

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

100551192-002

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	3					
Company/Organisation:	MDA STUDIO					
Ref. Number:		You must enter a Building Name or Number, or both: *				
First Name: *	David	Building Name:				
Last Name: *	Moore	Building Number:	30			
Telephone Number: *	0131 629 3141	Address 1 (Street): *	Braid Road			
Extension Number:		Address 2:				
Mobile Number:		Town/City: *	Edinburgh			
Fax Number:		Country: *	Scotland			
		Postcode: *	EH10 6AD			
Email Address: *	david@mda-studio.co.uk					
Is the applicant an individual or an organisation/corporate entity? *						
☐ Individual ☐ Organisation/Corporate entity						

Applicant Details					
Please enter Applicant of	details				
Title:	Mr	You must enter a Bu	You must enter a Building Name or Number, or both: *		
Other Title:		Building Name:			
First Name: *	Tony Singh	Building Number:	2		
Last Name: *	Kusbia & Landa Properties Ltd	Address 1 (Street): *	Duddingston Crescent		
Company/Organisation		Address 2:			
Telephone Number: *		Town/City: *	Edinburgh		
Extension Number:		Country: *	Scotland		
Mobile Number:		Postcode: *	EH15 3AS		
Fax Number:					
Email Address: *					
Site Address	Details				
Planning Authority:	City of Edinburgh Council				
Full postal address of th	ne site (including postcode where available	e):			
Address 1:	5 WEST TOLLCROSS				
Address 2:					
Address 3:					
Address 4:					
Address 5:					
Town/City/Settlement:	TOLLCROSS				
Post Code:	EDINBURGH				
Please identify/describe the location of the site or sites					
Northing	672923	Easting	324860		

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)
Mixed used development with ground floor restaurant (Class 3) and take-away (Sui Generis) and 3 x apartments on upper floors
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.
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 a seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)
Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.
You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.
See Supporting Document
Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *
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 to rely on in support of your review. You can attach these documents electronically later in the			intend		
LRB Review Report					
Application Details					
Please provide the application reference no. given to you by your planning authority for your previous application.	22/01705/FUL				
/hat date was the application submitted to the planning authority? *					
What date was the decision issued by the planning authority? *	03/10/2022				
Review Procedure The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case. Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. * Yes No Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures. Please select a further procedure * By means of inspection of the land to which the review relates Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)					
We feel a site inspection would allow the LRB to get a better understanding f the site and	surrounding context.				
In the event that the Local Review Body appointed to consider your application decides to in Can the site be clearly seen from a road or public land? * Is it possible for the site to be accessed safely and without barriers to entry? *	×	inion: Yes			

Checklist - App	lication 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 o submit all this information may result in your appeal being deemed invalid.				
Have you provided the name	and address of the applicant?. *	X Yes ☐ No		
Have you provided the date a review? *	nd reference number of the application which is the subject of this	X Yes ☐ No		
,	behalf of the applicant, have you provided details of your name nether any notice or correspondence required in connection with the or the applicant? *	X Yes ☐ No ☐ N/A		
, ,	nt setting out your reasons for requiring a review and by what procedures) you wish the review to be conducted? *	X 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 do (e.g. plans and Drawings) whi	⊠ 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	e of Review			
I/We the applicant/agent certify that this is an application for review on the grounds stated.				
Declaration Name:	Mr David Moore			
Declaration Date:	20/12/2022			

5 WEST TOLLCROSS EDINBURGH

Mixed used development with ground floor restaurant (Class 3) and take-away (Sui Generis) and 3 x apartments on upper floors



Supporting statement for Notice of Review City of Edinburgh Council Against the Refusal of Planning Application 22/01705/FUL

On Behalf of
Kusbia & Landa Properties Ltd

December 2022

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Edinburgh
EH10 6AD
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Site photo taken in 2021

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1: INTRODUCTION AND REASON FOR REVIEW

