reference, the appeal proposal is referred to throughout this Statement as 'the proposed development'. The Appeal is submitted on behalf of the applicant, Mr Alastair Hearsum, which is referred to throughout this Statement as 'the Appellant'.
- 1.2 The Application was submitted for '*ground floor single storey extension and internal alterations including the conversion of 2 flats to 1 house*', at 5 Bath Street, Portobello. All documents and information submitted in support of the original Application are attached as Documents 1 to 10.

The Application Process

- 1.3 Applications for planning permission and for listed building consent were validated by CEC on 9 June 2020. The target decision date was 8 August 2020. Email correspondence was received from the case officer during August 2020 (Document 11), requesting the applications be withdrawn or a decision notice refusing the applications would be issued. It is therefore clear that CEC had all the necessary information available to make a decision on the applications. Despite this, there have been no decision notices received to date. This appeal relates to the non-determination of listed building consent. The Appellant is of the opinion that there are no good planning reasons why the decision could not be issued and considers that the decision should be to grant listed building consent.

The Appeal Process

- 1.4 In accordance with Regulations, the Appeal against the decision of CEC to not determine the listed building consent application is made to the DPEA. A review against the refusal of the planning application may be submitted to CEC in due course.
- 1.5 This Statement provides information relating to the proposal and sets out the full particulars of the Appeal. It includes the Grounds of Appeal and reasoning why the Appellant considers that CEC should have granted listed building consent. This includes the matters that the Appellant considers should be considered when determining the Appeal, although the Appellant reserves the right to submit information and / or expand upon the comments within this appeal documentation in response to the statement of case to be made by CEC, and any reasons for refusal or planning conditions which it may propose.
- 1.6 This Statement of the grounds of appeal:
- Describes the site and surrounding area (Section 2),
 - Provides full details of the appeal proposal (Section 3),
 - Identifies the relevant Development Plan and assesses the appeal proposal against its requirements and other material matters (Section 4); and,
 - Reaches conclusions in respect of the appeal proposal (Section 5).

2.0 The Site and Surrounding Area

- 2.0 The site comprises 5 Bath Street, Portobello, which currently contains two individual flats with shared access from Bath Street. The ground floor is a one bedroom flat and the rest of the property is a 4 bedroom flat with kitchen/dining room on the ground floor of the existing rear extension.
- 2.1 The site forms part of 5 and 7 Bath Street, which are a C Listed pair of 2-storey, 4-bay terraced houses (date of listing 04/09/1995, reference LB26728). The Listing notes it is an early 19th century building, with later 2-storey extensions to the rear centre bays. The north west elevation is identified by the Listing as being the principal elevation, with modern panelled doors grouped closely at centre and rectangular plate glass fanlights above, moulded architrave doorpieces with corning and windows at the 1st floors.
- 2.2 The Listing identifies the building as having plate glass timber sash and case windows, with cast-iron window guards still in place to number 5. The Listing also identifies the building as having a grey slate roof, noting this is now modern at number 7. The interiors were not seen at the time of listing. The Reporter is requested to note the continual changes to the listed building over time.
- 2.3 The Statement of Special Interest for the listed terrace states the following:
- 'The listing includes No 5A Bath Street. These are part of a broader terrace, dating from before 1824. The extension to the rear dates from before 1856. Wood's map, 1824 does not show the division of the properties.'*
- 2.4 The site also lies within the Portobello Conservation Area. The Design Statement (Document 4), hereinafter referred to as the 'DS') provides further detailed explanation regarding the special features of the building.
- 2.5 There is a mix of uses in the area including residential, retail, leisure, and visitor accommodation. The site is well connected to public transport, with bus stops a short walk from the site on Portobello High Street.

3.0 The Appeal Proposal

3.0 The description of development for the Application is for:

'Ground floor single storey extension and internal alterations including the conversion of 2 flats to 1 house.' ('the proposed development').

3.1 The Design Statement (Document 4) provides further detail on the design approach of the proposed development.

3.2 In summary, the proposed development seeks to convert the ground floor rooms into living spaces and allow the shower room to be accessed from the hallway. The proposed single storey extension to the rear will provide an open plan kitchen / living area. Access and views to the rear garden will also be improved by the proposed development. These changes are considered essential by the owners of the property to facilitate living conditions suitable for modern-day living of this one relatively modest property.

