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Mr Glynn & Mrs Claire Owen.
3 Ladysmith Road
Edinburgh
EH9 3EX

Decision date: 13 July 2020

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

Garden office and deck to rear of lower flat (part retrospective) (as amended).
At 3 Ladysmith Road Edinburgh EH9 3EX

Application No: 20/00793/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 18 February 2020, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

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

Conditions:-

Reasons:-

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not compatible with the existing building and will be detrimental to the neighbourhood character.

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

Drawings 01, 02B, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

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

The proposal is not of an acceptable scale, form or design, would be detrimental to neighbourhood character and the character of the host building and would impact on residential amenity. It would not comply with Edinburgh Local Development Plan Policy Des 12 or the non-statutory Guidance for Householders.

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 Thomson directly at adam.thomson@edinburgh.gov.uk.

D R Leech

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 20/00793/FUL
At 3 Ladysmith Road, Edinburgh, EH9 3EX
Garden office and deck to rear of lower flat (part
retrospective) (as amended).**

Item	Local Delegated Decision
Application number	20/00793/FUL
Wards	B15 - Southside/Newington

Summary

The proposal is not of an acceptable scale, form or design, would be detrimental to neighbourhood character and the character of the host building and would impact on residential amenity. It would not comply with Edinburgh Local Development Plan Policy Des 12 or the non-statutory Guidance for Householders.

Links

<u>Policies and guidance for this application</u>	LDPP, LDES12, NSG, NSHOU,
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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

The application relates to a lower flat (ground floor) within a two-storey flatted building that forms an integral part of a quadrangle of two-storey Victorian flatted buildings located within a primarily residential area. The inner courtyard of the quadrangle is subdivided into gardens for the flats.

2.2 Site History

27/02/2020 an enforcement enquiry into an alleged unauthorised development of shed/outbuilding and decking was closed pending outcome of planning application 20/00793/FUL (reference 20/00005/EOPDEV).

Main report

3.1 Description Of The Proposal

The application is for the erection of single storey flat roofed garden building incorporating a decked roof, balustrade, staircase and steps up to the roof.

The application is part retrospective as the garden building, decked roof and integral staircase and steps have already been constructed in their entirety.

The garden building is adjacent to the north elevation of the lower flat within the building. It is set off the building by a few centimetres and is within the rear garden of the flat. It contains an office and bike store for use incidental to the residential use of the lower flat.

The application was amended to remove the balustrade that has been installed around the perimeter of the roof and a new balustrade is proposed to be installed along the outer edge of the integral staircase and steps. If installed this new balustrade would act as a barrier to the decked roof, thus preventing its use as a terrace.

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.

Does the development comply with the development plan?

If the development complies with the development plan, are there any compelling reasons for not approving it?

If the development does not comply with the development plan, are there any compelling reasons for approving it?

3.3 Assessment

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

- a) The scale, form and design are acceptable;
- b) There would be no unreasonable loss to neighbour's residential amenity;
- c) Matters raised by representations have been addressed.

a) Scale, form, design and neighbourhood character

Policy Des 12 of the Edinburgh City Local Plan and non-statutory 'Guidance for Householders' sets out relevant design criteria for alterations and extensions. In essence, they seek to ensure that alterations and extensions are compatible with the character of the existing dwelling and that of the wider locality.

The garden building is not visible from any public place and therefore has a neutral impact on the character of the area. The site is not located within a Conservation Area.

The rear elevation of the property is overlooked by windows of neighbouring flats within the quadrangle. In terms of its size, scale and form, the garden building is not subservient to the existing building in which the flat is located; but instead, it dominates the rear elevation of the building, appearing unduly bulky and intrusive when viewed from neighbouring flats. Moreover, its unfinished timber walls contrast incongruously with the stone walls of the existing building, exacerbating its visual incongruity and intrusiveness. For these reasons the development is contrary to part a) of Local Plan Policy Des 12 and the approved supplementary Guidance for Householders.

The Householder Guidance states that rear extensions should not occupy more than one third of the original rear garden area and there should be enough private garden space left after extensions, normally at least 30 sq.metres. At some 49 sq. metres the area of the original garden of the flat is small. The other flats in the quadrangle similarly have relatively small rear gardens and the opportunity for extending is limited.

Whilst there are examples of garden buildings of varying sizes, the footprint of the garden building is some 19 square metres, and thus it occupies significantly more than a third of the original garden. It amounts to an overdevelopment of the relatively small plot, reducing the garden of the flat to an area which is not sufficient to provide its residents with an adequate level of residential amenity. For this reason, the development is contrary to part a) of Local Plan Policy Des 12 and the approved supplementary Guidance for Householders.

b) Neighbouring Amenity

The development complies with the non-statutory guidance with respect to daylight and sunlight.

