

Format Building Design.
FAO: Shona Mackay
Holyrood Business Park
146 Duddingston Road West
Edinburgh
EH16 4AP

Ms McKenna
44 Kirkhill Drive
Edinburgh
EH16 5DJ

Decision date: 12 May 2021

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

Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

At 44 Kirkhill Drive Edinburgh EH16 5DJ

Application No: 21/01629/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 29 March 2021, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

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

Conditions:-

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it will have a detrimental impact on the character of the area and on neighbouring amenity.
2. The proposals are contrary to development plan policy on extensions and alterations as interpreted using the non-statutory Guidance for Householders as there would be an unreasonable loss of amenity and privacy for immediate neighbours.

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

Drawings 01-03, 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 application for development is not in accordance with the Edinburgh Local Development Plan. It does not comply with policy Des 12 (Alterations and Extensions) as there would be an adverse impact on the character of the area and neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

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

Should you have a specific enquiry regarding this decision please contact Weronika Myslowiecka directly at veronika.myslowiecka@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot 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
44 Kirkhill Drive, Edinburgh, EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Item – Local Delegated Decision
Application Number – 21/01629/FUL
Ward – B15 - Southside/Newington

Recommendation

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

Summary

The application for development is not in accordance with the Edinburgh Local Development Plan. It does not comply with policy Des 12 (Alterations and Extensions) as there would be an adverse impact on the character of the area and neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a detached bungalow, located on Kirkhill Drive. It is a residential area and the rear elevation of the property faces the rear gardens of the properties on Priestfield Crescent.

Description Of The Proposal

The application proposes to revise the previously approved application (ref. 20/04434/FUL) and change the 'Juliet' balcony for a 1st floor outdoor terrace space. The terrace was removed from the previous consent due to privacy concerns.

Relevant Site History

19/00289/FUL

Increase size of existing dormer to North elevation, install new dormer to South elevation and velux window to West elevation.

Granted

5 March 2019

20/04434/FUL

Planning permission for proposed new roof extension. (As Amended)

Granted

10 December 2020

Consultation Engagement

No Consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 7 April 2021

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 11

Section B - Assessment

Determining Issues

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

Do the proposals comply with the development plan?

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

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

Assessment

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

a) the proposed scale, form and design is acceptable and will not be detrimental to neighbourhood character;

b) the proposal will cause an unreasonable loss to neighbouring amenity;

c) any impacts on equalities or human rights are acceptable; and

d) any comments raised have been addressed.

a) Scale, form, design and neighbourhood character

The proposals is of unacceptable scale, form and design and are compatible with the existing dwelling and the surrounding area.

The proposal does not comply with Local Development Plan Policy Des 12 and the non-statutory Guidance for Householders.

b) Neighbouring amenity

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

The Guidance for Householders states that 'permission for roof terraces and balconies will not be granted where there is significant overlooking into neighbouring property due to positioning and height or if the terracing results in loss of privacy to neighbouring properties'.

It is considered that the proposed 1st floor terrace will have a negative impact on the privacy due to the difference in the ground level. Whilst there are obscure views to the sides, the rear glass barrier is only 1m high and would allow overlooking to the neighbouring properties across Priestfield Crescent and as such, there would be an unreasonable loss of privacy.

The previous application removed the terrace due to privacy concerns and replaced by the 'Juliet' balcony which in effect is a large window and does not provide a formalised outdoor seating area which in consequence would have a detrimental impact on neighbouring residential amenity in terms of noise and overlooking.

The proposal does not comply with Local Development Plan Policy Des 12 and the non-statutory Guidance for Householders.

c) Equalities and human rights

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

d) Public comments

The application has attracted four letters objecting the proposal and seven letters of support.

Material representation:

Objection:

- The proposed development will result in an unreasonable loss of privacy for neighbouring properties. This has been assessed in section (b).
- Proposed materials are not in keeping with the area. This has been assessed in section (a)

Non-material consideration

- Block the view of Arthur Seat. There is no right to the view in planning terms.