3.3 The proposed L-shaped, single storey extension is a contemporary addition to the Listed Building and will wrap around the existing two storey extension. A rooflight is proposed along the south west of the extension.

3.4 To facilitate the proposed development, the existing opening in the stone boundary wall will be closed and the gate removed. A new opening will be created at the rear end of the site and a new gate installed to allow the continued secure access to the rear garden from Bath Street Lane. Repairs to the stone boundary wall will be carried out where necessary.

3.5 The proposed extension will be approximately 2955mm in height. The existing boundary wall to bath street lane is 2315mm in height and the boundary wall to number 7 Bath street is 3260mm in height. These dimensions are taken from the garden level of 5 Bath Street, the road is approximately 365mm higher than the garden level. The extension is 640mm higher than the boundary wall to Bath Street Lane and is obscured from number 7 by the boundary wall.

3.6 As stated in the Design Statement (Document 4), the proposed extension will be clad in horizontal timber cladding with double glazed timber framed windows. The new garden gate will also be timber, in keeping with the new additions. The existing dry dash render to the existing extension will be removed and re-rendered to match the rear elevation of the main house.

3.7 The Report is requested to note the poor condition and low quality finishes to external materials of this property at this time, and the consider the improvement to the appearance of the building, and therefore the Conservation Areas and Listed Building following the completion of the proposed work.

4.0 Relevant Legislative, Policy and Other Considerations: Assessment

- 4.0 Section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 ('the Act') requires that in considering whether to grant Listed Building Consent in respect of specific works, the determining authority shall *'have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'*
- 4.1 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that development should pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 4.2 The proposed development will be below the height of the boundary wall shared with number 7. There will be no impact on that neighbour, or on that part of the listed building. In addition, the proposed Bath Street Lane (south west) elevation will be largely obscured by the existing stone boundary wall, which will be improved. Bath Street Lane largely serves garages, footfall / activity is limited, and it is a minor non-public lane in this Conservation Area. Further to this, the Bath Street Lane elevation is situated some 15m from Bath Street, to the rear of the existing house, and consequently, the proposal will be largely concealed from public view.
- 4.3 The surrounding area has been subject to extensive change in recent years, but the property remains in poor condition. The proposed development will provide a contemporary, subservient addition to the Listed Building, which will not be highly visible from the surrounding area. The matters of importance of this listed building, as detailed in the Listing such as the doors, windows and corning at the principal elevation will not be affected by the proposed development, other than the betterment through refurbishment works. The extension will be built on a non-principal elevation and will be contemporary in its design to ensure that the attributes of the original pre 1824 building are retained and appreciated.
- 4.4 Accordingly, the proposed development will preserve the features of special architectural interest as required by Section 14(2) of the Act. In accordance with Section 64 of the Act, the proposed development will preserve and enhance the character and appearance of the conservation area. On this basis, listed building consent should be granted.
- 4.5 In determining applications for listed building consent, the Development Plan is not a statutory test. However, the policies of the Development Plan inform the assessment of the proposals and are a material consideration. These are assessed in more detail below.

The Development Plan

- 4.6 The Development Plan for the City of Edinburgh comprises two documents:
- SESplan Strategic Development Plan, approved in June 2013, which provides overarching, strategic policy and which contains no detailed policy of relevance to the appeal; and
 - Edinburgh Local Development Plan ('ELDP'), adopted November 2016, is contained within the DPEA Core Library, and is therefore not enclosed within the Appeal Documents List. A copy can be provided, if required.

Edinburgh Local Development Plan

- 4.7 The ELDP sets out specific and detailed policies to guide the location and form of development within Edinburgh; and was prepared in accordance with the strategic policy of SESplan. These are assessed in further detail below.
- 4.8 Policy Env 3: Listed Buildings – Setting states that development will be permitted provided it will not be detrimental to the architectural character, appearance, or historic interest of the building, or to its setting.
- 4.9 The proposed extension will be largely obscured from public view by the high boundary wall to Bath Street Lane and the limited views of the rear of this listed building:
- The proposed development will be below the height of the boundary wall shared with number 7.
 - The proposed Bath Street Lane (south west) elevation will be approximately 64cm higher than, and will be largely obscured by, the existing stone boundary wall.
 - The Bath Street Lane elevation is situated some 15m from Bath Street and consequently, the proposal will be largely concealed from public view, glimpses only available when seen in a north easterly direction at the junction of Bath Street and Bath Lane, which is only around 5m wide.
 - Bath Street Lane is characterised by single storey buildings hard against the edge of the Lane. The proposed extension will reflect that pattern of development, demonstrating consistency in urban form. The building on the opposite side of the Lane (164-172 Portobello High Street) is also listed and has a similar extension to that proposed, albeit of significantly less quality.
 - Bath Street Lane largely serves garages and therefore footfall / activity here is limited.

