

**Enforcement Report into Breach of Control  
at  
PF2  
12 Kirk Street  
Edinburgh  
EH6 5EY**

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**Development Management Sub-Committee  
of the Planning Committee**

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**Owner/s**

**Occupier**

**Reference No:** 09/00108/ELBB

**1. Purpose of Report**

**Breach of Control:**

Without planning permission or listed building consent the installation of four double glazed UPVC window units, Four double glazed UPVC casement window units have been installed, two to the front principal south west elevation and two to the rear north east elevation.

**Recommendation:**

It is recommended that enforcement action is authorised to remove the unauthorised UPVC window units.

**The Site**

**Site Description**

The site comprises a ground floor property within a four storey traditional stone tenement located on the north side of Kirk Street which is predominantly residential, characterised by traditional stone tenement properties with the exception of a modern housing development on the opposite side of the street. The property is category C(s) listed (ref 27577 listed 29.04.1977) and located within the Leith Conservation Area.

**Site History:**

No relevant history known.

It has been confirmed that the windows were installed during 2007. Photographs of the property show that prior to the replacement of the windows the two front windows were timber sash and case units with a one over one formation.

**Representations**

One representation has been received.

**3. Assessment**

In determining whether it is expedient to take enforcement action it is necessary to consider:

1. Whether there has been a breach of planning and/or listed building control;
2. Whether it is expedient to issue a notice, having regard to the provisions of the development plan and to any other material considerations; and
3. The effect of the works on the character of the listed building.

1. The installation of UPVC window units within a flatted property which is listed requires an application for both listed building consent and planning permission. It has been confirmed that the windows were replaced in 2007 and there is no record of consent being sought. A breach of planning control has occurred as the installation of replacement window units materially affects the external appearance of the property, which is flatted and does not benefit from permitted development rights and planning consent has not been obtained for the installation of the window units. The replacement occurred within the last four years. The installation of UPVC window units requires listed building consent as it affects the character of the building. A breach of listed building control has occurred as no express grant of listed building consent has been obtained.

2. Development plan policies comprise the North east Edinburgh Local Plan Policies E18, E21, E22 and E28 and finalised Edinburgh City Local Plan Policies Env3, Env5 and Des11. The materials, proportions (design) and method of opening of the replacement windows diminish the architectural integrity of the listed building and detract from the historic character and appearance of the building. The replacement windows contravene the Council's planning guidelines on replacement windows which seek to ensure that doors and windows are sensitively replaced in keeping with the character of the original building and ensuring that the character of Statutorily Listed Buildings and conservation areas are protected and enhanced.

Other material considerations include paying special regard to the character and appearance of the conservation area. The Leith Conservation Area Character Appraisal notes that the side streets to Leith Walk produce significant townscape. The essential character of the Leith Conservation Area is summarised as having a concentration of buildings of significant historic and architectural quality with a unifying effect of traditional materials. Appendix 1 paragraph 1.2.11 of Historic Scotland's Memorandum of Guidance (referred to in greater detail in the next section of this report) specifically mentions that the impact of inappropriate re-fenestration, which may, in the case of a building within a conservation area, be felt well beyond the building itself. Whilst it is accepted that there is a modern development on the opposite side of the street with modern windows, the vast majority of buildings within this immediate area are of historic character and largely retain timber sash and case windows. The small number of those premises with UPVC window units appear to be unauthorised and the detrimental impact of this type of window is clearly evident and is not justification for allowing further degradation of the character and appearance of the buildings, the street scene and the conservation area.

3. In considering the effect of the works on the character of the listed building, it is necessary have regard to the advice contained in Appendix 1 of Historic Scotland's Memorandum of Guidance on Listed buildings and Conservation Areas 1998 and Historic Scotland's Scottish Historic Environment Policy October 2008 (SHEP). These documents set out guidelines for the treatment of historic buildings and reiterate national planning policy with regard to the preservation of listed buildings to ensure that the historic environment is cared for, protected and enhanced for the benefit of our own and future generations.

Paragraph 1.2.1 of the aforementioned appendix states that as a general rule, original doors and windows should be retained. Only when repair is clearly out of the question should replacement be accepted, and then only on the condition that the replacements match the originals in every respect.

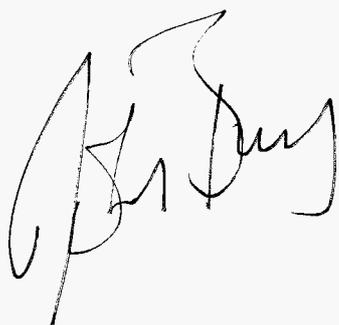
Paragraph 1.2.4 states that where replacement is unavoidable, modern substitutes for timber sash windows should be firmly discouraged, especially those which do not replicate the outward projection of the upper sash over the lower. Great care should be taken to ensure that replacement sash and case windows match the originals in every respect.

Furthermore paragraph 1.2.11 states that the appearance and character of any building depend to a great extent upon the design and detailing of two of the building's principal elements, its wall and its windows. Any alteration to the form of one or the other is bound to have a considerable impact upon the appearance of the building as a whole. Where the alteration work is not appropriate, much of the quality and character of the building may be lost. The damage which may be caused by the replacement of any window which is historically and architecturally correct with a modern unit made from a different material, to a different design or with a different method of opening is potentially immense. Any proposal which would result in a diminution of architectural quality, no matter how small, should be refused.

