

1 Avenue Villas

**City of Edinburgh Council Local
Review Body Rebuttal Statement**

Prepared on behalf of Mr J Hancox

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1.0

Introduction

1.0 Introduction

1.1 Purpose of this report

This Statement is submitted on behalf of Mr J Hancox (hereafter referred to as 'the Applicant') in support of a Planning Local Review Body (PLRB) appeal against the City of Edinburgh Council, who refused permission under delegated powers for:

'Demolition of an existing rear extension to the side and rear to house living, dining and utility facilities and to form basement to extension with study and plant room. Minor internal remodelling of existing house. Apex roof light over existing stair. At 1 Avenue Villas Edinburgh EH4 2HU'.

The application was refused on Friday 1st July 2022 with the refusal reason being:

'The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as the location of the extension would impact on the long-term growth of replacement trees'

The purpose of this statement is to assist members of the PLRB in their assessment and determination of the appeal by addressing comments made by the Council's Arboriculturist which were received on 21st December 2022. The review is being considered again on 18 January 2023 whereby the LRB will either make a decision on the case or continue the case further.

At the LRB meeting on 30 November, the Panel requested that the application was to be continued to enable a site visit to be carried out and to gain a response from the Council's Arboricultural officer specifically addressing the content of both the Tree Report written by Hinshelwood Arboricultural Consultants, and the Tree Report from the objector written by Julian A Morris, as it was acknowledged that these reports contain conflicting opinions in relation to the interpretation of Tree Preservation Order works and relevant British Standards for the protection of trees.

1.2 Council's Arboricultural Response

The response provided by the Councils' arboricultural officer, considers the difference in professional opinion between the report submitted by Hinshelwood Arboricultural Consultants and Julian A Morris and offers an opinion on which points he deems to be valid or otherwise. Mr Hinshelwood was until recently a senior landscape officer with the Council and has vast experience of these matters.

The important thing to note here is that there are 3 different professional opinions that have been presented by Arboricultural specialists on this application alone and this is because, in many cases, the guidance is not prescriptive to specific circumstances and open to reasonable interpretation. Had we received a detailed response from the Councils' arboricultural officer at an earlier stage in the planning process, prior to appeal, we could have worked with them to specifically address all these points, and this would have enabled us to address the ambiguity across local and national policies at the earliest stage in the planning process.

The Councils' Arboriculturalist has acknowledged that it is the case that Council guidance (Edinburgh Design Guidance) states a tree survey is required to include all trees over 75mm in stem diameter (measured at 1.5m above ground level). The 13 trees in question are then acknowledged to not be greater than 75mm and would therefore not require to be surveyed under current guidelines. The tree officer then states that the exclusion of the trees would accord with the Council's guidance on tree surveys but stated that the knowledge of the presence of the TPO would have revealed the protected status of 13 young trees, their amenity value and the need to take them into account when considering the proposed development.

Our appointed tree officer did not find any information either within the Councils design guidance nor within BS5837 which demonstrates the ambiguity across both of these and perhaps this information should be included within the design guidance going forward. The case officer should also have legitimately signposted this as a material consideration. Had the Councils' tree officer informed us of the need to survey these trees, even though it is not a requirement of the policy, we could have addressed this and assessed the trees at the earliest stage.

If this remains a key issue for the Council, it can be adequately corrected through the imposition of a relevant planning condition. Indeed, we would suggest that the approval of the proposed development could be conditioned by a standard condition reference to a detailed landscape scheme for approval by the Director of Planning. This would ensure protection of trees and adherence to the British Standard.

The late intervention of the Councils Landscape Officer and consultation over the festive period has precluded the design of such a scheme by a qualified landscape architect. Such a solution will improve residential amenity and enhance biodiversity in line with the planning policy of Scottish Government and the Council itself.

1.3 Conclusion

The proposed development, which is the subject of the Local Review Body submission, comprises the demolition of an existing rear extension to the side and rear of the house, the creation of new living, dining and utility facilities and the formation of abasement which will include a study and plant room in addition to minor internal remodelling and an Apex roof light at 1 Avenue Villas, Edinburgh. Under normal circumstances it is an uncontroversial application which is marginally above permitted development thresholds.