Figure 1 – Existing Bath Street Elevation



- 4.10 The Listing for 5 and 7 Bath Street refers to the existing extension; however, that to no. 7 Bath Street has already been altered and enlarged since the building was listed in 1994 under application reference 07/01304/LBC, which was approved in 2007. The Report of Handling for this application (Document 13) notes that: *'The property and all neighbouring buildings (which are similar) are heavily altered to the rear'* (Page 5). It is clear, therefore, that CEC considers further revisions to the rear of these similar buildings are acceptable and the Reporter is requested to note the significant past and recent changes, reflecting the continued progress of time to suit modern living and that the buildings are able to absorb those changes without harm to their essential characteristics.
- 4.11 The principle of extending 5 Bath Street should therefore be considered acceptable as it can be achieved without detriment to the setting of the listed structures.
- 4.12 The Reporter is also requested to note the recent additions and changes to the rear elevation of buildings in the vicinity of 5 Bath Street, which can be seen on Figure 2 below. These additions are of varying ages, qualities, and sizes. The proposed subservient extension will, without doubt, have a minimal impact on the setting of the listed building, particularly within the context of the wider alterations and additions.

Figure 2 – Existing Rear Elevations of Bath Street



- 4.13 To summarise, the proposed extension is without doubt subservient to the existing building. There will therefore be no change to the existing context and the setting of the building will be preserved. As there will be no detrimental impact, the proposal is compliant with this policy and will not harm the setting of the listed building.
- 4.14 Policy Env 4: Listed Buildings – Alterations and Extensions states that proposals to alter or extend a listed building will be permitted where:
- a) Those alterations are justified.
 - b) There will be no unnecessary damage to historic structures or diminution of its interest.
 - c) Where any additions are in keeping with other parts of the building.

4.15 Regarding Criterion a), the proposed development can be justified as it will return the Listed Building to its originally intended use as a single residential dwelling.

4.16 The provision of family housing is supported by the EDLP, which states that:

'It is important to achieve a good mix of dwelling types and sizes to avoid the creation of large areas of housing with similar characteristics. This approach supports more socially diverse and inclusive communities by offering a choice of housing and a range of house types to meet the needs of different population groups, i.e. growing families.' (Paragraph 223).

4.17 The proposed extension and alterations are required to facilitate the modern standard of living associated with this return to a single residential dwelling with enhanced open plan living area and are therefore justified. The quality of the living space which will be provided by the proposed extension can clearly be seen on Figures 3 and 4 below.

[Figures 3 & 4 – Proposed Extension Visualisations](#)



