

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 100608334-001

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:	Format Design		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Shona	Building Name:	Holyrood Business Park
Last Name: *	Mackay	Building Number:	146
Telephone Number: *	01316617666	Address 1 (Street): *	Duddingston Road West
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Scotland
		Postcode: *	EH16 4AP
Email Address: *	formatdesign@aol.com		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	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"/>	Building Number:	<input type="text" value="87"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="St Vincent Street"/>
Company/Organisation	<input type="text" value="GEMML Ltd"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Glasgow"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="G2 5TF"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="formatdesign@aol.com"/>		

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"/>
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"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="Land to rear of 99 Drum Brae South, Edinburgh"/>
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Northing	<input type="text"/>	Easting	<input type="text"/>
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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)

Proposed new dwelling house at land to the rear of 99 Drum Brae South, Craigmount, Edinburgh

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.

22/01177/FUL

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

10/03/2022

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

31/08/2022

Review Procedure

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

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

Yes No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To allow the members of the Local Review Body to view the application site and its environs

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 Shona Mackay

Declaration Date: 24/11/2022

**STATEMENT FOR LOCAL REVIEW OF THE REFUSAL OF
PLANNING PERMISSION FOR
PROPOSED NEW DWELLING HOUSE
AT
LAND TO THE REAR OF 99 DRUM BRAE SOUTH, EDINBURGH
EH12 8TD
PLANNING APPLICATION REF: 22/01177/FUL
29 NOVEMBER 2022**



1. Introduction

I've had to take professional advice in relation to this application, but I'm obviously not a planner. The following is based on my analysis of the planning issues and my knowledge of the local area. If you have any comments on this statement, or wish clarification of any point, please do not hesitate to contact me. The matter for consideration is the refusal of planning permission 22/01177/FUL for a new dwellinghouse on land at 99 Drum Brae South. I am seeking an appeal against this decision under section 47 1(a) of the Town and Country Planning (Scotland) Act 1997.

2. The Decision

The application was refused for the following two reasons; -

- 1. The scale, form and design of this proposal is not keeping with characteristics of the wider townscape and this back-land development would disrupt the spatial character of the wider area. The proposal is contrary to policies Hou 1, Des 4 and Hou 4 of the adopted Edinburgh Local Development Plan (LDP) and the Edinburgh Design Guidance.**
- 2. The proposal will result in an unreasonable loss of neighbouring amenity and is contrary to policy Des 5 of the adopted Edinburgh Local Development Plan (LDP) and the Edinburgh Design Guidance.**

3. My Response

The Council's main reasons for the refusal relate to the scale, location and design of the proposal, and the impact upon neighbouring residential amenity and spatial character. Particular reference was made to policies **Des 4, Des 5, Hou 1** and **Hou 4**, as well as the **Edinburgh Design Guidance** SPG. The relevant policy sections are attached to this statement as an appendix.

I am obviously of the view that planning permission ought to have been granted, and that all of the matters raised in the reasons for refusal had all been carefully presented in the planning statement I paid for.

Once again, I would like to clarify that this is not "Backland Development". This basic misconception seems to be behind the decision to refuse the proposal.

Each of the reasons for refusal are now responded to in turn.

REASON 1 - General Design issues (Policies Des 4, Hou 1 and Hou 4 and the Design Guidance)

The first point of note is that a planning permission exists on site for a much larger extension (albeit lower), and that this permission remains extant courtesy of the development having been commenced shortly after approval (CEC reference **04/04394/FUL**). The principle of development in this location on what is a brownfield site has been accepted.

The remainder of the extension that was approved under this consent can still be lawfully completed and it is significantly larger in footprint than that which is now being proposed. If the current application were approved then the remainder of this consent could no longer be completed (see figure 1 below).

