

**Enforcement Report into Breach of Control
at
1F1
12 Kirk Street
Edinburgh
EH6 5EY**

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

Owner/s

Occupier

Reference No: 08/00517/ELBB

1. Purpose of Report

Breach of Control:

Without listed building consent, the installation of six uPVC double glazed casement window units, three to the front principal south-west elevation and three to the rear north-east elevation with a mock astragal six over six formation.

Recommendation:

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

The Site

Site Description

The site comprises a first 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 (27577 listed 29.04.1977) and located within the Leith Conservation Area.

Site History:

12.11.2008 - Development Management Sub-Committee authorised enforcement action to remove three of the unauthorised windows to the front of the property.

Representations

One representation has been received.

3. Assessment

The Development Management Sub-Committee authorised enforcement action to secure the removal of three of the unauthorised windows, to the front of the property. It has since been discovered that there are a further three unauthorised windows located to the rear of the property and authorisation is sought for their removal.

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; and
2. 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 over 10 years ago with no evidence to the contrary. The Council is time-barred from taking enforcement action with respect to the breach of planning control under the four year rule contained in section 124 of the Town and Country Planning (Scotland) Act 1997. The installation of UPVC window units requires listed building consent as it affects the character of a listed building. A breach of listed building control has occurred as no express grant of listed building consent has been obtained. There is no time-bar with respect to listed building enforcement controls.

2. 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 reiterates 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. Consent for replacement windows which reproduce the astragal pattern but open in a different manner should always be refused, as should those where the astragals are merely applied to the surface of or sandwiched between the panes of double glazing.

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.

There is no requirement to assess this unauthorised development against the relevant development plan policies, suffice to say such policies are supportive of the assessment that the replacement windows are unacceptable.

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

Contact/tel	Catriona Lyle on 0131 529 6475
Ward affected	Ward A13 - Leith
Local Plan	North East Edinburgh Local Plan/finalised Edinburgh City Local Plan
Statutory Development Plan Provision	Mixed Activities Zone/Urban Area
File	IDOX
Date Complaint Received	31 July 2008

Planning Policy

North East Edinburgh Local Plan

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

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.

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

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

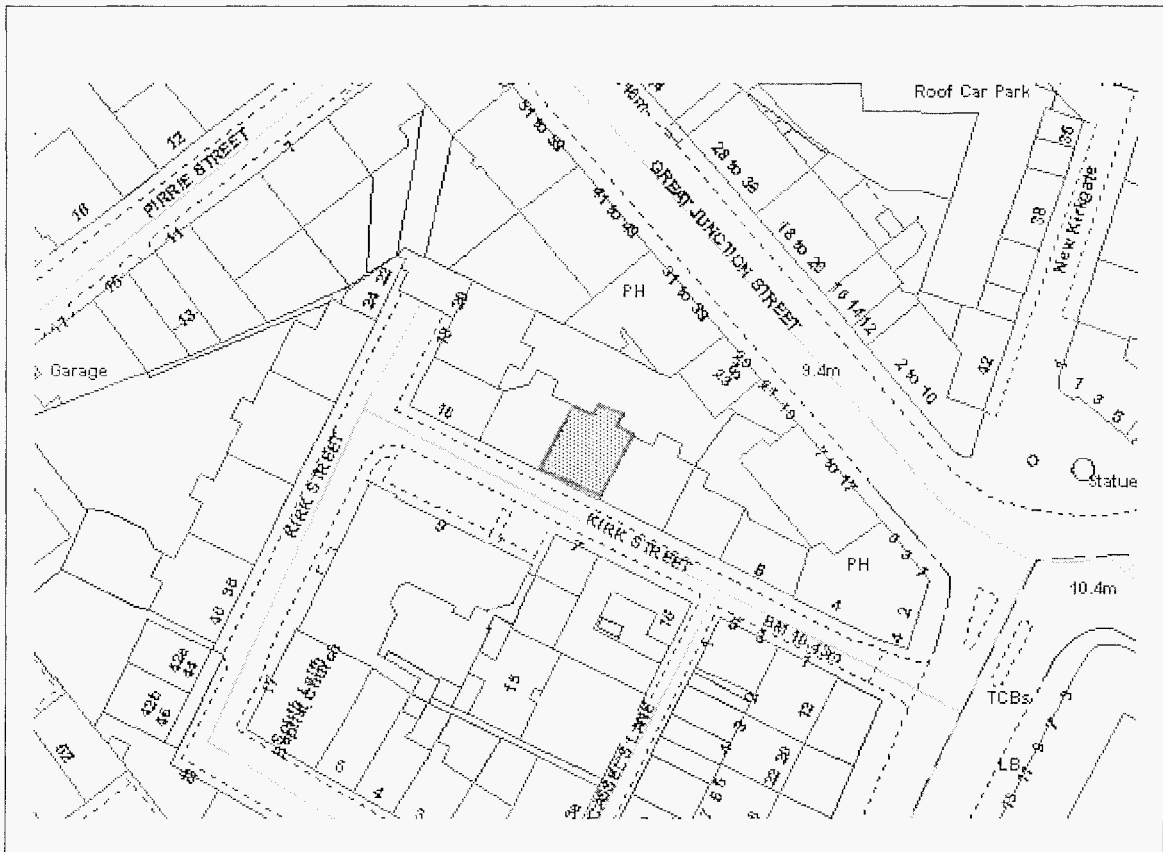


Address: 1F1
12 Kirk Street
Edinburgh
EH6 5EY

Breach of Control:

Reference No: 08/00517/ELBB

Location Plan



Reproduction from the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown Copyright.
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licenc Number 100023420 The City of Edinburgh Council 2005.