- 4.18 The proposed development is therefore, without doubt, in accordance with Criterion a) of Policy Env 4.
- 4.19 Criterion b) of Policy Env 4 requires there to be '*no unnecessary damage to historic structures or diminution of its interest.*' The proposals will return the building back to its originally intended residential use. The proposal involves the loss of the ground floor walls on the side and rear elevations of the extension to the original building only; there will be minimal impact on the original building.
- 4.20 It is considered that the historic importance of the listed building is within the main, original building. The existing extension has already been heavily altered as it has been reharled at both number 5 and number 7 Bath Street. In addition, the existing extension at number 7 Bath Street now has a flat roof and was extended under application reference 07/01304/LBC, which was approved in 2007. Therefore, the existing extension has limited historic importance in relation to the original buildings which forms the pair of terraces, which have been largely unaltered.
- 4.21 In addition, CEC has previously determined for other similar and local applications, that the benefits of an extension outweigh the potential loss of historic fabric, for example at no 7 and also application 20/01741/LBC for the demolition of an existing single storey extension and erection of a new and enlarged single storey extension to the side of the house at 38 Marlborough Street, Portobello, which was approved in June 2020 (Decision Notice enclosed as Document 14). The Report of Handling for this application (Document 15) concluded that:
- 'Although the new extension is deeper and covers slightly more of the side extension, it remains subservient ... as a whole and its high-quality modern design will contrast in a complementary way with the original building. Whilst there is possibly some loss of original fabric this is both minor and acceptable in the context of the wider benefit to the house as a whole.'* (Page 4).
- 4.22 The proposed alterations and extension will result in a minimal loss of historic fabric, there will be wider benefits to the listed building, which will be returned to its originally intended use; and, to the future occupants who will benefit from a high standard of modern family living. There will be no diminution of the historic interest of the building, due to the subservient scale of the new extension. The proposals are therefore in accordance with Criterion b) of Policy Env 4.
- 4.23 Criterion c) of Policy Env 4 states that additions to listed structures should be in keeping with other parts of the building. It is acknowledged that the proposed single storey extension does not match the scale, form, design, or finish of the original building at no 5, but neither does the original extension. It is clear, therefore, that different form etc and one which is contemporary to the time of its build is acceptable. The CEC Listed Buildings and Conservation Areas supplementary guidance states that:
- '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.'* (Page 11).
- 4.24 The decision mentioned above indicates the manner within which CEC implements this guidance – accepting modern contrasting extension as proposed in this appeal development.

- 4.25 In accordance with the CEC Listed Buildings and Conservation Areas supplementary guidance, the proposed extension utilises high-quality, contemporary materials which do not attempt to imitate the historic structure, instead providing a modern addition to the listed building which will not detract from its interest, but rather highlights the character of the listed pair. It is therefore considered that the proposed development is in accordance with Criterion c) of Policy Env 4, and the CEC Listed Buildings and Conservation Areas supplementary guidance.
- 4.26 Accordingly, in all respects, the proposed extension and alterations wholly comply with the three criteria of Env 4 and the development is sympathetic to the existing building.
- 4.27 Policy Env 6 of the ELDP permits development in conservation areas 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.
- 4.28 Regarding Criterion a) of this Policy, the proposed development will preserve the special character and appearance of the conservation area due to its limited visibility from public view, and as the form of development reflects that along Bath Street Lane. The high boundary wall will largely screen the proposed extension from public view, and only limited glimpses will be attained from the junction of Bath Street with the Lane, which is clear on the visualisation below (Figure 5). Further to this, the proposed development will also facilitate improvements to the appearance of the listed building when viewed from Bath Street / Bath Street Lane, as shown on Figure 5 below.

Figure 5 – Proposed Extension Visualisation from Bath Street



- 4.29 The form of development will not appear at odds with existing development in this area. The Portobello Conservation Area Character Appraisal (Document 16) states that:
- 'Extensions should be (i) subservient to the building, (ii) of an appropriate scale, (iii) use appropriate materials and (iv) should normally be located on the rear elevations of a property'* (Page 24). (SHP annotation).
- 4.30 In accordance with the relevant character appraisal, the proposed development is situated to the rear of the property (requirement (iv)) and uses contemporary materials appropriate to the historic environment (examples of timber being found at 3 Rosefield Place Portobello and 16 Brighton Place (requirement (iii)). Being a single storey extension, the proposals are of an appropriate scale (requirement (ii)) and is subservient to the surrounding environment, being lower and smaller than the existing building (requirement (i)). Further to this, CEC have approved other single storey extensions in the Portobello Conservation Area; the Report of Handling (Document 15) for the application referenced above (at 38 Marlborough Street), stated that:
- 'Although there are no other extensions of this style on the street, the design does echo other modern high quality modern designs in the wider conservation area and the city as a whole, and the character is acceptable in that context. The extension is largely screened behind a high boundary wall and its impact on the appearance from the street will be minimal.'* (Page 4).
- 4.31 Therefore, the proposed extension will preserve the conservation area as it will be largely screened from public view and the potential impact on the appearance of the conservation area from the neighbouring streets will be limited. Bath Street Lane itself has limited footfall, serving mostly garages, while the Bath Street Lane elevation is situated some 15m from Bath Street. The proposal involves other refurbishment works to the existing building and boundary wall, which will be carried out if the conversion to one property and the extension take place. Those refurbishment works will significantly improve the appearance of the building, replacing existing unsympathetic dry-render and poor condition walls and which will enhance the character and appearance of the conservation area, which is a significant benefit and gain to the area..
- 4.32 In addition, the extension will have no impact on features identified in the character appraisal as contributing to the conservation area. On that basis, the proposal is in accordance with Criterion a) of Policy Env 6 as the Conservation Area will be preserved.
- 4.33 Regarding Criterion b) of Policy Env 6, the existing tree which is proposed to be removed on site does not make a positive contribution to the conservation area as it is a self-seeded tree, situated within the rear garden, partially obscured from public view by the high boundary wall. It is also growing very close to the existing rear extension. The proposal therefore should be considered in accordance with Criterion b) of Policy Env 6.
- 4.34 Regarding Criterion c) of Policy Env 6, as stated above, the proposal is in accordance with the CEC Listed Buildings and Conservation Areas supplementary guidance. The proposed extension utilises high-quality and contemporary materials which do not attempt to imitate the historic structure, instead providing a modern addition to the listed building which will not detract from its interest. The proposed materials are therefore appropriate to the historic environment. A high standard of design is clearly demonstrated by the DS (Document 4).
- 4.35 It can therefore be concluded that the proposals are wholly in accordance with Policy Env 6 of the ELDP and will not have a detrimental impact on the character or appearance of the conservation area.