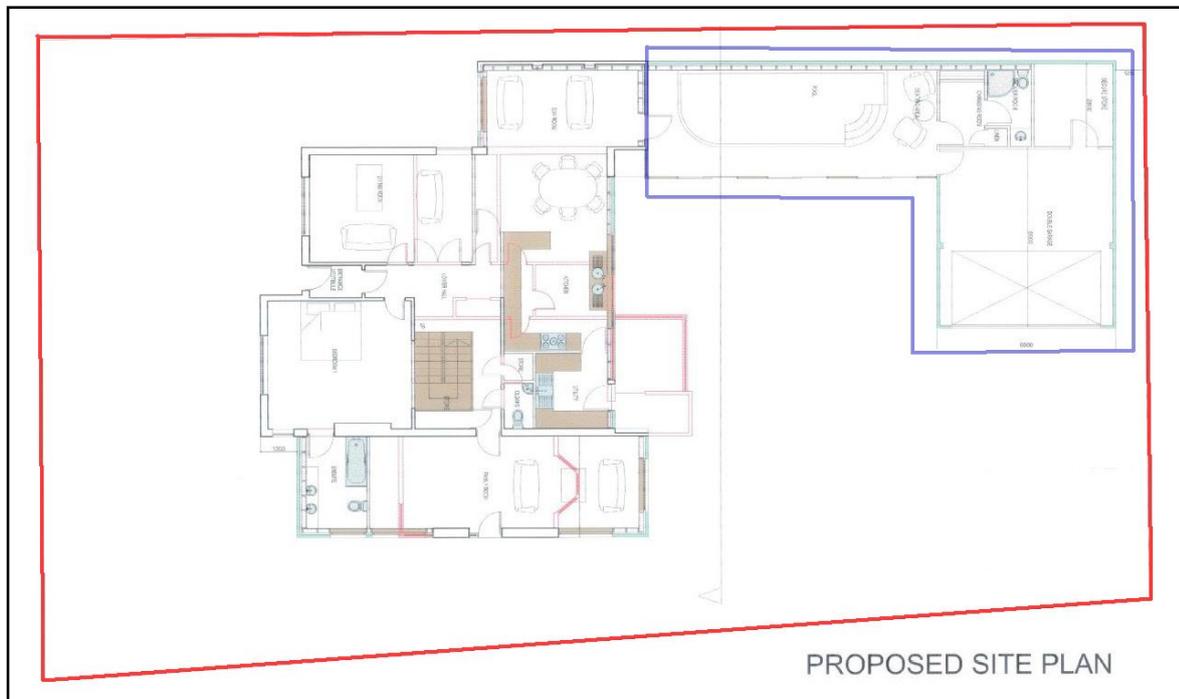


Figure 1: The site showing the approved extension footprint, still lawful but not yet completed (boxed in blue)

The next relevant fact is that along the opposite side of the side road there has (rightly) been recent development permitted, at 101A and 103A Drum Brae South.



Figure 2: The development opposite the site (north east), at 103a

A new dwellinghouse was granted in 2006, to the north side of the side street, with a detached garage to the rear. This is a two storey dwellinghouse and is of a significantly different architecture to the surrounding bungalows. It however sits relatively comfortably within the context despite its differences. It accesses from the side street, just as my proposal would do.

Further beyond this to the rear (west) there is an older, but still relatively modern brick bungalow. Again, this is alien in appearance, predominantly due to materials.

The images in figures 2 and 3 show these particular developments.



Figure 3: The development opposite the site (north west), at 101a

Next, if one examines the street layout, represented in figure 4 below, it is immediately apparent that the development is not out of keeping with the layout of buildings in the area. In fact, it is entirely in keeping with the original estate layout from the late 1950's.



Figure 4: The proposed development outlined in red, showing urban form (street flow - orange, building faces - blue)

I think that leads to a compelling argument, and that is that the proposal is not “backland” development at all. It fronts onto an adopted road, which forms part of the original estate layout (figure 5).



Figure 5: The street layout in 1962, shortly after the side street was created

Clearly if a house such as number 97 were to create a lane to the rear and erect a dwelling, that would most definitely be “backland” development. Indeed, I would argue that, a classic example of “backland” development exists just to the north with number 101, and yet it was part of the original layout. It now appears as backland due to the building of the house at 101a in front of it.



Figure 6: A 3D view showing the site (red) and the house at 101 (blue)

“Backland development can be a landlocked site, or just behind existing buildings such as rear gardens and private open space, usually within predominantly residential areas. These developments often have street frontage problems” [kslaw.co.uk]. This site has a street frontage, and so the first reason for refusal is, I would argue, technically flawed. The following old map excerpt shows how the site was originally laid out. As can be seen, a side street was created and 101 and 103 fronted onto it. This new house would face on to it in a similar fashion and would reinforce the nature of a two-sided residential street.