- 1.1: A notice of review has been submitted by MDA Studio LLP Architects & Designers (MDA Studio) on behalf of Kusbia & Landa Properties Ltd (hereby referred to as the applicant), whose application (Reference 22/01705/FUL) for planning permission for a mixed use development Mixed used development with ground floor restaurant (Class 3) and take-away (Sui Generis) and 3 x apartments on upper floors, was refused by City of Edinburgh Council on 3rd October 2022 under delegated powers for the following reasons:
- 1: The Proposal is contrary to the Local Development Plan Policy Hou 7 in respect of inappropriate uses in Residential areas, as it will have a detrimental impact on residential amenity by way of noise and disturbance.
- 2: The proposal is contrary to the Local Development Plan Policy Ret 11 in respect of Food and Drink Establishments, as it will intensify the concentration of food and drink establishments adversely affecting amenity
- 3: The proposal is contrary to the Local Development Plan Policy Des 5 in respect of Development Design Amenity, as it will harm neighbouring residential developments and not provide future occupiers with an acceptable level of amenity
- 4. The proposal is contrary to the Local Development Plan Policy Des 2 in respect of Coordinated Development, as it will compromise the effective development of adjacent land and the regeneration of West Tollcross.
- 5. The proposal is contrary to Local Development Plan policies Des 1, Des 2, Des 5, Des 4 and Hou 4 in respect of design as the scale form and design is not compatible with the characteristics of the wider townscape, the proposal, it fails to draw on the positive qualities of the area and would be damaging to the character and appearance of the surrounding area.
- 6. The proposal is contrary to Local Development Plan Policy Hou 3 Private Green Space in Housing Development as it will not provide a satisfactory living environment.
- 1.2: The notice of review and the accompanying documents which were submitted as part of the planning application are included, as well as additional supporting review statement
- 1.3: The reason for the notice of review and supporting review statement is to explain to the LRB that the proposal is providing a much-needed affordable housing in the centre of Edinburgh and the large areas of green space in the local area amply offset the limited outdoor

space available for the 1 bed apartments on the site. The new ground floor restaurant will be owner occupied by Tony Singh MBE.

We have added below a statement from Tony Singh MBE on the recent refusal of planning permission for the site and is proposed intentions for the operation of the ground floor unit.

"It is deeply disturbing that the Planning Department, after first granting Class Three consent to our site at 5 West Tollcross, is now refusing the same site planning permission and overturning their original decision.

One of the objections is pertaining to the site being used as a restaurant/takeaway.

However, this is not the case. The primary use of the area is for a coffee shop and brunch restaurant service, which will not be focused on the trade from the night club – another concern noted in the objections. The site will not be open when the night club closes and will not encourage any extra lingering of patrons in the area.

Moreover, one of the main driving components of the brunch-led restaurant is to have a charitable breakfast club available.

Tony Singh MBE is a well-known champion of charitable work and especially in helping with food poverty and lack of good nutrition amongst children. Since a lack of breakfast leads to a lack of concentration in young people throughout the day, the brunch-led restaurant aims to provide a free nutritional breakfast for all children.

Tony has already been in touch with the local school where the idea of a free heathy breakfast for the children was readily welcomed"

The Planning application was submitted on 18th April 2022 with a determination date of 17th June 2022. The decision was not issued until 3rd October 2022 with no request from the council to extend the determination date. Waiting nearly 4 months over the target date, with no request for an extension and having no chance to respond or make changes to the design was disappointing.