Other Material Documents and Considerations

- 4.36 The majority of other material documents and considerations are strategic level policies, which provide high level guidance. These are assessed in further detail below.

Scottish Planning Policy

- 4.37 Revised Scottish Planning Policy ('SPP') was published in June 2014. Paragraph 141 of SPP states that:

'Change to a listed building should be managed to protect its special interest while enabling it to remain in active use...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.'

- 4.38 As detailed above, the proposed alterations take account of the special interests of the building and features to allow its return to use as a single dwelling. The proposed extension is therefore considered consistent with paragraph 141 of SPP.

Historic Environment Policy for Scotland

- 4.39 Historic Environment Policy for Scotland ('HEPS') (Document 17) provides statutory guidance on development in the historic environment, including alterations to listed buildings. The HEPS policies applicable to the proposed development are assessed below.
- 4.40 Policy HEP1 states that decisions affecting any part of the historic environment should be informed by an inclusive understanding of its breadth and cultural significance.
- 4.41 The proposed development has been designed following an assessment of the historic importance of the site and surrounding area. Following this assessment, the proposals have been designed to be subservient to the historic building, occupying space at the rear of the building, ensuring a minimal impact on its cultural significance whilst returning the building to its original use. The proposals are therefore in accordance with Policy HEP1.
- 4.42 Policy HEP2 states that decisions affecting the historic environment should ensure that its understanding and enjoyment as well as its benefits are secured for present and future generations.
- 4.43 The proposed development will allow the return of use of the existing building to a single residential dwelling. A high-quality residential environment will be provided for future occupants. In addition, the development will enable investment in the historic fabric of the building, allowing its continued preservation and securing the benefits for present and future generations. The proposals are therefore in accordance with Policy HEP2.
- 4.44 Policy HEP4 states that changes to specific assets and their context should be managed in a way that protects the historic environment. Opportunities for enhancement should be identified where appropriate. If detrimental impact on the historic environment is unavoidable, it should be minimised. Steps should be taken to demonstrate that alternatives have been explored, and mitigation measures should be put in place.
- 4.45 The proposals have been sympathetically designed, following an assessment of the surrounding historic environment and its character, resulting in a development which will not harm the appearance or character of the listed building or conservation area, in accordance with HEPS.