With regards to privacy, the non statutory guidance for Householders requires a minimum 18m distance between windows, usually equally spread so that each property's windows are 9 metres from the common boundary. The window to the office in the garden building is more than 18 metres away from the rear elevation of the flats in the buildings on the opposite side of the quadrangle and thus there would not be any significant overlooking to rear windows in these flats. The window to the office would only be some 3.5m from the rear garden boundary. However, the adjoining garden is already overlooked by windows in flats in the quadrangle and there would not be significant additional overlooking to it from the window in the office.

Owing to its height, size, position, the use of the terrace on the roof of the garden building has the potential to give rise to significant overlooking and loss of privacy to neighbouring gardens and windows of neighbouring flats. The application include the following proposals to address this: i) the steel post and wire balustrade around the perimeter of the roof of the garden building removed; and, (ii) a steel post and wire balustrade erected around the outer edge of the external staircase and secondary steps and clear Perspex (acrylic glass) sheets installed to the inner face of the new steel balustrade. The proposed revised balustrade would block access to the decked roof of the garden building, thus preventing its use, whilst maintaining use of the steps for access to the rear garden. The use of the external staircase and secondary steps to access the rear garden of the flat, would not themselves give rise to significant overlooking and loss of privacy to neighbouring residences or gardens.

The applicant's agent was advised of the above concerns with the development and were requested to amend the scheme to address the concerns. The advice given was that the bike shed element should be removed. This would reduce the scale of the building and totally solve the terrace issue by potentially having the stair pushed back to the door and the office being more like a free-standing element. In addition, they were asked that the reduced garden building be finishing in a colour in keeping with the building i.e. grey/stone in order to minimise its visual impact. No revised drawings were submitted.

c) Matters Raised by Third Parties

Material Planning Considerations

- Unacceptable in principle. - This is addressed in (a) above.
- The fact that the extension has already been constructed may preclude any necessary changes to be made to the development in order to make it acceptable in planning terms. This is addressed in (b) above.
- The area in which the application property is located should be a conservation area. This is addressed in (a) above.
- The size and scale of the structure is too big and out of keeping with the neighbouring buildings and the area. This is addressed in (a) above.

- Design and finishing materials are not in keeping with established character. This is addressed in (a) above.
- Overbearing impact. - This is addressed in (a) above.
- Effect on neighbouring privacy. - This is addressed in (b) above.

Non-material considerations

- The absorption capacity of the remaining garden area. - This is not controlled by planning legislation.
- Noise generation. - Given the scale and nature of the roof terrace its use is unlikely to give rise to undue noise nuisance. If noise nuisance were to arise it could be controlled by Environmental Health legislation.
- Use of roof terrace would be unlikely to give rise to odour nuisance. If odour nuisance were to arise it could be controlled by Environmental Health legislation.

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 Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not compatible with the existing building and will be detrimental to the neighbourhood character.

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

10 letters of representation were received, 9 objecting to the application and 1 in support of the application. The matters raised are summarised and addressed in the main body of the report.

Background reading / external references

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

Statutory Development

Plan Provision Policies - Edinburgh Local Development Plan - Urban Area

Date registered 18 February 2020

Drawing numbers/Scheme 01, 02B,,
Scheme 3

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

Contact: Adam Thomson, Planning Officer
E-mail:adam.thomson@edinburgh.gov.uk

Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

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

Relevant Non-Statutory Guidelines

Non-statutory guidelines 'GUIDANCE FOR HOUSEHOLDERS' provides guidance for proposals to alter or extend houses or flats.

Appendix 1

Consultations

END

Comments for Planning Application 20/00793/FUL

Application Summary

Application Number: 20/00793/FUL

Address: 3 Ladysmith Road Edinburgh EH9 3EX

Proposal: Garden office and deck to rear of lower flat (in retrospect).

Case Officer: Adam Thomson

Customer Details

Name: Dr Pauline Thompson

Address: 62/7 Blackford Avenue Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This development has already been built and should have had permission in advance to allow neighbours to object so that even if the development was granted, modifications could be made to make it more in keeping with the area.

Although this area is not currently a conservation area, I feel it should be. Perimeter blocks like this are both an important historical feature of Victorian town planning but are also a haven for wildlife. I think the back quadrangles of Victorian tenements should be preserved as they were originally planned without further development.

There have been some other developments (sheds and decking) here that have also not got planning permission in the past. It is a shame our planning enforcement process is not able to control these developments. But it is difficult for neighbours to object when proper applications have not been submitted. The house next door to this one is a good example

However, this new garden office and large raised decking veranda is one step bigger than previous construction. It significantly increases the property size and is not in keeping with the surroundings.