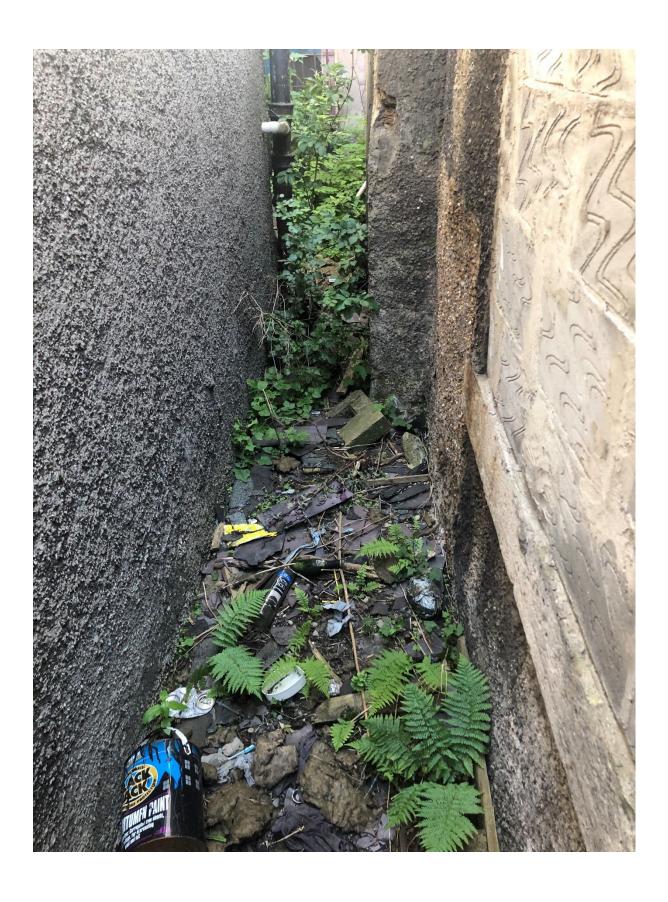
2.0: SITE LOCATION AND PROPOSALS

2.1: Location and Description

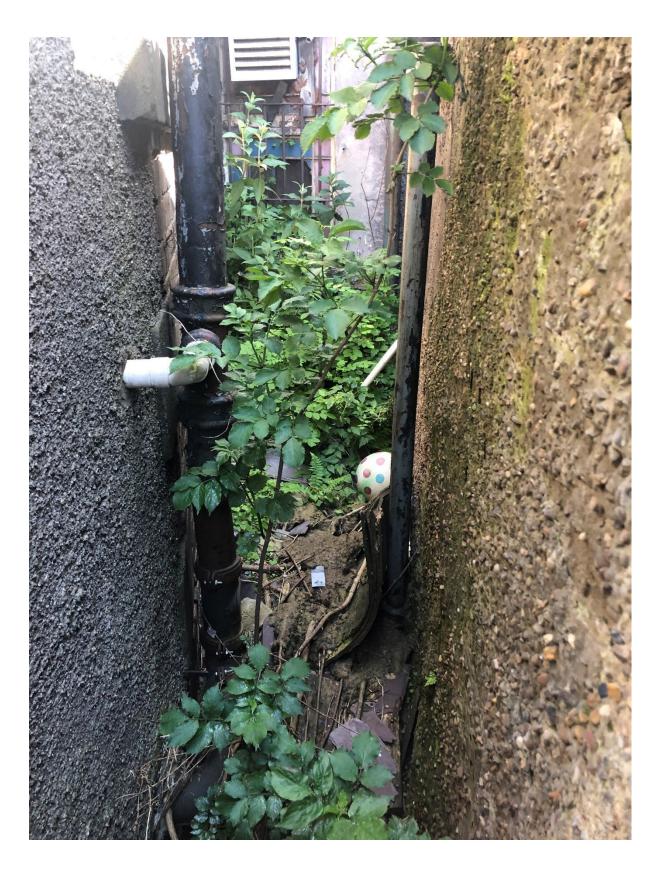
The site is located on the south side of west Tollcross just before it joins Lochrin place and Ponton Street. The Tollcross Fire station is directly opposite the site.

When the applicant purchased the site, it was occupied by a public toilet building. This building had suffered severe neglect over the years. There was a small back passage between the toilet building and the adjoining Tae Kwon-Do Academy. The toilets were regularly broken into for drug and alcohol abuse with the applicant boarding up and locking all the weak points to try and prevent more damage being caused.









The applicant previously applied for planning permission to turn the toilet block building into a Class 3 use in 2019. Reference number 19/04005/FUL.

This application for change of use to Class 3 restaurant and take away was <u>GRANTED</u> by City of Edinburgh Council on 10th December 2019.

The public toilet property had many large structural cracks developing in the roof / ceiling of the building and it was decided that the safest option would be to demolish the building and install some temporary / removable containers operating as market stalls. The applicant obtained a market traders licence from City of Edinburgh Council.

Approval was granted by City of Edinburgh Council for the demolition of the property on 10th August 2020. Reference number 20/01518/WARR. The site was cleared and made good / safe.

2.2: Details of Proposal

The proposal is for a contemporary four storey building of mixed-use development potential comprising a ground floor food unit and the upper floors containing 3 large one bed apartments with outdoor balcony space.

The ground floor unit will be accessed directly off West Tollcross with a separate door entry providing access to the communal stair to the 3No. affordable flats.

There will be one flat on each floor with a one bedroom and an open plan living, kitchen, dining area and a balcony facing west. The development has a flat roof with additional solar panels. The façade is a combination of a vertical 'living' wall to the north elevation. Dark grey render bands, large aluminium framed windows and buff brick cladding form the remainder of the elevation palette.

There will be a commercial bin store to the north west of the site and the domestic communal bin store and bike store are accessed at ground level and secure. It is proposed to have zero parking as this development falls on the boundary of the Edinburgh Low emission zone

As mentioned in 1.3 above the applicant has been speaking with the local school about providing a free morning breakfast for school children, In the current economic climate it would be short sighted of the council to not recognise this positive move in the city.