Figure 7: Bird's Eye view from the south circa 2015

It is clear in the earlier bird's eye view above, taken before 103a was built, that originally the houses at 101 and 103 fronted onto this street (see also figure 5).

I cannot therefore accept this being described as “backland” development. Not only is this development not “backland”, but it is entirely appropriate for it to front onto this side street, so long as it complies with other policies of the development plan. This misinterpretation, if applied elsewhere, would have serious consequences for other acceptable sites in the city. The proposed City Plan is entirely based on delivering new homes on brownfield sites and this is by any rational description, a suitable brownfield site.

The final issue under the first reason for refusal relates to the scale, form and design of the building. The following image, in figure 8, shows the contextual streetscapes to both sides of the street. Whilst the area is traditionally one of bungalows, many of these now have developed roof spaces with dormer and larger roof extensions, and the house to the north has a two-storey gable. As figure 6 above shows, the area has two storey terraced properties to the east and villas to the west.



Figure 8: Streetscapes of the north and south sides of the street

Looking at these streetscapes, and considering the scale, form and design of existing houses and recent additions, the proposed small dwelling is an attractive and well-considered design which would not be out of place in this little residential cul-de-sac. It is fully

compliant with the prevailing urban form and sits well in the existing context, and of course it fronts a public road.

I would strongly argue that this new home will add character and quality to the urban form, which is varied. It will certainly contribute positively to a 'sense of place'. Development plan policy **Des 4** is further explained by **paragraph 154** of the **ELDP** which advises that "Where the surrounding development is fragmented or of poor quality, development proposals should help repair the urban fabric, establish model forms of development and generate coherence and distinctiveness – a sense of place". I would strongly argue that my proposal achieves this.

The report of handling states, under the heading Principle of development on page 4, "The principle of the development of a house in this location is not Acceptable". This is very clearly incorrect, and very difficult to accept. Of course, the principle of housing is acceptable here, as this is a housing area. It is only in the detail that it is deemed to fail to be acceptable, and as is argued here, the detail is in fact also incorrect.

It is therefore concluded that with respect to design and the character of the area, in respect of height form scale position and materials, the proposals are perfectly compatible in terms of the location and in terms of compatibility with existing buildings in the area, and satisfy policy **Des 4**, as well as the 'character' aspects of policies **Hou 1** and **Hou 4**.

REASON 2 - Loss of Amenity to neighbours (Des 5 and the Design Guidance)

The supporting planning statement had very clearly assessed and documented the impact of the development upon neighbouring properties, and it was demonstrated to be acceptable.

Policy **Des 5a** supports development where “the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook”. I defy anyone to set out exactly how building a house in this location on a brownfield site will impact negatively in terms of policy **Des 5a**. The Edinburgh Design Guidance provides further detailed advice on how to assess daylight and sunlight.

It is notable that **Reason 2** does not specify what the “loss of amenity” is. I have reviewed this issue carefully as I obviously know the location well. Firstly, it cannot be privacy or overlooking. The proposed dwelling has only front and rear windows. The front elevation overlooks the street, and the nearest house opposite at 101A, is offset to the west. The rear bedroom window is at a distance to the rear boundary of 9.2 metres, the mutual boundary to 97 Drum Brae South. The upper floor window is a dormer, and it is a very modest window, and visibility from it will be low. Being a dormer, sideways visibility is very limited. The council will likely have approved hundreds of homes with greater impact in terms of privacy or overlooking. As far as residential developments go, this proposal has minimal impact on neighbours.