CEC non-statutory guidance on Listed Buildings and Conservation Areas

- 4.46 This guidance is afforded less weight than the ELDP and national level policy due to its non-statutory nature. Nevertheless, it is a material consideration. It provides the following guidance regarding the extension of listed buildings:
- '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.'* (Page 11).
- 4.47 There are many examples of single storey rear extensions to Grade C listed terraces throughout Portobello and, accordingly, the principle of extending the building is acceptable. The rear elevation is not the principal elevation so the proposal wholly meets the requirements of the guidance as the front elevation will remain intact (although improved through refurbishment). In relation to the remainder of this advice therefore, is it necessary to consider whether the extension is subservient, whether it exceeds '50% of the width of any elevation' and if it does, whether that exceedance is acceptable.
- 4.48 When determining allowed listed building consent appeal reference LBA-230-2200, (Document 18) the Reporter considered that:
- 'The guidance also discusses the need for extensions to be subservient to the main building and not on principal elevations, and there is some flexibility around the 50% limit – although it should not normally be exceeded, the circumstances where the limit might be exceeded are not specified.'* (Page 4).
- 4.49 The small size of the proposed extension, at ground level and largely screened from public view, demonstrates that it is subservient to the listed building – it will only marginally exceed the height of the boundary wall, projects only 3.1m from the rear of the extension to the original building whilst retaining a good sized garden area.
- 4.50 The existing extension to the original building exceeds 50% of the rear elevation, being at ground and first floor level. The proposed extension will cover the remaining ground floor of the original building, although that part will be retained in its entirety, as an internal wall. This development will not affect any important feature of the building. The extension will also cover the entire rear elevation of the ground floor of the extension to the original building, comprising some 50% of that elevation, with the remaining 50% being retained at first floor level. This extension has no special features necessary to retain and has recently been extended at number 7 Bath Street to cover almost the entire width of that elevation. In addition, the outshoots to all buildings in this row are different. The Reporter is, therefore, requested to agree that this is a proposal in which flexibility relating to the 50% guidance is appropriate, particularly as the proposed extension is on a minor elevation, is subservient to the building, is largely screened from view and will not affect any special feature of importance to the.
- 4.51 The guidance goes on to state that:
- 4.52 *'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.'* (Page 11).

- 4.53 The proposed use of high-quality, contemporary materials will ensure the proposed extension is distinguishable from and complimentary to the existing building.
- 4.54 Following the above assessment against the CEC non-statutory guidance on Listed Buildings and Conservation Areas, it can be concluded that the proposed development should be considered acceptable. There will be no adverse impacts on the character or appearance of the conservation area or listed building as a result of the proposed development.

5.0 Conclusion

- 5.0 This building is category C Listed. The proposal will not cause unnecessary damage to historic structures and the development will allow the building to return to its original use as a single residential dwelling, enabling improvements and repairs to be made to the existing building.
- 5.1 The proposed development is in accordance with SPP, CEC and HES policy and guidance, in addition to being in accordance with the recognised listing of the building. The proposal therefore complies with national and local guidance.
- 5.2 In conclusion, it is considered that the proposed development will meet the tests within the Act, by preserving and enhancing the listed building and conservation area. Accordingly, the Reporter is respectfully requested to allow the Appeal and grant listed building consent for the proposed development.



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5 Bath Street, Edinburgh, EH15 1EZ
Design Statement

Ground floor single storey extension and internal alterations.



View from street, front elevation

EXISTING BUILDING

5 Bath Street is a C-Listed terraced house dating from the early 19th Century (before 1824) and is situated within the Portobello Conservation Area. The building was listed in 1995 (listing document with a brief description attached).

The property is part of a 2 storey, 4 bay pair of terraced houses with an ashlar stone frontage with base, dividing band, cornice and blocking course. The side (south-west) and rear elevation is harled and painted. The rear 2 storey extension dates from before 1856 and is harled.

Windows are traditional timber sash and case with 12 panes with the exception of windows to the ground floor rear elevations and attic level gable end which have 2 panes. Former shop front in west corner of front elevation.

The interior is plain with banded cornices in the main rooms. The staircase from ground floor to first floor level is stone and the staircase to the attic is a modern spiral staircase with timber treads.

The 2m high boundary wall to the south-west of the rear garden is a rubble wall with half round coping. The garden wall that forms the boundary with no. 7, is a combination of harled and painted masonry which steps down from 3.2m to 2m towards the rear. The garden also steps around a derelict garage situated at the rear of the site.

BRIEF

Currently, the property is divided into two flats with shared access from Bath Street. The ground floor is a one bedroom flat and the rest of the property is a 4 bedroom flat with kitchen/dining room on the ground floor of the rear extension.

Konishi Gaffney Architects have been appointed by the owners to convert the two flats into one family home, with a modern, open plan kitchen / living / dining space.