2.3: Bio of applicant - Tony Singh MBE



Tony Rajinder Singh MBE is one of the UK's best-loved celebrity chefs know to all as Tony, renowned for his lively personality and skill in designing quirky and delicious dishes, to delight diners across the land.

A fourth-generation Scottish Sikh, his Great Grand Father Khasier Singh Kusbia and Grand Father Tunda Singh Kusbia came to the uk after Partition from a Village just outside of Lahore.

Tony was born and raised in Leith, Edinburgh, and learned at his mother's knee the cookery skills which would see him create the unique fusion of Scottish and Asian flavours for which he is so well known.

After showing early promise in Home Economics at school, Tony went on to train classically as a chef and later secured prestigious roles working at the Balmoral Hotel, Skibo Castle, Gravetye Manor and on board The Royal Scotsman and the Royal Yacht Britannia.

After years of experience working in destination dining spots in London and Scotland, Tony went solo to launch his own award-winning restaurants – and it was here that his inimitable cookery style really came into its own, with crowds (and cameras!) flocking to see Tony's contemporary twist on traditional dishes for themselves.

- Winner of the first ever professional Cooker TV shows in the UK ITV's Chef of the year in 2000
- A winner of Scottish Chef of the Year & Highland chef of the year
- Gold medal winner for Salon Culinaria Tony strives to promote innovative use of Scottish produce, but always with an unexpected flourish.

Known for his quick-fire wit and cheeky personality, Tony is a firm favourite on British television, starring in

- BBC, A Cook Abroad: Tony Singh's India,
- His own BBC series with Cyrus Todiwala. The Incredible Spice Men
- BBC The Great British Menu
- BBC Saturday Kitchen
- BBC Ready Steady Cook
- ITV Cooking with the Stars
- ITV James Martin Island and the Highlands
- Starz, Men In Kilts
- as well as guest spots on Pointless, Celebrity Eggheads, Celebrity Mastermind, Antiquities Road trip and many others.

He has cooked for,

- The Queen
- The Duke of Edinburgh
- Prince Charles, The Prince of Wales
- Prime minister Gordon Brown
- Prime Minister David Cameron
- Prime Minister Theresa May
- President Bill Clinton
- Prince Albert of Monaco
- Maharaja of Patiala
- Various TV and Movie celebrities

Tony is a member of significant industry peer appointed associations, a Master Chef of Great Britain, and the Royal Academy of Culinary Arts, the Craft Guild of Chefs and the Scottish Chefs Association.

Tony was awarded his MBE in the 2017 Honours list from her Majesty Queen Elizabeth II for services to the food and drink industry, and his charity work.

3.0 PLANNING POLICY CONTEXT RESPONSE

We have taken the 6 reasons for refusal and provided our response to each below.

1: The Proposal is contrary to the Local Development Plan Policy Hou 7 in respect of inappropriate uses in Residential areas, as it will have a detrimental impact on residential amenity by way of noise and disturbance.

We do not see how an application for the same use at ground floor was approved in 2019 but refused in 2022. The description was kept exactly the same as the 2019 application to avoid any element of doubt. In our opinion the application to refuse the application on the basis of the inappropriate use in residential areas is not a legitimate reason for refusal. If the council had any concerns on the use, then they could introduce operating hour restrictions on the premises, widely used powers throughout the city. As described above the owner / occupier will be using the ground floor as a coffee shop / brunch restaurant service along with the free school breakfast club.

If the owner of the nightclub building next door knocks the building down and rebuilds a new building with night club at ground floor and residential above would the same principles apply?

MDA Studio LLP or the applicant where not given any opportunity to provide further information on this prior to refusal.

2: The proposal is contrary to the Local Development Plan Policy Ret 11 in respect of Food and Drink Establishments, as it will intensify the concentration of food and drink establishments adversely affecting amenity

As above, we do not see this as valid as the planning department approved the same class use 3 in 2019, albeit in a different building aesthetic.

MDA Studio LLP or the applicant where not given any opportunity to provide further information on this prior to refusal.

3: The proposal is contrary to the Local Development Plan Policy Des 5 in respect of Development Design - Amenity, as it will harm neighbouring residential developments and not provide future occupiers with an acceptable level of amenity.