Comments for Planning Application 20/00793/FUL

Application Summary

Application Number: 20/00793/FUL

Address: 3 Ladysmith Road Edinburgh EH9 3EX

Proposal: Garden office and deck to rear of lower flat (in retrospect).

Case Officer: Adam Thomson

Customer Details

Name: Not Available

Address: Not Available

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This development has already been built and should have had permission in advance to allow neighbours to object so that even if the development was granted, modifications could be made to make it more in keeping with the area.

Although this area is not currently a conservation area, I feel it should be. Perimeter blocks like this are both an important historical feature of Victorian town planning but are also a haven for wildlife. I think the back quadrangles of Victorian tenements should be preserved as they were originally planned without further development.

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Application Summary

Application Number: 20/00793/FUL

Address: 3 Ladysmith Road Edinburgh EH9 3EX

Proposal: Garden office and deck to rear of lower flat (in retrospect).

Case Officer: Adam Thomson

Customer Details

Name: Mr Douglas Stuart

Address: 70 Blackford Avenue Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: My wife and I live at 70 Blackford Avenue and have done so for approx 20 years. Blackford Avenue forms a rectangle of houses bounded by Blackford Avenue, Ladysmith Road, Eva Place and Maurice Place. The ground slopes down from Ladysmith Road to Blackford Avenue. When we moved in the gound between Ladysmith Road and our property was grassed which allowed the ground to absorb rainfall. However in the past few years a large structure has been erected at Ladysmith Road. Supposedly an office? We are now having to deal with further structures on the applicants ground which will further restrict the ability of their property to absorb rain fall and will put it down towards our property. It is not so long ago that rainwater collected in the gully behind our house and number 72 to a level where water flowed in 72 causing major damage. We were lucky as our door stopped water getting in to our house. Surely in these days of climate change people cannot be allowed to make changes without reference to the environment or their neighbours

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Customer Details

Name: Mr Douglas Stuart

Address: 70 Blackford Avenue Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

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Case Officer: Adam Thomson

Customer Details

Name: Mr Douglas STUART

Address: 70 Blackford Avenue Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

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Application Summary

Application Number: 20/00793/FUL

Address: 3 Ladysmith Road Edinburgh EH9 3EX

Proposal: Garden office and deck to rear of lower flat (in retrospect).

Case Officer: Adam Thomson

Customer Details

Name: Dr Isabelle Kolte

Address: 9 Maurice Place Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The garden office with the deck affects the privacy in our own garden. Gardens in the neighbour currently offer a degree of privacy, protecting owners from people directly looking into their private garden areas. The raised deck means this privacy will be markedly affected as people who sit on the deck have a direct view into our garden space.

The extension further clashes with the traditional features of the buildings in the neighbourhood and thus directly affects the appearance of the area and its character. Specifically the high metal rail and stair railing affect the character. Sitting in our own private garden we directly look at the extension and the features which stand out from the traditional features.

The extension may also affect us with regards to noise; we are unable to tell at this point. We expect that noises are more likely to carry into our garden from the raised deck.

Comments for Planning Application 20/00793/FUL

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Address: 3 Ladysmith Road Edinburgh EH9 3EX

Proposal: Garden office and deck to rear of lower flat (in retrospect).

Case Officer: Adam Thomson

Customer Details

Name: Mrs Gladys Allen

Address: 11 Maurice Place Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the structure because it overlooks my kitchen/dining window and affects my privacy in this room.

Comments for Planning Application 20/00793/FUL

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Address: 3 Ladysmith Road Edinburgh EH9 3EX

Proposal: Garden office and deck to rear of lower flat (in retrospect).

Case Officer: Adam Thomson

Customer Details

Name: Mr Evan Cruickshank

Address: 13/2 Maurice Place Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this structure which has been erected without planning permission.

Its scale, covering half the former garden is overbearing and its design is out of keeping with the character of the neighbourhood.

Wooden cladding does not suit the style of the surrounding traditionally constructed stone-built buildings.

It also affects the more general aesthetic of the traditional garden, drying green area which the neighbouring properties look on to.

Furthermore, the flat top is obviously intended to be used for some form of socialising which would undoubtedly bring noise, odours and other general disturbance to a quiet residential area.

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Address: 3 Ladysmith Road Edinburgh EH9 3EX

Proposal: Garden office and deck to rear of lower flat (in retrospect).

Case Officer: Adam Thomson

Customer Details

Name: Mrs Nina Bremner

Address: 7 Ladysmith Road Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: The garden office has no affect on our property or privacy.

Comments for Planning Application 20/00793/FUL

Application Summary

Application Number: 20/00793/FUL

Address: 3 Ladysmith Road Edinburgh EH9 3EX

Proposal: Garden office and deck to rear of lower flat (in retrospect).