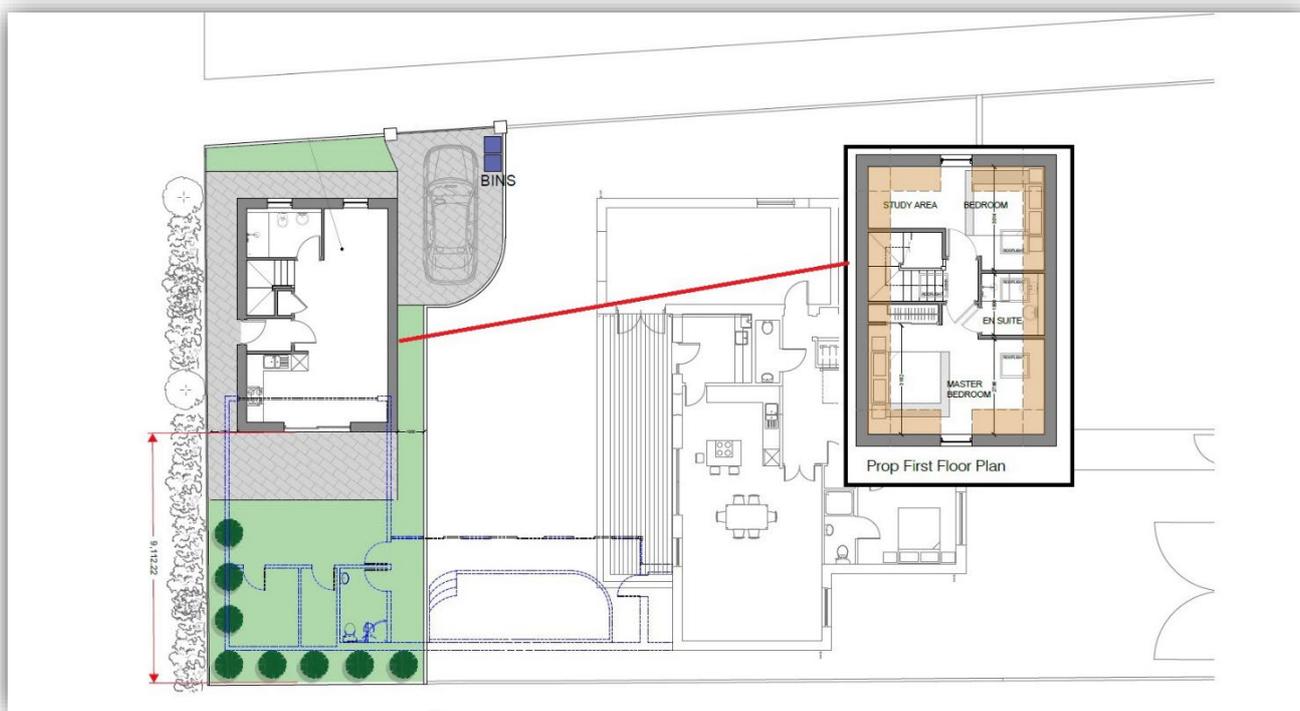


Figure 9: The proposed site plan, with first floor inset

The report of handling states on page 5, “The rear garden of the proposed house is 9.1 metres from the neighbouring boundary to the south”. It is assumed the word garden is supposed to read elevation?

The report of handling refers to the spatial characteristics of the area, and advises that whilst there is just over 9 metres to the rear boundary, and that the Edinburgh Design Guidance advises that 9 metres is the minimum distance between rear boundaries to maintain privacy, “*The spatial pattern in this area is characterised by bungalows in extensive garden ground with depths of around 14 - 17 metres*”.

I obviously know this area well, and that simply isn't true. As figure 10 shows, this is not correct of the area, very specifically with reference to the land immediately to the north.

This is yet another reason why it is very important to this case that the members who are considering this review should examine the site very carefully, and perhaps visit the site and familiarise themselves with the existing character and housing layout.



Figure 10: 3D aerial demonstrating the density around the site

The report of handling then goes on to advise “*The upper window will be able to look along the rear gardens to the north of the site and cause new overlooking of private rear garden areas*”.

The distance from the window to the opposite road kerbside is 11.6 metres. As the site plan below clearly shows, this window looks into two driveways. Therefore, the Report's statement is completely misleading. The following figure shows this quite clearly, and again this can easily be seen on site.

