

Atom TPM.
Thomson House
4A Forth Street
Edinburgh
EH1 3LD

Bakkafrost.
2F
28 Drumsheugh Gardens
Edinburgh
EH3 7RN

Decision date: 24 May 2023

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

Installation of additional flagpole to front elevation, (in retrospect).
At 2F 28 Drumsheugh Gardens Edinburgh EH3 7RN

Application No: 22/06398/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 16 January 2023, 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;

Reason for Refusal:-

1. The proposals would have a harmful impact on the character and setting of the listed building, contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant HES guidance.
2. The proposals are not acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the works will not preserve the special character and appearance of the conservation area.

3. The installation of the flagpoles would fail to preserve the character of the listed building and its setting, and fail to preserve the character and appearance of the conservation area, contrary to the Development Plan.

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

Drawings 1-3, 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 proposals would have a harmful impact on the character and setting of the listed building, contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant HES guidance.

The proposals are not acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the works will not preserve the special character and appearance of the conservation area.

The proposals are not compatible with the existing property or surrounding neighbourhood character, and will not preserve or enhance the character and appearance of the conservation area or built features which contribute to character, contrary to the objectives of the Development Plan.

There are no considerations which indicate the proposal should be approved. Therefore, the proposal is not acceptable and is refused.

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

Should you have a specific enquiry regarding this decision please contact Diana Garrett directly at diana.garrett@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 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.

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

Report of Handling

Application for Planning Permission
2F, 28 Drumsheugh Gardens, Edinburgh

Proposal: Installation of additional flagpole to front elevation, (in retrospect).

Item – Local Delegated Decision
Application Number – 22/06398/FUL
Ward – B11 - City Centre

Recommendation

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

Summary

The proposals would have a harmful impact on the character and setting of the listed building, contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant HES guidance.

The proposals are not acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the works will not preserve the special character and appearance of the conservation area.

The proposals are not compatible with the existing property or surrounding neighbourhood character, and will not preserve or enhance the character and appearance of the conservation area or built features which contribute to character, contrary to the objectives of the Development Plan.

There are no considerations which indicate the proposal should be approved. Therefore, the proposal is not acceptable and is refused.

SECTION A – Application Background

Site Description

The application site is a mid-terrace townhouse within a 4-storey and basement terrace, comprising unified façade of 2-bay townhouses in plain classical style with main-door and common stair flats behind, designed John Lessels, built 1877; later alterations to No. 25 by A G Sydney Mitchell, 1883.

Category B listed, listed 14 December 1970, LB Ref 28676.

The application property is in office use.

The site is located within the New Town Conservation Area.

Description Of The Proposal

The agent has submitted a supporting letter.

The installation of a flagpole installed alongside an existing flagpole. The works are in retrospect.

The application site has a live enforcement case for the alleged unauthorised works (22/00548/ELBB)

Supporting Information

Relevant Site History

22/06400/LBC

2F

28 Drumsheugh Gardens

Edinburgh

EH3 7RN

An additional flagpole installed alongside an existing flagpole.

Refused

24 May 2023

Other Relevant Site History

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 24 May 2023

Date of Advertisement: 20 January 2023

Date of Site Notice: 20 January 2023

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

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

This report will then consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

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

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

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

- *Managing Change - External Fixtures*

Council guidance for Listed Buildings and Conservation Areas seeks to protect the character and setting of listed buildings.

Although the application states that the right hand flagpole was existing, google maps shows a flagpole bracket located in a different position. Both flag poles are therefore new, and their installation has resulted in multiple fixings into the ashlar principal facade. This is unnecessary stone damage and the poor quality of the flag poles, and

mounting plates fail to preserve or enhance the special architectural character of the listed building and its setting, and contradict HES and Council guidance.

Conclusion in relation to the listed building

The proposed flagpoles would have a harmful impact on the character and setting of the listed building, contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant HES guidance.

b) The proposals harm the character or appearance of 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 applicant has provided photos to suggest the limited visual impact of the current location proposed for the flagpoles and that other flagpoles have historically existed in this terrace. However, the cumulative impact of two flagpoles on this stone elevation of the townhouse are excessive in relation to numbers and positioning on the plain ashlar frontage which contributes to both the house's historic character and appearance and wider appearance of the terrace.