EXISTING AND PROPOSED HOUSE

The proposal seeks to consolidate the ground floor rooms into living spaces and allow the shower room to be accessed from the hallway. The proposed single storey extension at the rear provides an open plan kitchen / dining / living area that has improved access and visual connection to the garden.



Existing rear garden



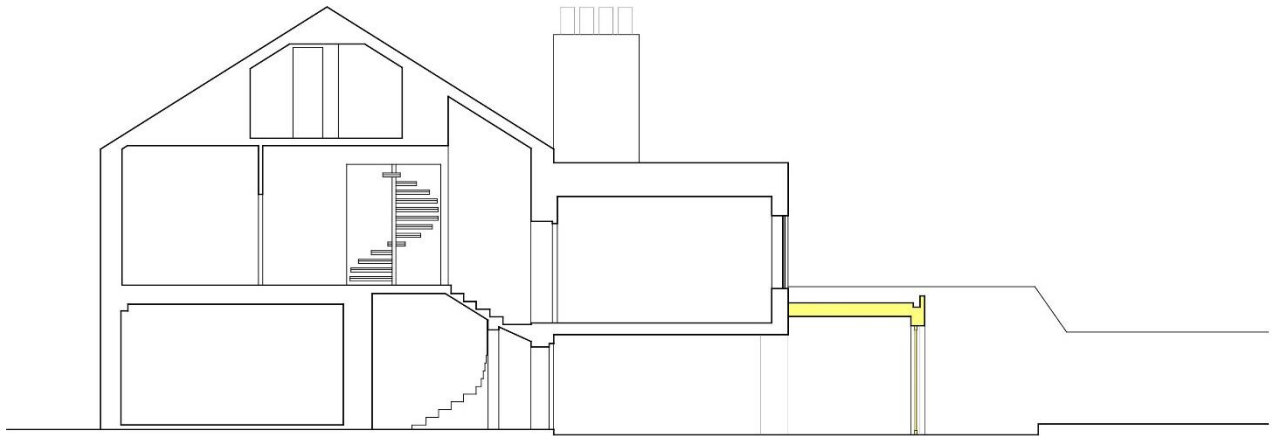
Existing view to back of garden

DESIGN PROPOSALS

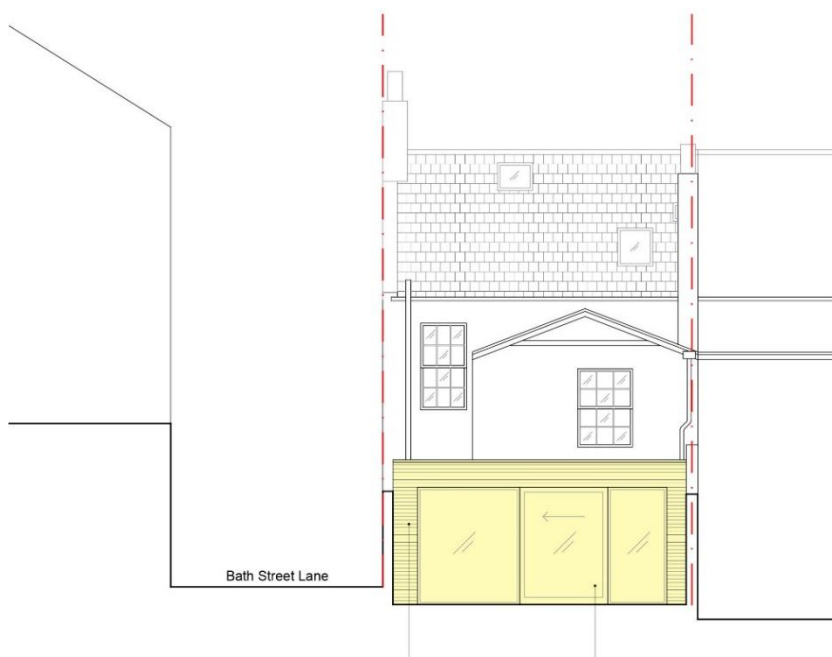
The proposed L-shaped extension is a contemporary addition, wrapping around the original 2 storey extension. The proposed design seeks to have minimal impact on the existing building fabric, slotting into the site. The rooflight which runs along the south west side of the extension, provides daylighting to the kitchen below, as well as allowing for a visual connection between new and old.