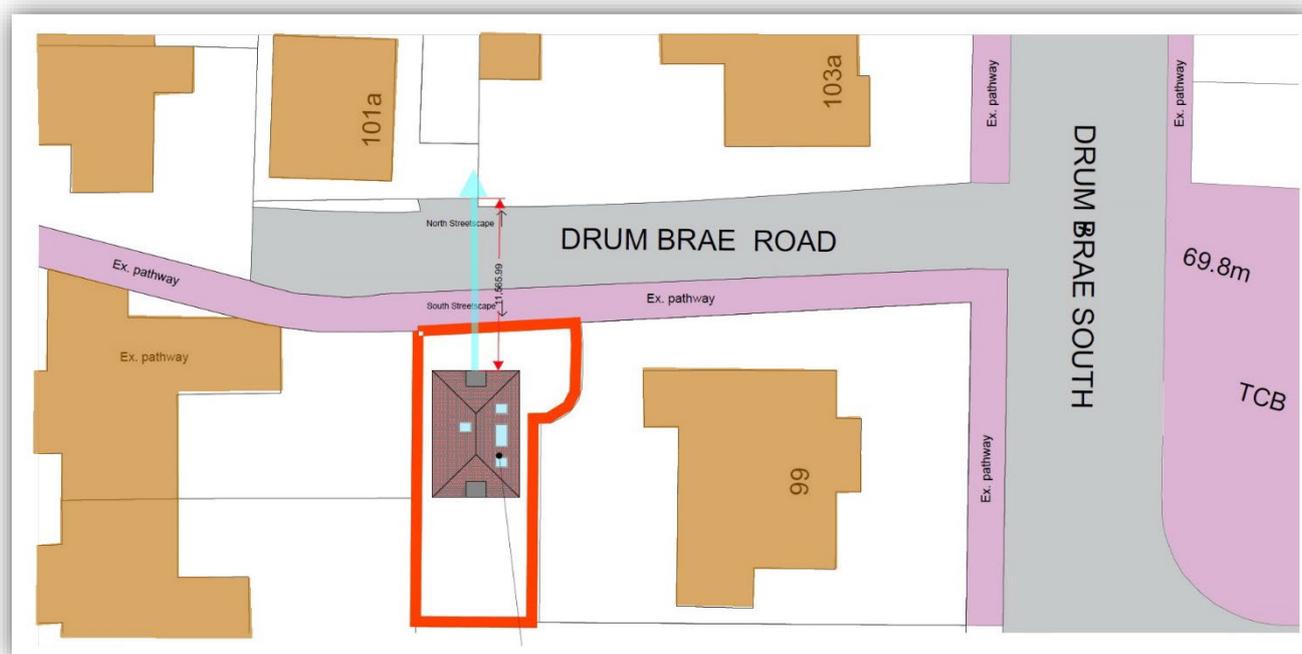


Figure 11: Privacy to north

With regards to impact on sunlight to gardens, bizarrely the report of handling appears to have completely overlooked page 84 of the **Edinburgh Design Guidance**. This shows the height at which the impact of a development on the sunlight to an adjacent garden will be assessed. These lines were clearly shown on the submitted drawings, specifically drawing no:10142 03 02. The development should not rise above a 45-degree line taken from the prescribed height on the table, which is copied here in figure 12 below. To assist, the corresponding property is listed in the relevant orientation column.

Orientation of boundary in relation to potentially affected garden	Height of 45° line above boundary
N	4m
NE	3.5m
E = 56/58 Craigmount Avenue North	2.8m
SE	2.3m
S	2m
SW	2m
W = 99 Drum Brae South	2.4m
NW	3.3m

Figure 12: Sunlight to existing gardens and spaces from Design Guidance page 84

Therefore, the report’s statement that “*Neighbouring properties will experience new overshadowing of private garden space and this is unacceptable*” is completely untrue and materially misleading.

In terms of outlook, the report advises “*The proposal will create a poorer outlook for existing neighbouring properties*”. In reality, there will be little difference as the new property will simply be seen in the context of existing properties to all sides, but in particular east and west.

The fourth full paragraph on **page 6** of the report of handling is, I have to say, rather astonishing. It appears to suggest that the main entrance door of a dwellinghouse is a concern with regards to noise and security. This is a residential area and the council will have to refuse a lot of applications for new housing if entrance doors are regarded as a concern. There is nothing unusual about a house having a side entrance. It is more likely that a garage or parking space would create a noise. It is difficult to comprehend the stance taken in this paragraph and it is hoped that Council members will recognise this and see that there has clearly been a subjective view taken on this application, rather than one based on policy and facts.

4. Conclusion

Regretfully, I am forced to the conclusion that my application has been dismissed with a misguided view of policy and a disregard of the relevant facts, all of which were laid out in the planning statement.

I know this area well and have worked hard with the consultant working on the project to ensure that it has been carefully planned and tailored to fit this site so as to protect the amenity of neighbours and to provide a high-quality building that will give a high standard of family accommodation within an existing residential area.

