

Mr Ari Kiuru.  
96 Avalon Gardens  
Linlithgow  
EH49 7PL

**Decision date: 14 July 2021**

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

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

At 2F1 63 Montgomery Street Edinburgh EH7 5HZ

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

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 24 May 2021, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

**Conditions:-**

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

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

Drawings 01-04, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

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

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

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

Should you have a specific enquiry regarding this decision please contact Weronika Myslowiecka directly at [weronika.myslowiecka@edinburgh.gov.uk](mailto:weronika.myslowiecka@edinburgh.gov.uk).



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

## NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://www.eplanning.scot) or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email [localreviewbody@edinburgh.gov.uk](mailto:localreviewbody@edinburgh.gov.uk).

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

# Report of Handling

**Application for Planning Permission**  
**2F1 63 Montgomery Street, Edinburgh, EH7 5HZ**

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

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

## **Recommendation**

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

## **Summary**

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

## **SECTION A – Application Background**

### **Site Description**

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

The application is located within New Town Conservation Area.

### **Description Of The Proposal**

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

### **Relevant Site History**

No relevant site history.

## Consultation Engagement

No Consultations.

## Publicity and Public Engagement

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

**Date of Advertisement:** 11 June 2021

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

**Number of Contributors:** 0

## Section B - Assessment

### Determining Issues

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

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

Do the proposals comply with the development plan?

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

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

### Assessment

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

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

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

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

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

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

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

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

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

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

#### b) Neighbouring amenity

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

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

#### c) Equalities and human rights

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

#### d) Public comments

The application has attracted one letter objecting the proposal.

Material consideration:

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

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

The recommendation is subject to the following;

### **Reasons**

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

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

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

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

**Date Registered: 24 May 2021**

### **Drawing Numbers/Scheme**

01-04

Scheme 1

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

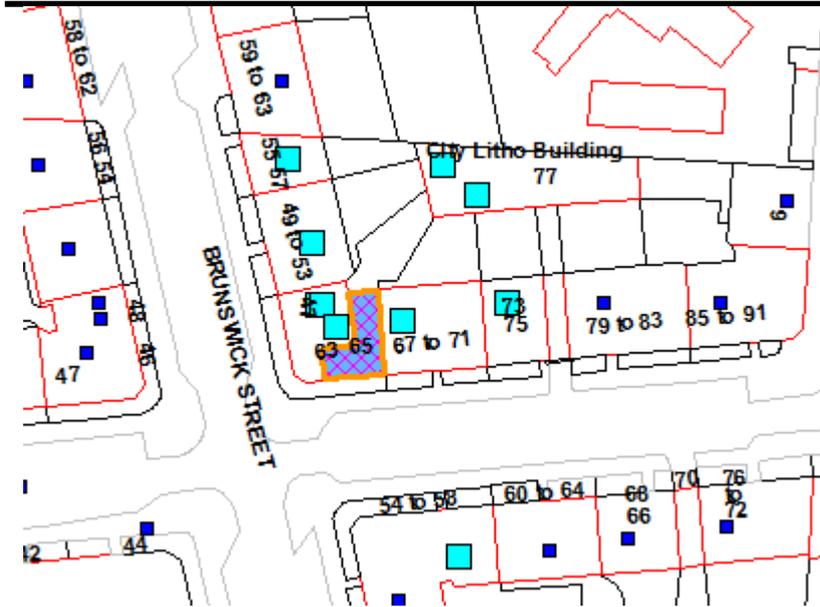
Contact: Weronika Myslowiecka, Planning Officer  
E-mail: [weronika.myslowiecka@edinburgh.gov.uk](mailto:weronika.myslowiecka@edinburgh.gov.uk)

Appendix 1

**Consultations**

No consultations undertaken.