Support:

- It will enhance the look of the property.
- New way forward, especially since the lockdown.
- Lovely design and it should be supported.
- Innovative design.
- The design looks contemporary and original.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it will have a detrimental impact on the character of the area and on neighbouring amenity.
2. The proposals are contrary to development plan policy on extensions and alterations as interpreted using the non-statutory Guidance for Householders as there would be an unreasonable loss of amenity and privacy for immediate neighbours.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 29 March 2021

Drawing Numbers/Scheme

01-03

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Weronika Myslowiecka, Planning Officer

E-mail:weronika.myslowiecka@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Mr Antony Booth

Address: 42 Kirkhill Drive Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Excellent update to a 1930's bungalow. Sympathetically extended which will enhance the look of the neighbourhood.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Mrs Joan Macgregor

Address: 46 Kirkhill Drive Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Mrs colette baird

Address: 14 Priestfield Crescent Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We object to the balcony, the Kirkhill Drive property is situated higher than ours and the balcony will look directly into our garden and back living room removing any privacy that we have. It will also block and detract from the view of arthurs seat, which is one of reasons we bought our house, to be able to see that on a daily basis. I note from the supporting letter that the sides of the balcony will be filled in to protect the privacy of the neighbours on either side and in doing that, it will naturally push the sight line forward and mean when sitting on the balcony they will be looking into our garden and house. I also note that they propose to move the balcony back 1.2 metres regardless of the repositioning, it will still be an active balcony which they plan to make use of and when they are sitting on it, it will look directly into our property. The juliet balcony, although not ideal, allows for a measure of privacy because any sitting will be internal and won't be so public. Last point of note is the pandemic which has materially changed our working options and I now work from home on a permanent basis. My office is in the back room which will be overlooked by the balcony. We also make more use of our garden as personal outdoor space has become invaluable and we don't want to have to time our use of the garden around whether they will be on the balcony or not.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Mrs Susan Donlevy

Address: 6 Priestfield Crescent Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Application Number 20/04434/FUL

Application Location 44 Kirkhill Drive, Edinburgh, EH16 5DJ

We hereby notify you of our objections to the above noted planning application on the grounds outlined below.

We would also like to stress that without viewing the situation directly from our location it is not possible for planning officers to appreciate the impact on our privacy. As we are unable to upload photos to the planning portal we request that you come and visit the location - this can be achieved safely and in accordance with covid restrictions, by entering our back garden via the side of our house.

The floor of the proposed terrace will be in line with the existing gutter of the house - which can be seen from inside our house and our garden. This means that anyone sitting or standing on the terrace will have a clear view into our house and garden.

Page 14 of the Planning Guidance for Householders states:

"Permission for roof terraces and balconies will not be granted where there is significant overlooking into neighbouring property due to positioning and height or if the terracing results in loss of privacy to neighbouring properties."

Our property at 6 Priestfield Crescent is directly within the line of sight from the proposed upstairs room and terrace of 44 Kirkhill Drive, as demonstrated in the plans. Number 44 Kirkhill Drive is in an elevated position in relation to Priestfield Crescent. This, combined with the upstairs terrace,

will afford the residents of the property full and uninterrupted view into the rear gardens and rooms of several properties on the north side of Priestfield Crescent, including our property.

The amenity of our property will be adversely affected in relation to privacy and immediate outlook.

It is noted the Planning Guidance for Householders also states:

"Replacement windows, and new windows on an extension, should be of the same size and style as the existing ones, keeping the same proportions."

We were hugely disappointed that the previous planning application was granted, albeit without a full balcony/terrace, given that the new windows are not of the same size or style as the existing windows of the property or the area, and do not keep the same proportions as the existing ones.

All in all, this extension will loom over us significantly and will force us to rethink how we use the private space that is our house and garden.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Miss Becky Watson

Address: 8 Priestfield Crescent, Edinburgh EH16 5JQ

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We wish to strongly object to this application:

The roof terrace has been designed to ensure the privacy of the neighbours either side; however, no such consideration has been given to the privacy of the neighbours at the rear of the house. This roof terrace will compromise our privacy and will have a negative impact on our enjoyment of our home and garden. This roof terrace will offer exceptional views into our back bedroom, living room and kitchen as well as overlooking areas of the garden that we commonly use to sit out in.