It is considered that the proposed extension to the building will make a positive contribution to the character and setting of the Conservation Area and will enable the occupants to adapt the existing home to their changing needs. Listed Building Consent has been granted.

Given that all other planning matters pertaining to this application were satisfied, including the granting of listed building consent to carry out the works proposed, we would have preferred to work proactively with the Councils Arboricultural officer to resolve what should be deemed to be a minor issue in this development, however, the tree officer did not respond to the consultation at Planning stage. It would now be unreasonable to withhold consent subject to an appropriate condition.

At the LRB hearing on 18 January, panel members were seemingly preoccupied with the previous google map images of the property where all the TPO trees were present and well established. We would like to address the fact that the replanted TPO trees were not designed to ever reach the same cover as the previous trees and so there shouldn't be a comparison here. In fact, we have an email from Stephen Milne (which we would be happy to present to members of the LRB) which states that the siting of the replacement trees was to 'avoid future conflict', he was aware that our clients were keen to extend the property and positioned the replacement trees on this basis.

In addition, the panel were told that the property owners did not replant the trees when asked and that the council had to do this, this is untrue. Jamie Hancox planted the trees himself and they were never billed for any tree planting on that basis as Mr Hancox has a business which plants trees across Edinburgh and the Lothians.

The panel needs to be aware that neither Julian Morris who was hired by the objectors or the Council's tree officer have visited the site and therefore it is questioned whether they can justifiably make conflicting statements on the basis that they have never seen the site and its wider context in person.

Again, this planning application has been the subject of 3 years and 3 redesigns, 2 withdrawals, a refusal, and now an appeal. We have never had a visit or direct feedback from the Council tree officer on such an apparently contentious site.

Considering these representations were sent to us on the 21st December with limited time to prepare additional evidence to demonstrate that the proposed development will take into all necessary consideration, the need to protect the TPO trees on site, we respectfully request that we be granted some additional time to prepare a detailed schedule of planting and landscape management. We are confident that this would demonstrate that there is a sustainable space in order to contribute to and preserve the landscape character of the area.

We would like to take the opportunity to reiterate that the only reason for refusal in this case, is the perceived impact upon the longevity of TPO trees. In considering that the officer has not even assessed this impact quantitatively, or that no trees are proposed to be removed as part of the proposal or that every effort has been taken to mitigate any future harm to the trees within the proposal, it respectfully requested that the appeal be allowed.

We respectfully urge the LRB Panel to visit the site scrutinise the facts of the application before them and apply common sense in order to reach a sensible conclusion on this relatively straightforward matter.

Appendix A: Email from Stephen Milne

From: Steve Milne [REDACTED]
Sent: Monday, September 18, 2017 04:27 PM
To: Jamie Hancox [REDACTED]
Subject: RE: Avenue Villas

Dear Jamie,

Thank you for your email and the Quotation from R&B Nursery (dated 11 September 2017).

I could make myself available to meet prior to the trees being delivered but first can I make a number of crucial points.

The location of each new tree is identified on the Tree Replacement Notice plan which has been subject to an appeal and reporters decision. There is no flexibility to deviate from its requirements. I would point out the tree positions in the Notice have already introduced a greater separation from the building than the previous trees in order to reduce future conflict.

The requirement of the Notice was that you provide the name of the contractor who will plant and maintain the trees and a detailed method for planting. The implication clearly being that a suitable contractor will plant the trees. You did not appeal against that requirement of the Notice so the trees will need to be planted by a contractor to fulfil the requirements of the Tree Replacement Notice. Please take into account that this can safeguard you as mistakes during the delivery, any delay in planting, damage during the moving and planting and omissions in the maintenance of the new trees can be irreversible and result in tree failure and subsequently further enforcement action against you to replace trees.

It is also the case that the detailed method of planting which has been provided (21 June 2017) has clearly not been written for advanced nursery stock and is missing key information including an appropriate method of staking/guying Extra-Heavy Standard trees and the maintenance plan (27 July 2017) does not mention adjustment/removal of tree guying or staking tree. These documents will need to be supplemented or replaced.

I look forward to receiving further information as required by the Notice.

Regards

Steven Milne
Arboricultural Officer

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