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



### Location Plan

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77A Brunswick Street Edinburgh EH7 5HS

Suite 5 77 Montgomery Street Edinburgh EH7 5HZ

Suite 2 77 Montgomery Street Edinburgh EH7 5HZ

2F1 57 Brunswick Street Edinburgh EH7 5HT

3F1 57 Brunswick Street Edinburgh EH7 5HT

1F1 57 Brunswick Street Edinburgh EH7 5HT

55 Brunswick Street Edinburgh EH7 5HT

3F2 56 Montgomery Street Edinburgh EH7 5JA

3F1 56 Montgomery Street Edinburgh EH7 5JA

2F2 56 Montgomery Street Edinburgh EH7 5JA

2F1 56 Montgomery Street Edinburgh EH7 5JA

1F2 56 Montgomery Street Edinburgh EH7 5JA

1F1 56 Montgomery Street Edinburgh EH7 5JA  
81A Montgomery Street Edinburgh EH7 5HZ  
3F2 75 Montgomery Street Edinburgh EH7 5HZ  
3F1 75 Montgomery Street Edinburgh EH7 5HZ  
2F2 75 Montgomery Street Edinburgh EH7 5HZ  
2F1 75 Montgomery Street Edinburgh EH7 5HZ  
1F2 75 Montgomery Street Edinburgh EH7 5HZ  
1F1 75 Montgomery Street Edinburgh EH7 5HZ  
73A Montgomery Street Edinburgh EH7 5HZ  
73 Montgomery Street Edinburgh EH7 5HZ  
58 Montgomery Street Edinburgh EH7 5JA  
54 Montgomery Street Edinburgh EH7 5JA  
53 Brunswick Street Edinburgh EH7 5HT  
3F3 69 Montgomery Street Edinburgh EH7 5HZ  
3F2 69 Montgomery Street Edinburgh EH7 5HZ  
3F1 69 Montgomery Street Edinburgh EH7 5HZ  
2F3 69 Montgomery Street Edinburgh EH7 5HZ  
2F2 69 Montgomery Street Edinburgh EH7 5HZ  
2F1 69 Montgomery Street Edinburgh EH7 5HZ  
1F3 69 Montgomery Street Edinburgh EH7 5HZ  
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1F2 63 Montgomery StreetEdinburghEH7 5HZ  
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2F2 51 Brunswick StreetEdinburghEH7 5HT  
2F1 51 Brunswick StreetEdinburghEH7 5HT  
1F3 51 Brunswick StreetEdinburghEH7 5HT  
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1F1 51 Brunswick StreetEdinburghEH7 5HT  
71A Montgomery Street EdinburghEH7 5HZ  
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63A Montgomery Street EdinburghEH7 5HZ  
49 Brunswick Street EdinburghEH7 5HT  
47A Brunswick Street EdinburghEH7 5HT  
47 Brunswick Street EdinburghEH7 5HT

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

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

Thank you for completing this application form:

ONLINE REFERENCE 100417361-003

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

## Applicant or Agent Details

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

Applicant  Agent

## Applicant Details

Please enter Applicant details

Title:	<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="96 Avalon Gardens"/>
First Name: *	<input type="text" value="Ari"/>	Building Number:	<input type="text" value="96"/>
Last Name: *	<input type="text" value="Kiuru"/>	Address 1 (Street): *	<input type="text" value="96 Avalon Gardens"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="██████████"/>	Town/City: *	<input type="text" value="Linlithgow"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH49 7PL"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="██████████"/>		

## Site Address Details

Planning Authority:

City of Edinburgh Council

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

Address 1:

2F1

Address 2:

63 MONTGOMERY STREET

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH7 5HZ

Please identify/describe the location of the site or sites

Northing

674688

Easting

326430

## Description of Proposal

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

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

## Type of Application

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

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

What does your review relate to? \*

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

## Statement of reasons for seeking review

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

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

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

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

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

Yes  No

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

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

As stated before

## Application Details

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

21/02854/FUL

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

01/06/2021

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

14/07/2021

## Review Procedure

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

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

Yes  No

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

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

Yes  No

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

Yes  No

## Checklist – Application for Notice of Review

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

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

Yes  No

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

Yes  No

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

Yes  No  N/A

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

Yes  No

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

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

Yes  No

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

## Declare – Notice of Review

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

Declaration Name: Mr Ari Kiuru

Declaration Date: 14/08/2021

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

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