Case Officer: Adam Thomson

Customer Details

Name: Not Available

Address: Not Available

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: The garden office has no affect on our property or privacy.

Comments for Planning Application 20/00793/FUL

Application Summary

Application Number: 20/00793/FUL

Address: 3 Ladysmith Road Edinburgh EH9 3EX

Proposal: Garden office and deck to rear of lower flat (in retrospect).

Case Officer: Adam Thomson

Customer Details

Name: Ms Seeta Anderson

Address: 13/1 Maurice Place Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this structure which was illegally erected last year. I base this on the following:

It has taken away the privacy from my rear bedroom, my kitchen and my bathroom.

The view of traditional back gardens which is a feature of the area has now been destroyed.

The scale, design and size is beyond what would be reasonably accepted in a garden of that size, which is in fact a traditional drying green.

The high platform on top of the structure, due its design, is obviously also going to used for some form of entertaining. This will no doubt bring noise, disturbance and odours.

Comments for Planning Application 20/00793/FUL

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The high platform on top of the structure, due its design, is obviously also going to used for some form of entertaining. This will no doubt bring noise, disturbance and odours.

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 100315146-001

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	architecturejfltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Julian	Building Name:	Gullane Business Centre
Last Name: *	Frostwick	Building Number:	12a
Telephone Number: *	0 [REDACTED]	Address 1 (Street): *	Lammerview Terrace
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Gullane
Fax Number:		Country: *	Scotland
		Postcode: *	EH31 2HB
Email Address: *	[REDACTED]		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="Mr and Mrs"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Glyn & Claire"/>	Building Number:	<input type="text" value="3"/>
Last Name: *	<input type="text" value="Owen"/>	Address 1 (Street): *	<input type="text" value="Ladysmith Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH9 3EX"/>
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="3 LADYSMITH ROAD"/>
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="EH9 3EX"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="670940"/>	Easting	<input type="text" value="325997"/>
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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)

Garden office and store to rear of lower flat (part retrospective)

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

It is the Appellants view that the Planning Officer's advice has been inconsistent which suggests that the decision regards detriment to character is in fact marginal. Given that a marginal and subjective consideration it is strongly urged that the Councillors visit to see the development for themselves. It is noted that the neighbouring pitched roof outbuilding is a more dominant structure and that it is not possible to sit out on the rooftop.

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)

Objection and support letters were not available to view until decision made. Letters were not made available until requested. When requested not all letters have been made available, or were incorrectly advised as to numbers of letters received. Planning Officer advice was inconsistent through determination of application and appears possibly influenced by neighbour letters. Not correct that letters not available to view or that Officer advised incorrect number of letters & acted accordingly

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

1. Appellant statement_061020 2. Timeline of advice given by Adam Thomson_061020 3. Additional photographs

Application Details

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

20/00793/FUL

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

18/02/2020

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

13/07/2020

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

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)

photographs helpful but feel that LRB should see for themselves as decision marginal and subjective Officer opinion as to whether detrimental to local character

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)

Access to the gardens is private to all occupants of the surrounding properties and access only through the properties

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 Julian Frostwick

Declaration Date: 08/10/2020

Proposal Details

Proposal Name	100315146
Proposal Description	rear outbuilding
Address	3 LADYSMITH ROAD, EDINBURGH, EH9 3EX
Local Authority	City of Edinburgh Council
Application Online Reference	100315146-001

Application Status

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

Attachment Details

Notice of Review	System	A4
additional photographs	Attached	A4
appellant statement_061020	Attached	A4
Timeline of advice given by Adam Thomson_061020	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0

LRB SUBMISSION DOCUMENT No. 2

Timeline to demonstrate inconsistency of advice given by Adam Thomson, Senior Planning Officer
ref 20/00793/FUL

18/03/2020

Further to our recent telephone conversation I write to advise that the Planning Authority has fundamental concerns with the use of the roof of the garden office/bike store as a terrace/raised patio as this would have the potential to give rise to significant harmful overlooking and loss of privacy to neighbouring residences. Additionally, the Planning Authority has fundamental concerns with the proposed decking on the roof and the balustrade which would facilitate the use of the roof as a terrace/raised patio. I therefore do not consider that the current development could be recommended for planning permission.

- The deletion of the timber decking from the roof of the garden office/bike store and the use of a different roof material that is unsuitable for sitting on and walking on;
- The deletion of the balustrade from the scheme.

ajf responded with sketch 200320

20/03/2020

I note that a part of the roof remains as a terrace. I consider that the deck area should be eliminated - the Perspex balustrade should be extended to stop the roof being accessed. Only the staircases should be accessible. I advise that the roof of the building be topped with a material designed to prohibit it being walked on.

ajf responded with formal drawing 310320

28/04/2020

I have had a discussion with colleagues in the planning team about this application and I write to advise you of the outcome of this.