We were disappointed not to be able to comment on the Juliet Balcony proposal as we felt that too had a negative impact on our privacy albeit of a lesser extent - the viewing being from a fixed point rather than the entire extent of the terrace. It too afforded views that compromised our privacy so we were disappointed that it was allowed. Our inability to comment on that Juliet Balcony appears to be outwith the planning process as the comments closed on the day that drawings of the Juliet Balcony went live.

The Prop Line of Sight Section B1 does not appear to be an accurate representation of the true situation and it implies that there will be a privacy afforded by hedges and fences than is not going to be the case. We believe that this has been done deliberately to mislead and subvert the planning process and invite you to attend our premises to confirm this opinion. We can see the top of their current living room window frame from where we sit in our living room.

We remain disappointed by the approval of a glass gable end as it is out of context with the building materials used locally and will dominate our skyline. We are also concerned about the potential for glare from the vertical glass and ask you to ensure that this will not be an issue for us.

We were incredibly disappointed that the covering letter used the pandemic to support their proposed material variation. The applicant isn't the only person working from home - we both are. The applicant appears quite content to inflict the noise, smell and dust of a building project on her neighbours with no regard to their enforced home working and the immediate effect it will have on us.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Mr Roddy Castle

Address: 12 Priestfield Crescent Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We hereby object to the above noted planning application to include a roof terrace as follows.

The proposed roof terrace will be extremely detrimental to our privacy as it looks directly over our back garden and all rear rooms of our house. This will allow the occupants to have a clear view into our garden and north facing rooms, resulting in complete loss of privacy in our main living space. 44 Kirkhill Drive already sits in an elevated position in relation to our house which will further emphasise the impact that the terrace/balcony will have on us.

The proposed terrace contradicts the City of Edinburgh Guidance for Householders which states: "Permission for roof terraces and balconies will not be granted where there is significant overlooking into neighbouring property due to positioning and height or if the terracing results in loss of privacy to neighbouring properties."

We were already disappointed that the previous application was granted given the significant and domineering shape and form of the extension. This further change cannot be allowed to go ahead.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Mr Grzegorz Kopec

Address: 2A Niddrie House Drive Edinburgh

Comment Details

Commenter Type: Other

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I think this is a good idea especially when people are working from home .. and wish to support the Application.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Miss Nicola Tait

Address: 198 pitt street glasgow

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I have looked at the design for the roof terrace and think that this is the way forward particularly because of the lockdowns and wish the applicants success.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Mrs Yvonne Thomas

Address: 35 Dunpender Road East Linton

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I think it is a lovely design and should be supported.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Miss Lauren Tait

Address: 245B/2 Gilmerton Road Edinburgh

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I would like to support the application because it looks like a perfect solution to accommodate working from home due to Covid conditions and this would allow people to sit outside while working to get fresh air I also think it is an innovative design.

I wish the applicant good luck.

Comments for Planning Application 21/01629/FUL

Application Summary

Application Number: 21/01629/FUL

Address: 44 Kirkhill Drive Edinburgh EH16 5DJ

Proposal: Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace.

Case Officer: Weronika Myslowiecka

Customer Details

Name: Mr Ricardo Pronto

Address: 245B/2 Gilmerton Road Edinburgh

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:

I am supporting this application as not only does the design look contemporary and original but I feel this could help with working from home jobs as the public would be able to sit outside and enjoy the weather.

I hope all the best for this Applicant.

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 100425888-001

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

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Jennifer"/>	Building Number:	<input type="text" value="44"/>
Last Name: *	<input type="text" value="McKenna"/>	Address 1 (Street): *	<input type="text" value="Kirkhill Drive"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	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="EH16 5DJ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:

City of Edinburgh Council

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

Address 1:

44 KIRKHILL DRIVE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH16 5DJ

Please identify/describe the location of the site or sites

Northing

671969

Easting

327552

Description of Proposal

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

Application for material variation to omit approved Juliet balcony and introduce glazed balustrade roof terrace