Critically, this is most definitely not “*backland*” development. This property has a street frontage and other properties already front onto this street.

The design is a high standard and it will provide a desirable living space in a building that will add to the sense of place of this side street, and will enhance the availability and mix of housing in the area.

The overshadowing is within the acceptable limits set out in the **Design Guidance**. There is no overlooking from roof lights due to their height above internal floor level, and the front and rear windows are suitably distant and small as to not cause any significant issue to neighbours.

Policy **Des 4** seeks development that will have a positive impact on its surroundings, including the character of the wider townscape and landscape, and impact on existing views, and I am strongly of the opinion that this is what the proposal will do.

The Edinburgh Design Guidance key aims are for new development to have a positive impact on the immediate surroundings; wider environment; landscape and views, and it is again believed that the development achieves this without detriment.

This is not a significant development in terms of scale, but if the council’s City Plan is to be successful, brownfield development will need to be actively supported and developed. Ruling out such suitable sites simply means that pressure on greenfield and greenbelt development will increase. The proposal enhances the mix of house types available in the area, providing a bespoke modern living and sustainable dwelling house within a relatively small space. Exactly the type of development we should be striving towards within our urban environments.

If this were a proposal for a hundred houses with compliance on policies related to residential amenity, overlooking and overshadowing, I suspect that the planner’s view would have been different. I would strongly encourage the committee and the council to be consistent.

It is submitted that the Council’s decision to refuse should be overturned, and planning permission granted on appeal.

Mario Gizzi
Edinburgh
29 November 2022

Appendix

Policies of the Edinburgh Local Development Plan, November 2016, quoted in the reasons for refusal

Policy Des 4 Development Design – Impact on Setting

Planning permission will be granted for development where it is demonstrated that it will have a positive impact on its surroundings, including the character of the wider townscape and landscape, and impact on existing views, having regard to:

- a) height and form
- b) scale and proportions, including the spaces between buildings
- c) position of buildings and other features on the site
- d) materials and detailing

Policy Des 5 Development Design – Amenity

Planning permission will be granted for development where it is demonstrated that:

- a) the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook
- b) the design will facilitate adaptability in the future to the needs of different occupiers, and in appropriate locations will promote opportunities for mixed uses
- c) community security will be promoted by providing active frontages to more important thoroughfares and designing for natural surveillance over all footpaths and open areas
- d) a clear distinction is made between public and private spaces, with the latter provided in enclosed or defensible forms
- e) refuse and recycling facilities, cycle storage, low and zero carbon technology, telecommunications equipment, plant and services have been sensitively integrated into the design

Policy Hou 1 Housing Development

Priority will be given to the delivery of the housing land supply and the relevant infrastructure as detailed in Part 1 Section 5 of the Plan including: on other suitable sites in the urban area, provided proposals are compatible with other policies in the plan

Policy Hou 4 Housing Density

The Council will seek an appropriate density of development on each site having regard to:

- a) its characteristics and those of the surrounding area
- b) the need to create an attractive residential environment and safeguard living conditions within the development
- c) the accessibility of the site includes access to public transport
- d) the need to encourage and support the provision of local facilities necessary to high quality urban living.

CEC Supplementary Planning Guidance - Edinburgh Design Guidance 2020

2. Designing places: buildings

This chapter sets out the Council's expectations for how features within the built form relate to its setting. The overall composition of streets is shaped by how individual buildings work together, creating the unique visual character through repetition, variety and focal points within the street scene.

The key aims are for new development to:

- Have a positive impact on the immediate surroundings; wider environment; landscape and views, through its height and form; scale and proportions; materials and detailing; positioning of the buildings on site, integration of ancillary facilities; and the health and amenity of occupiers.
- Repair the urban fabric, establish model forms of development and generate coherence and distinctiveness where the surrounding development is fragmented or of poor quality.
- Achieve high standards of sustainability in building design, construction and use
- Be adaptable to future needs and climate change.
- Support social sustainability, by designing for different types of households.
- Address the street in a positive way to create or help to reinforce a the sense of place, urban vitality and community safety.
- Balance the needs of pedestrians, cyclists, public transport users and motorists effectively and minimise the impacts of car parking through a design-led and place specific approach.
- Reduce exposure to pollution and where possible seek to reduce overall emissions.