Conclusion in relation to the conservation area

The proposed flagpoles fail to preserve or enhance the character or appearance of the New Town Conservation Area, contrary to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant HES guidance

a) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF4 Policy 1 Climate Change
- NPF4 Policy 7 Historic Assets
- LDP Policies Des 12 Alterations and Extensions

The non-statutory 'Listed Building and Conservation Areas' and 'Guidance for Businesses' are material considerations.

Impact on the listed building and conservation area

The impacts on the listed building and conservation area have been assessed in sections a) and b) and are not acceptable in regard to both.

As such, the proposal does not comply with NPF4 Policy 7.

Scale, form and positioning

The flagpoles are not acceptable in terms of scale, form and positioning and are not compatible with the existing property and will not preserve the character and appearance of the conservation area or built features which contribute to its character, as detailed in section a) of the assessment.

The proposal is contrary to LDP policy Des 12.

Impact on nature and climate crisis

Policy 1 of the NPF4 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. The application addresses this through:

- Contributing to the circular economy by making productive use of existing properties and adapting them to meet the changing and diverse needs of the user.

The proposal would have a neutral impact upon the objectives of NPF4 Policy 1.

Conclusion in relation to the Development Plan

The proposal is contrary to LDP Policy Des 12 and NPF 4 Policy 7.

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

The following material planning considerations have been identified:

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

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

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

Public representations

One letter of representation was received from the Architectural Heritage Society of Scotland.

A summary of the representations is provided below:

material considerations

- siting and visual impact, assessed in section a) and b)
- additional 14 fixings into the ashlar principal facade resulting in unnecessary stone damage, assessed in section a) and b)

Conclusion in relation to identified material considerations

No issues arise.

Overall conclusion

The proposals would have a harmful impact on the character and setting of the listed building, contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant HES guidance.

The proposals are not acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the works will not preserve the special character and appearance of the conservation area.

The proposals are not compatible with the existing property or surrounding neighbourhood character, and will not preserve or enhance the character and appearance of the conservation area or built features which contribute to character, contrary to the objectives of the Development Plan.

There are no considerations which indicate the proposal should be approved. Therefore, the proposal is not acceptable and is refused.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

Reasons

Reason for Refusal

1. The proposals would have a harmful impact on the character and setting of the listed building, contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant HES guidance.
2. The proposals are not acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the works will not preserve the special character and appearance of the conservation area.
3. The installation of the flagpoles would fail to preserve the character of the listed building and its setting, and fail to preserve the character and appearance of the conservation area, contrary to the Development Plan.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 16 January 2023

Drawing Numbers/Scheme

1-3

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Diana Garrett, Planning officer
E-mail:diana.garrett@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 22/06398/FUL

Application Summary

Application Number: 22/06398/FUL

Address: 2F 28 Drumsheugh Gardens Edinburgh EH3 7RN

Proposal: Installation of additional flagpole to front elevation, (in retrospect).

Case Officer: Local1 Team

Customer Details

Name: Dr The Architectural Heritage Society of Scotland

Address: 15 Rutland Square, Edinburgh EH1 2BE

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The AHSS Forth & Borders Cases Panel has examined the application for the installation of flagpoles to the principal facade of a B-listed converted townhouse which lies within the New Town conservation area and World Heritage Site, and objects.

Although the application states that the right flagpole was existing, Google StreetView confirms that previously, a flagpole bracket was located in a different position. Both flag poles are therefore new, and their installation has resulted in 14 fixings into the ashlar principal facade (four per fixing place, two anchors per flag pole, and one anchor per flag).

This is unnecessary stone damage and the poor quality of the flag poles, particularly the mounting plates detrimentally impact the attractive streetscape.

These elements of the proposal fail to preserve or enhance the special architectural character of the listed building, contradict Edinburgh Council guidance and conflicts with the Local Development Plan policies ENV 4 & ENV 6. We therefore object to these proposals.