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

Please see attached appeal statement

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

Yes No

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

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

Appeal Statement

Application Details

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

21/01629/FUL

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

29/03/2021

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

12/05/2021

Review Procedure

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

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

Yes No

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)

To allow the Local Review Body to visit my house and hopefully agree that our proposal will not affect our neighbours

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

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

Yes No

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

Yes No

Checklist – Application for Notice of Review

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

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

Yes No

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

Yes No

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

Yes No N/A

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

Yes No

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

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

Yes No

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

Declare – Notice of Review

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

Declaration Name: Mrs Jennifer McKenna

Declaration Date: 10/06/2021

**Appeal against the refusal of planning permission to vary proposed roof extension at
44 Kirkhill Drive, Edinburgh, EH16 5DJ - 21/01629/FUL**

We wish to appeal against this refusal of the above planning permission.

We were surprised that this application was refused, and that our neighbours are unhappy with the proposal. We have always been good neighbours and hope we can remain so. Our problem is we do not understand what the difference is between having a window and having a recessed balcony, as is proposed in this case.

Our original application included a recessed balcony, but we were encouraged by the planning officer to remove this from our application, or our extension would be refused. We did this as we did not want to have our main extension refused. However, after further thought, and now working from home, this bedroom will also be used as a home working office. We would like to have the option to sit out on the proposed terrace, weather permitting, to give us more of a feeling of open space, which we would not get from an open window.

As we are not familiar with the planning process, we have taken a little bit of advice and outline our grounds of appeal below for your consideration.

Planning permission was granted in December 2020 to extend the house into the roof space. This created a first-floor gable facing onto the garden with a large picture window. The central section would open to about 1.4 metres width, with a small railing in front, in the form of a Juliet balcony.

For reasons, outlined above, we would now like to have a recessed balcony terrace set back within the previously approved roof. The planning officer refused the proposed variation, and so we now wish to appeal against this decision.

Two reasons were given for the refusal, and these are:

- 1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it will have a detrimental impact on the character of the area and on neighbouring amenity.*
- 2. The proposals are contrary to the development plan policy on extensions and alterations as interpreted using the non-statutory Guidance for Householders as there would be an unreasonable loss of amenity and privacy for immediate neighbours.*

We cannot understand how either of these reasons can be considered reasonable in light of the previous granting of planning permission.

1. Regarding policy DES12, there can be no detrimental impact on the area's character compared to the 2020 permission, as the roof design and size will remain the same. The only difference is that the window would now be set back 1.1 metres into the roof, with a balustrade in the position of the approved window. This allows for a small external area beneath the already approved roof. The difference in appearance will be negligible.
2. Concerning the loss of amenity, we dispute that this will be significantly different to the approved scheme.

The officer's report refers to the "Guidance for Householders quoting that 'permission for roof terraces and balconies will not be granted where there is significant overlooking into neighbouring property due to positioning and height or if the terracing results in loss of privacy to neighbouring properties'".

The officer goes on to state:

"It is considered that the proposed 1st floor terrace will have a negative impact on the privacy due to the difference in the ground level. Whilst there are obscure views to the sides, the rear glass barrier is only 1 metre high and would allow overlooking to the neighbouring properties across Priestfield Crescent and as such, there would be an unreasonable loss of privacy."

The previous planning approval included a full-width glazed elevation, in the same position as the proposed glazed balustrade, looking over the garden, with central double-glazed doors, to permit occupants to look out through the 1.4-metre opening. The proposed small balcony terrace will be set back and will be barely 1 metre in depth.

The approved window is more than 12 metres from the rear boundary, and is over 30 metres from facing windows and is not considered to affect the privacy of our neighbours.

Finally, while we think this proposal should be acceptable in the form proposed, and it will not lead to excessive loss of amenity to neighbours, we would be happy to increase the height of the glazed balustrade from 1 metre as proposed to 1.5 metres and also introduce some obscured glass if this would help to solve the concerns of the planning authority and our neighbours to the rear. We all back onto each other as things stand, and this is not an unusual situation.

We hope that the appeal can be upheld and planning permission granted for our proposal, and thank you for considering our proposal.

Mr & Mrs McKenna