The apartments have been designed to be low maintenance and affordable one-bedroom apartments that comply with the Edinburgh Design Guidance on floor area, bin storage and

secure bike storage. Each apartment has a west facing balcony to provide a useable outdoor evening space.

The site is surrounded by green and public space with the meadows a short walk away and the canal path also a short distance. The site has excellent public transport options and would provide a great location for a student or young professionals who want to stay in the city.

The immediate buildings surrounding the development are not residential. There is a night club to the adjoining east boundary. Currently the Atik, it has been run under various names over the last few decades. To the North of the site lies a carpark and Tollcross Fire station. The west is the junction between West Tollcross / Ponton Street and Lochrin Terrace. The south side has a single storey building currently used as a Tae Kwon-do Academy.

The residential use is further south on Lochrin Terrace with ground floor restaurants.

The planning report notes that the building will not overlook or overshadow other properties (LDP Policy Hou 7) yet it was refused on the basis it will affect the residential neighbouring amenity.

The planning report also states on page 5 that the area is mixed with much residential use, yet Environmental protection (Page 10) objected to residential development due to the impact of noise from a number of different sources and advised amenity is likely to be poor. Why would so many people live here if amenity is so poor?? This does not make any sense. How can the area be developed unless the nightclubs and restaurants are removed and the fire station moved to an out of town retail park.

If someone chooses to live beside a school, you accept that at times it will be busy. If you live near a hospital, at times it will be noisy, If you live near a fire station at times it will be noisy, if you live in a city centre, most of the time it will be noisy and busy but it's a person's choice where and how they live.

MDA Studio LLP or the applicant where not given any opportunity to provide further information on this prior to refusal.

4. The proposal is contrary to the Local Development Plan Policy Des 2 in respect of Coordinated Development, as it will compromise the effective development of adjacent land and the regeneration of West Tollcross.

We do not understand how an owner of a site can have restrictions or refusals put on a development for the potential of a future development which may never occur. If developments are decided upon by what someone else may do in 10 - 20 or 30 years time then how can any Architect / designer design a building for a site owned by their client?

The building was sold by Edinburgh Council on the open market and the applicant was successful on the purchase. The applicant now wishes to enhance the area, provide affordable accommodation and provide free breakfast meals for the local school.

Should any of the adjoining property owners have been interested then the time to purchase the property was when it was on the open market.

The area will continue to be run down as the challenges to get multiple owners together and agree one overall strategy for the whole cluster of buildings is challenging to say the least.

MDA Studio LLP or the applicant where not given any opportunity to provide further information on this prior to refusal.

5. The proposal is contrary to Local Development Plan policies Des 1, Des 2, Des 5, Des 4 and Hou 4 in respect of design as the scale form and design is not compatible with the characteristics of the wider townscape, the proposal, it fails to draw on the positive qualities of the area and would be damaging to the character and appearance of the surrounding area.

The form of the building has been designed to tie in with the neighbouring building (Atik Night Club) and provide a focal point to the street with the 'living' wall facing West Tollcross. The proportions / façade treatment and fenestrations are very much in keeping with all the new developments getting built around the local area. The development will provide a link between the residential units nearer Tollcross and the junction with Lochrin Terrace. The current Atik night club building could still be developed at a later date if the owners wish to close the night club and turn the unit into a mixed use development.

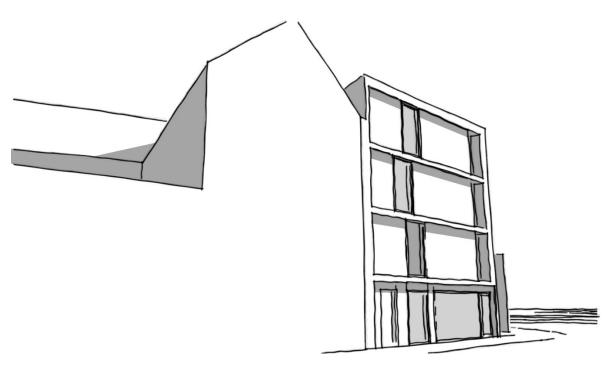
We and the applicant feel that the introduction of a mixed-use development wrapped in a contemporary designed building could only be a positive for the local area.

Regarding the positive architectural qualities of the immediate area it is hard to determine what these are. There is a night club building which has not changed for a number of decades. The Tae kwon-do Academy building is a single storey shed with little architectural merit. The Fire station is very much a fashion of the 1980's and a style not really repeated in the 2020's.