There is a concern with the scale of the development on what is a relatively small garden. As a result, there are issues relating to the amount of garden left over, the visual scale and also the outlook from the properties facing directly on to the building. Therefore, the Planning Authority is not in a position to support the application as submitted. The advice is that the structure needs to be reduced in size by removing the bike shed element. This would also totally solve the terrace issue by potentially having the stair pushed back to the door and the office being more like a free-standing element. The other change required is the finishing colour. It should be painted something a bit more in keeping with the building i.e. stone colour to minimise its visual impact.

23/06/2020

To clarify I have requested the following changes to be made to the proposal:

1. Reduce the size of the building by completely removing the bike shed element.
2. Reposition the smaller building further away from the rear elevation of the existing flatted building so that it appears as a detached garden structure.
3. Reposition the staircase so that it is pushed back to the rear elevation of the flatted building and only accesses the rear door. As no part of the staircase will access the roof of the office building then the size of staircase can be reduced.
4. Paint the smaller building and staircase a colour more in keeping with the building i.e. stone colour to minimise its visual impact.

LRB SUBMISSION DOCUMENT No. 1

Dear Review Committee,

Firstly. We would like to thank you for taking the time to look at our appeal. We would also like to clarify that we would not have erected this structure without planning permission had we been aware that it was required, unfortunately we trusted our builder who gave us wrong advice, hence we have found ourselves in this very difficult position. This project cost in the region of £10,000 and I can assure you we would not have considered erecting it had we thought there was going to be any issues with it.

We would like to make a few points that we hope you may consider when looking at our appeal.

- The summerhouse replaced an existing summerhouse (same position). [See Photo No9](#)
- After applying for retrospective planning permission, we agreed to make the changes that were asked by the planners and our architect submitted new drawings then they requested further changes, which we agreed to, the drawings were submitted and then further changes were asked for. Currently it is unclear to us what changes would be required to pass this structure as each time the drawings were submitted another change was requested.
- We were informed by the planning department on a number of occasions (please see email correspondence) that 19 objections had been submitted. However when we looked on the portal there was actually 9 comments (8 of which were objections/only 6 are viewable). We felt under a huge amount of pressure to agree to the requested changes as we believed that there were 19 objections – this was false information.
- There are various properties in our street who have similar structures built in their back garden.
 1. 7 Ladysmith Rd have a summerhouse and raised decking.
 2. 9 Ladysmith Rd have a steel balcony from their back door
 3. 13 Ladysmith Rd have a raised wooden deck/balcony from their back door
[\(See photo's attached No 1, No 2, and No 3\).](#)
- Three houses (1 on Maurice Place, 2 on Ladysmith Rd) that look onto our garden have sold recently, they sold within a week of going onto the market, and each property had a huge amount of interest and offers. We therefore believe that our structure did not have a negative effect on the value/privacy of the neighbouring properties.
- We intend to paint (natural colour) the structure and plant greenery to make it as in keeping/unimposing as possible but due to the uncertainty around it we have not been in a position to carry this out.
- Within a 0.25 mile radius there are various homes that have recently been built which are not in keeping with the period of the surrounding properties. [\(See photo's attached No 4, No 5, No 6, please note No 4, is on Ava Place which looks onto the same communal space as our garden\)\).](#)
- Please take into account the nine notes from our neighbours (who all look onto the same garden area as our property) as they have expressed that they have no issue with our structure and are happy to support our appeal [\(please see below\)](#)
- We cannot see how this structure will enhance 'noise levels' or 'odours' as suggested by a few people who objected. We will not be using the flat roof to socialise (it will be a planting area /green space) and the lower deck has replaced the original stair case which we could sit

on. We feel it is unfair of the people who objected to assume that this will be a socialising area

- .Due to the current pandemic a site visit has not been permitted, this is unfortunate as we feel if you could see the structure in its surroundings then you would have a clearer idea of its positioning with the surroundings (I have attached a photo No 7, from the communal garden area- Please note each lower property has their own private garden and then there is a 'back green' in the middle which is shared by some flats this is a view from middle of communal garden)

Supporting Comments from Neighbours:

Subject:Planning application

Date:Sun, 27 Sep 2020 20:15:57 +0100

From:Mark Wilson [REDACTED]

Evening Glyn and Claire,

With regards to your planning application for your summerhouse in the rear garden, please accept this email as notification that we have no issue with the structure and are happy for it to remain as built.

Regards,

Mark & Lisa Wilson
21 Ladysmith Road
Edinburgh
Eh9 3ex

Subject:Planning Application

Date:Sat, 19 Sep 2020 18:33:22 +0100

From: [REDACTED]

Hi Claire and Glyn

Really sorry to hear about the refusal on your planning application. As your immediate neighbour who supported this application when asked by the Council, we would like to reiterate for the appeal process how your summerhouse has no impact on our property or privacy.