The garden gate will be moved to the rear end of the site and the dilapidated parts of the stone boundary wall will also be repaired.





Proposed Section



Proposed rear elevation

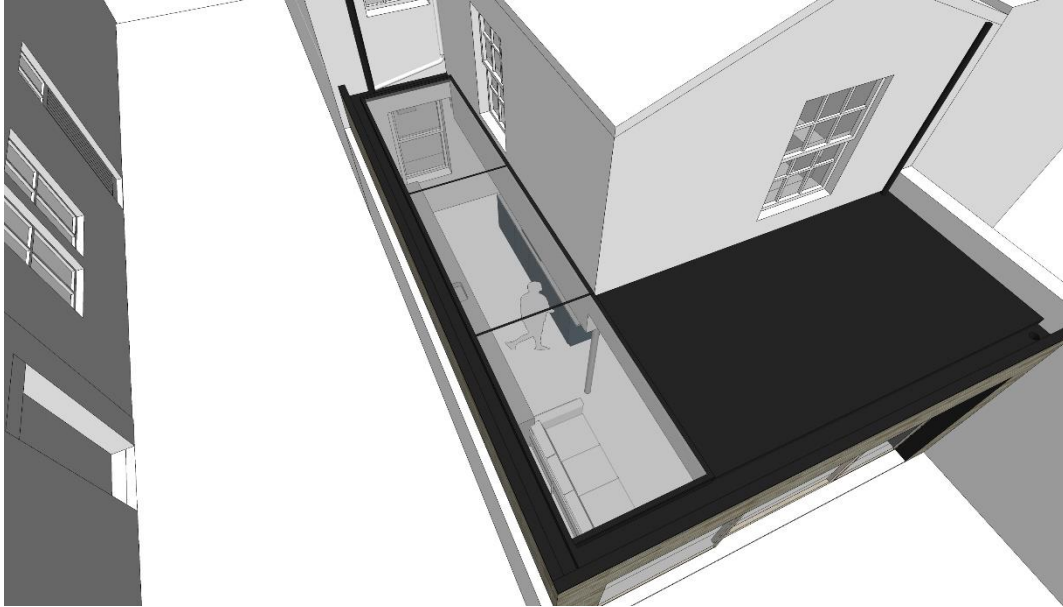
MATERIALS

The proposed extension will be clad in horizontal timber cladding with double glazed timber framed windows to allow visual and physical connections to the garden. The new garden gate will also be timber, in keeping with the aesthetic of the new additions.

The stone boundary wall will be retained and parts which are in poor condition will be repaired as part of the work. The existing dry dash render to the original extension will be removed and re-rendered to match the rear elevation of the main house.

DAYLIGHT

The proposed rooflight will provide natural light to the kitchen area from above and also light the proposed study. This proposed study at the rear of the house is only 8m² and is small due to the existing ensuite shower room. The position of this rooflight will allow daylight into this room, so that it can function as a study in this location. This glazed roof area also marks the intersection between the original house, 2 storey extension and proposed ground floor extension.



Aerial View



View from kitchen to main house

SCALE & NEIGHBOURING PROPERTIES

The impact on the neighbours will be minimal due to the extension being below the height of the boundary wall shared with no. 7 and the south west elevation being largely obscured by the stone boundary wall. Bath Street Lane which runs along the south west boundary, is surrounded by garages and the rear elevation of the buildings that have a frontage on to Portobello High Street.



Aerial view of Bath Street Lane



View from Bath Street Lane

SUMMARY

The proposed design seeks to consolidate two flats into one family home whilst remaining sensitive to the heritage of the C-Listed property. The ground floor extension is a modern insertion that allows for an improved relationship between the kitchen and the garden.

Due to the rear elevation being largely obscured by the boundary walls, the proposed single storey extension will have little visual impact on the surrounding area.

Overall, the impact on the listed building of the alterations will be minimal due to the limited loss of historic fabric.

This timber clad extension is a sensitive, contemporary addition to upgrade this C-listed building to suit the needs of a family home.

Konishi Gaffney Architects

Konishi Gaffney are an award-winning, design led practice based in Edinburgh. Konishi Gaffney have won awards for their high quality and sensitive design approach and been hailed as a design exemplar by the Scottish Government.

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