MDA Studio LLP or the applicant where not given any opportunity to provide further information on this prior to refusal.



Fire station and carpark to north of site.



Sketch view of site from West Tollcross



View of site from Lochrin Terrace / Ponton Street

6. The proposal is contrary to Local Development Plan Policy Hou 3 – Private Green Space in Housing Development as it will not provide a satisfactory living environment.

As per 3 above the development provides outdoor balcony space for each apartment and as the owner / occupiers are likely to be students or newly qualified professionals the goal is to create living accommodation that does not require high maintenance and avoids the need for unnecessary factor costs.

With the cost-of-living crisis getting worse the policy to design green space in every city centre residential development with the associated high factor costs needs to be addressed.



The Meadows Green space – 2 min walk from site.

4.0: CONCLUSIONS

The applicant for 5 West Tollcross has been refused planning permission by City of Edinburgh Council under delegated decision.

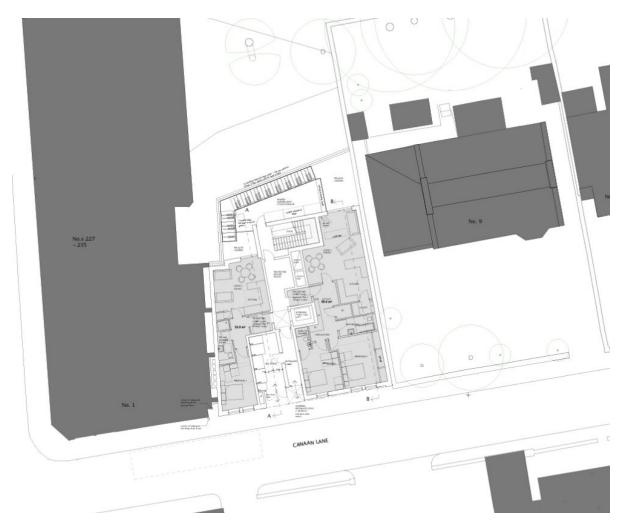
It is respectfully requested that the LRB grants planning permission for the proposed development at 5 West Tollcross. With careful consideration of the relevant planning issues and the cases presented in this supporting statement.

The applicant is aggrieved by the refusal decision and have asked MDA Studio LLP to submit this Notice of Review to the City of Edinburgh Council to allow the local review body within the council to review this delegated decision.

The **key** considerations in this appeal are:

- 1: The huge need in Edinburgh to provide more affordable housing. Many new developments are simply too big and too expensive for a young person to buy. The properties proposed would be a great starter home or student flat.
- 2: We acknowledge the properties have limited external space but this is offset by the abundance of public spaces within a short walk of the properties, including the Meadows, Bruntsfield Links and the Canal area. Each apartment also has external balconies facing west.
- 3: The choice of materials has been selected as a contemporary pallet to match that of the nearby developments around the canal development area. It is something that the applicant is willing to discuss but we did not get the opportunity.
- 4: At no point in the 4 month delay to issue the planning decision was the applicant or agent allowed to respond to any of the concerns raised. As the site previously had a Class 3 approval (albeit in the former toilet block) we do not see how the use in a different building is a reason for refusal. Surely the use and impacts of it are the same whether it's a stone building or a timber shed.
- 5: There is acknowledgement in the planning report that the area is mostly residential yet the planning is refused as the amenity is seen as poor for residential use due to noise from fire stations, night clubs etc. Provision would be put in place for sound tests and triple glazing. The building would also be insulated to higher standards than the building regulations to minimise the need for large heating sources in each building. It would be hoped with heat recovery units, solar panels and air source on the roof the apartments would be low cost to run.
- 6: The site was sold at open auction by CEC property. Should CEC have wished for the area to be developed as a whole then why sell the toilet block? The development of the toilet block

on Canaan Lane, Morningside (18/01506/FUL) is now a large new style tenement block on a very tight site (10 Flats). There is very little amenity space and Morningside has considerably less outdoor space than Tollcross (Meadows and Links)



Amenity space at 7 Cannan Lane (10 number flats – no amenity apart from bike storage)

We hope the appeal statement will demonstrate that the street and surrounding area can take this new development and enhance the area. The LRB should review this application and reconsider the positive impact the new coffee / brunch business will make to the area (along with the free school breakfasts) and also they should welcome the development of a rundown toilet block site into a modern, mixed used development.

5.0: APPENDICES

Appendix A – Drawings submitted for planning