We would hope that our views as an immediate neighbour would be considered in your appeal.

Wishing you the best of luck with this. Keep us posted.

Nina and Willie
7 Ladysmith Road
Edinburgh

Subject:Planning application

Date:Sat, 19 Sep 2020 15:18:21 +0000

From [REDACTED]

Hi Claire and Glyn,

Sorry to hear about your planning application- we had no idea this was a problem otherwise we would have been happy to support your original application. We have no issues with the summer house and are keen to show support now- really hope your appeal is successful! Let us know if we can help in anyway.

Catherine, Neil and Aidan (33 Ladysmith Road)

Subject:Summerhouse

Date:Mon, 21 Sep 2020 09:24:08 +0100

From [REDACTED]

Hello

We are sorry to hear about the refusal on your application, had we known that you were having problems getting this through planning we would have commented sooner.

We have no issues at all with the summerhouse. In fact we feel it offers us some privacy from the windows on Ladysmith Road which overlook our garden.

Best of luck to you.

Wendy, Ian & Jack

3 Maurice Place

----- Forwarded Message -----

Subject:Summerhouse

Date:Tue, 29 Sep 2020 21:16:37 +0100

From [REDACTED]

Hi Clair and Glyn,

I am so sorry to hear that you received poor advice and your application got refused. It sounds like you are doing your best to adapt the summerhouse and make it discreet and I hope this all can be resolved for you. Good luck!

Warm wishes,

Michelle

----- Forwarded Message -----

Subject:Summerhouse at 3 Ladysmith Road, Edinburgh

Date:Mon, 28 Sep 2020 20:42:49 +0100

From [REDACTED]

Dear Claire, Glyn and Oscar,

We are sorry to learn of the issues you have experienced relating to your recent refurbishment/ extension work inasmuch as the Retrospective Planning has been refused. We can fully understand your desire to create a useable space in the dark, north facing garden. Part of the charm of the locality where we live is due to the eclectic mix of garden styles at the rear of our homes that includes a shared play area, formal garden, informal allotment style garden, contemporary decking and hidden hedged garden. We would like it noted that the summerhouse does not detrimentally affect us in any way along at No. 13. Good luck with your endeavours. Wishing you success and an end to this stressful situation. Best wishes, Gillian and Rob Windever

----- Forwarded Message -----

Subject:Planning

Date:Mon, 28 Sep 2020 19:58:26 +0100

From:S B [REDACTED]

Hi Glynn & Claire,

I'm so sorry to hear about the problems with the planning application for the summerhouse. I'd like to say I have no issue with the build especially with the planned changes to make it as discreet as possible. I hope you get the issues sorted soon.

Best of luck,

Simon Briggs

25 Ladysmith Rd

----- Forwarded Message -----

Subject:Retrospective planning

Date:Tue, 29 Sep 2020 13:31:12 +0100

From [REDACTED]

Hi There

Really sorry to hear about the refusal for the planning application. As a neighbour on Maurice Place (5) the structure is visible to us and we have no problems with it at all. We support the planning application and wish you luck with it.

All the best wishes

Caroline and Jake Dobson-Davies
5 Maurice Place
EH9 3EP

----- Forwarded Message -----

Subject:Re: Retrospective planning

Date:Tue, 29 Sep 2020 17:22:23 +0100

From [REDACTED]

Hi there,

I would also like to add, from our perspective (viewed from the joint garden of 5, 7 and 9 Maurice Place), your summerhouse is less visible in terms of height, size and colour, than other comparative summerhouses already in situ. The colouring of the wood allows it to blend in with the natural stone of the surrounding buildings.

All the best,

Caroline and Jake Dobson-Davies
5 Maurice Place
EH9 3EP

6 Objections viewable on portal:

1. *Its scale, covering half the former garden is overbearing and its design is out of keeping with the character of the neighbourhood. As mentioned the structure will be painted a natural colour we also intend to plant greenery. Lots of sheds/decking/balconies/extensions etc. in the neighbourhood (see photo's attached)*

Wooden cladding does not suit the style of the surrounding traditionally constructed stone-built buildings. There are quite a few newly built properties in the area which are not in keeping with the neighbouring buildings (see photo's attached no 4,5,6,) It also affects the more general aesthetic of the traditional garden, drying green area which the neighbouring properties look on to. If you stand in the middle of the drying green you are unable to see it (photo attached No 7)

Furthermore, the flat top is obviously intended to be used for some form of socialising which would undoubtedly bring noise, odours and other general disturbance to a quiet residential area. Everyone living on Ladysmith Rd will be very aware that we only get sun in the back garden first thing in the morning for an hour, at all other times it is shaded and cold, therefore we never sit/socialise at the back of our property. We do not intend to use the deck for socialising, as mentioned we intend to plant shrubbery and use the roof as a green space. I would like to point out neighbours living on Maurice Place use their back gardens to socialise in (they get sun in the evening) and we often hear noise and odours (BBQ) and believe that is to be expected when you live with neighbouring properties. Furthermore I would disagree that this a quiet residential area as there are over 20 families looking onto the same back green, therefore there is often lots of activities and children playing in the shared garden/street.