Whilst it is accepted that it is not clear whether the windows which were removed were historically and architecturally correct, there is a mix of one over one and six over six formations within this street, the vast majority of which are timber sash and case units. Paragraph 1.2.11 further clarifies that most replacement units, whether manufactured from timber or from other materials such as upvc, are built from heavy unmoulded sections. Such units lack the refinement and elegance of the traditional sash and case. They are consequently not convincing substitutes and should be avoided. Replacement windows which open in a different manner are never visually satisfactory and also should be avoided.

Whilst it is clear that the windows to the rear of the building are less visible than those on the front principal elevation this does not lessen the impact on the character and appearance of the building, the whole of which is listed.

The materials, method of opening and proportions of the replacement windows have an adverse impact on the character and appearance of the listed building and erode its architectural integrity. There are no material considerations which outweigh this conclusion.



**John Bury**  
Head of Planning

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<b>Contact/tel</b>	Catrina Lyle on 0131 529 6475
<b>Ward affected</b>	Ward A13 - Leith
<b>Local Plan</b>	North East Edinburgh Local Plan/finalised Edinburgh City Local Plan
<b>Statutory Development Plan Provision</b>	Mixed Activities Zone/Urban Area
<b>File</b>	IDOX
<b>Date Complaint Received</b>	19 February 2009

## Planning Policy

### North East Edinburgh Local Plan

E18 (Listed Buildings) seeks to prevent alterations that would diminish the architectural integrity of the building.

E21 (Conservation Areas) requires the retention of all features which contribute to the character of the area.

E22 (Conservation Areas - redevelopment) sets out the criteria against which new development in conservation areas will be assessed, and seeks to preserve or enhance their character and appearance.

E28 Window Alterations) sets out criteria for assessing window alteration and replacement proposals to listed and non-listed buildings in defined areas.

### Finalised Edinburgh City Local Plan

ENV3 (Listed Buildings - Alterations and Extensions) aims to prevent alterations that would adversely affect the character of the building.

ENV5 (Conservation Areas - Development) seeks to preserve or enhance the special character of the area.

DES 11 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

### Non-Statutory Guidelines

NSG (Replacement Windows and Doors) supplements local plan conservation and design policies, providing additional guidance on window and door alterations.

### Other

Leith Conservation Area Character Appraisal (CEC, 2002)

Memorandum of Guidance on Listed Buildings and Conservation Areas (Historic Scotland, 1998) paragraphs 1.2.1, 1.2.4 and 1.2.11

## Appendix A



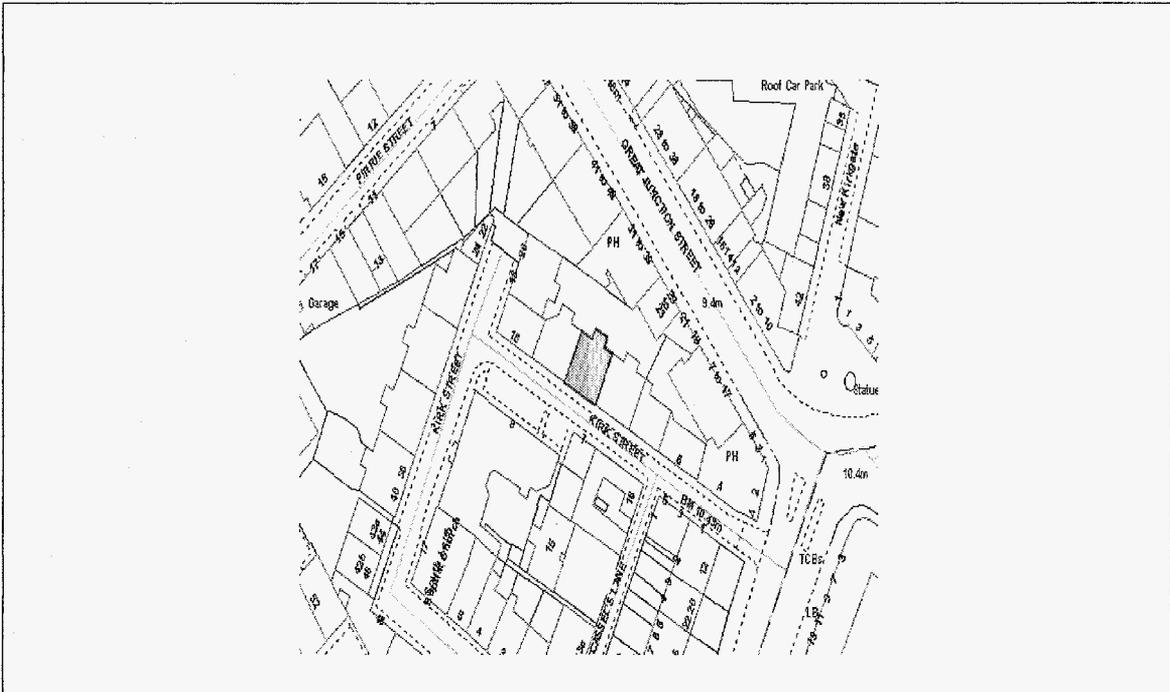
**Address:**  
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EH6 5EY

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## Location Plan



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