2. I object to this structure which was illegally erected last year. I base this on the following: *We understand that planning permission should have been obtained prior to this structure being erected, as explained previously we were misled by our builder who assured us that planning permission would not be required. We would not have spent such a substantial amount of money on this had we thought it was illegal.*

It has taken away the privacy from my rear bedroom, my kitchen and my bathroom. We cannot see in your window from the roof of the summerhouse or the deck, therefore we cannot see how this effects your privacy. I would also like to point out that the lower deck is the same height as the original stairs that came from the back door.

The view of traditional back gardens which is a feature of the area has now been destroyed. This structure has replaced an existing outside office, the new structure is only 30cm deeper and is not as high, therefore there is no change to the view, if anything you can see more due to the lower height.

The scale, design and size is beyond what would be reasonably accepted in a garden of that size, which is in fact a traditional drying green. *This is not accurate according to the independent advice we have been given.*

The high platform on top of the structure, due its design, is obviously also going to be used for some form of entertaining. This will no doubt bring noise, disturbance and odours. *This is an assumption which I have already clarified with regards to noise/odours I do not believe they would be any different from anyone else using their private garden.*

3. I object to the structure because it overlooks my kitchen/dining window and affects my privacy in this room. *We could see into this kitchen/dining room before and can see in without standing on the structure therefore there is no change.*

4. The garden office with the deck affects the privacy in our own garden. Gardens in the neighbour currently offer a degree of privacy, protecting owners from people directly looking into their private garden areas. The raised deck means this privacy will be markedly affected as people who sit on the deck have a direct view in to our garden space. *Prior to the deck being built we had the original stairs coming from the back door which were at the same height therefore could see into this garden had we wished to.*

The extension further clashes with the traditional features of the buildings in the neighbourhood and thus directly affects the appearance of the area and its character. Specifically the high metal rail and stair railing affect the character. Sitting in our own private garden we directly look at the extension and the features which stand out from the traditional features. *As mentioned the railings will have greenery covering them. We have had the rails made with marine wire therefore I am unsure how anyone can see them as we cannot see them when we look out our window!*

The extension may also affect us with regards to noise; we are unable to tell at this point. We expect that noises are more likely to carry into our garden from the raised deck. *As explained we are not going to be using it to socialise.*

5. My wife and I live at 70 Blackford Avenue and have done so for approx 20 years. Blackford Avenue forms a rectangle of houses bounded Blackford Avenue, Ladysmith Road, Eva Place and Maurice Place. The ground slopes down from Ladysmith Road to Blackford Avenue. When we moved in the ground between Ladysmith Road and our property was grassed which allowed the ground to absorb rainfall. However in the past few years a large structure has been erected at Ladysmith Road.

Supposedly an office? We are now having to deal with further structures on the applicants ground which will further restrict the ability of their property to absorb rain fall and will put it down towards our property. It is not so long ago that rainwater collected in the gully behind our house and number 72 to a level where water flowed in 72 causing major damage. We were lucky as our door stopped water getting in to our house. Surely in these days of climate change people cannot be allowed to make changes without reference to the environment or their neighbours

When we moved into this property 15 years ago, there was a shed in our back garden and the grass was sloping down (roughly 20 degrees) in the direction of the above property and we have had the garden levelled which in turn will stop any water from our garden causing damage, if anything we have helped to resolve this issue.

6. This development has already been built and should have had permission in advance to allow neighbours to object so that even if the development was granted, modifications could be made to make it more in keeping with the area. *We have acknowledged that we should have applied for planning permission before this structure was built, however we trusted our builder and thought as there are so many other similar developments in the area and this structure replaced an existing office that our builder was correct.*

Although this area is not currently a conservation area, I feel it should be. Perimeter blocks like this are both an important historical feature of Victorian town planning but are also a haven for wildlife. I think the back quadrangles of Victorian tenements should be preserved as they were originally planned without further development.

There have been some other developments (sheds and decking) here that have also not got planning permission in the past. *We intend to cover the structure with plants/bushes etc. which will add to the 'haven for wildlife'. There has been a full town house built on Ava Place which is part of the 'back quadrangle' which I assume has planning permission and is not in keeping with the Victorian tenements (photo attached No 4).*

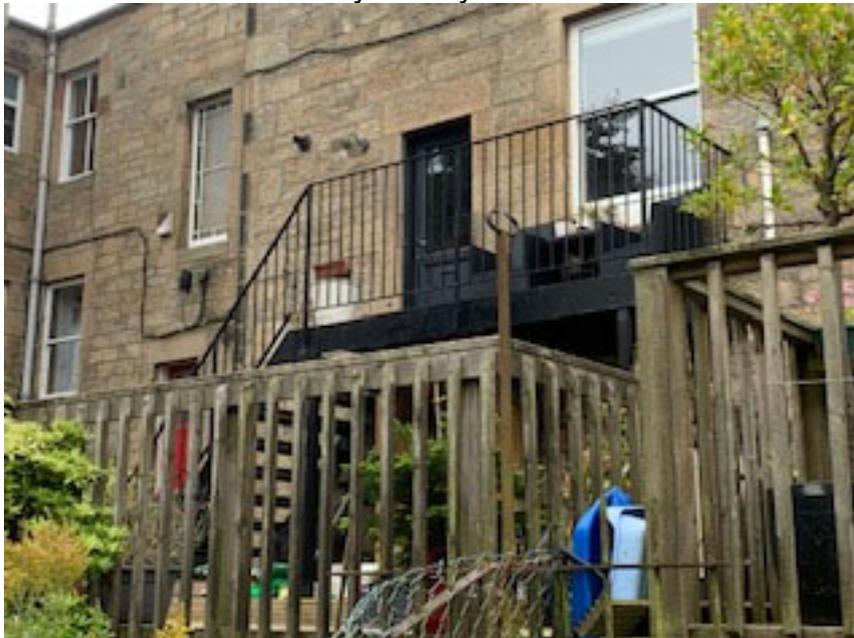
It is a shame our planning enforcement process is not able to control these developments. But it is difficult for neighbours to object when proper applications have not been submitted.

The house next door to this one is a good example. However, this new garden office and large raised decking veranda is one step bigger than previous construction. It significantly increases the property size and is not in keeping with the surroundings.

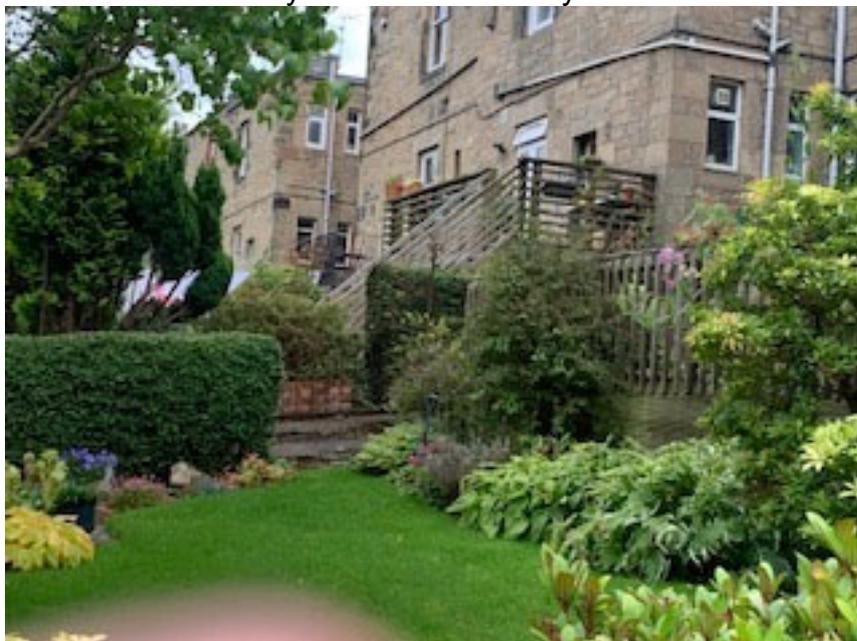
No1 – Next Door, deck and summerhouse 7 Ladysmith Rd



No2 Raised steel balcony 9 Ladysmith Rd



No3 Decked balcony with stairs 13 Ladysmith Rd



No4 Full Town house on Ava Place, this looks onto the same communal area as our house.



No5 Property built round the corner which is not in keeping.



No6 Another two houses which are round the corner that are not in keeping.



No7 View of our Structure from communal garden (can't see it!)



No8 view from our back door, you can see that there are various shed's balconies, decks etc.





No 9 summerhouse that we replaced, please note as this has a pitched roof it is higher than the new summerhouse



No 10. The new structure, please note this will be painted a natural colour and we will plant greenery on the rails/deck and use the flat roof as a container garden for pot plants.

Additional photographs

