

**Enforcement Report into Breach of Control
at
51 Nicolson Street
Edinburgh
EH8 9BZ**

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

Owner/s

Occupier

Reference No: 09/00142/EADV

1. Purpose of Report

Breach of Control:

Without planning permission, shop front alterations including the installation of a canopy and without express consent the erection of two banners at first floor level, a fascia sign on the canopy and four sections of signage on the shopfront.

Recommendation:

It is recommended that committee authorises formal enforcement action to require the restoration of the shop front to its original condition.

The Site

Site Description

The site is located on the western side of Nicolson Street near to its junction with Nicolson Square. The site comprises a ground floor commercial unit within a three storey tenement building. The premises are not listed but lie within the South Side Conservation Area.

Site History:

October 1996: Planning permission (95/02486/FUL) granted to alter and extend the premises.

December 2001: Application refused (01/04044/FUL) to extend the shop and a flat above the proposed development at the rear of 51 and 53 Nicolson Street.

May 2002: Planning permission (02/01276/FUL) granted for the extension of shop and flat above at the rear.

September 2004: Enforcement investigation into the storage of building materials at the premises - case resolved.

January 2005: Planning permission (04/04140/FUL) granted for the installation of windows.

June 2007: Planning permission (07/01785/FUL) pending consideration for the change of use of shop to form café and takeaway.

Representations

Two enquiries were received concerning the impact of the additional signage and banners have on the streetscape and the building.

3. Assessment

The planning authority may issue an enforcement notice where it appears to them-

1. that there has been a breach of planning control, and
2. it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

The planning authority may issue an advertisement enforcement notice-

3. Having regard to Regulation 24 of the Advertisement Regulations, whether the advertisement has been displayed without express advertisement consent or not in compliance with any condition or limitation attached to a grant of express consent or deemed consent under the regulations
1. The alterations to the shopfront result in a material change to the appearance of the building and such works do not benefit from any permitted development rights. As no express grant of planning permission has been obtained, there is a breach of planning control.

2. Development plan policies comprise policies CD4, CD5, CD17 and CD23 of the Central Edinburgh Local Plan and policies Des12 and Env5 of the Finalised Edinburgh City Local Plan. The shopfront alterations do not take into account the area's special interest and prominent location. Furthermore, they do not relate sensitively or harmoniously to the building as a whole and conceal traditional features, therefore harming the visual amenity of the street and the character of this historic environment. The alterations, along with the similar unsympathetic alterations completed at other properties in this section of the street have a detrimental impact on the character and appearance of the buildings, street scene and the conservation area, contrary to policies CD5, and CD17 of the Central Edinburgh Local Plan and policy Env5 of the Finalised Edinburgh City Local Plan. Given that the shop front alterations do not represent an improvement of what existed previously, they contravene policy CD23 of the Central Edinburgh Local Plan and policy Des 12 of the Finalised Edinburgh City Local Plan. Other material considerations include paying special regard to the character and appearance of the conservation area and the Council's Non-Statutory Guidelines. The shopfront alterations do not pay special regard to the character and appearance of the conservation area. As such, they do not represent an improvement and are therefore unacceptable. There are no material considerations which outweigh this conclusion.

3. The unauthorised signage does not benefit from express consent and does not comply with the conditions attached to deemed consent provisions contained in and set out under the Class IV of the Advertisement Regulations. The extent of signage is over-dominant creating visual clutter and it is considered necessary to exercise discretionary enforcement powers in this instance to ensure its removal.



John Bury
Head of Planning

Contact/tel	Brett Taylor on 0131 529 6125
Ward affected	Ward A15 - Southside/Newington
Local Plan	Central Edinburgh Local Plan/finalised Edinburgh City Local Plan
Statutory Development Plan Provision	Housing and Compatible Uses/Urban Area
File	IDOX
Date Complaint Received	27 February 2009

Planning Policy

Adopted Central Edinburgh Local Plan

Policy CD4 (Conservation Areas) of the Central Edinburgh Local Plan states that all development within a conservation area will be required retain all features which contribute to its character and appearance.

Policy CD5 (Conservation Areas – Redevelopment) of the Central Edinburgh Local Plan states that “All new development within a conservation area should take into full account the area’s special interest and should ensure that it preserves or enhances its character and appearance”.

Policy CD7 (Article 4 Directions) and Appendix D14 (South Side Conservation Area) of the Central Edinburgh Local Plan states that removal of permitted development rights will be supported by detailed guidance intended to promote sympathetic repair, maintenance and upgrading within each area.

Policy CD17 (Materials) of the Central Edinburgh Local Plan states that the council will seek greater use of stone and other traditional materials where this appropriate and particularly in sensitive areas such as conservation areas where traditional materials are an integral part of their character.

Policy CD23 (Shopfront Design) of the Central Edinburgh Local Plan states that “alterations to existing shop fronts will only be approved if the proposal is an improvement on what exists”.

Finalised Edinburgh City Local Plan

Policy Des 1 (Design Quality and Context) of the Edinburgh City Local Plan states that design should be based on and draw upon the positive characteristics of the surrounding area to reinforce a sense of place. Planning permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area around it, particularly where this has a special importance.

Policy Des 3 (Development Design) of the Edinburgh City Local Plan states that development will be permitted where it demonstrates that:

- a) it will have a positive impact on its setting having regard to scale and form, materials and detailing and wider townscape and landscape impacts.
- b) features worthy of retention on the site have been identified and incorporated into the design to enhance visual interest and a sense of place.

Policy Des 12 (Shopfronts) of the Edinburgh City Local Plan states that alterations to shopfronts will be permitted which are improvements on what already exists and relate sensitively and harmoniously to the building as a whole. The character of historic environments should be maintained or enhanced.

Policy Env 5 (Conservation Areas – Development) of the Edinburgh City Local Plan states that development within a conservation area will be permitted which:

- a) preserves or enhances the special character or appearance of the conservation area
- c) demonstrates high standards of design and utilises materials appropriate to the historical environment.

Non-Statutory Guideline “Commercial Frontages” aims to improve the quality of commercial frontages by promoting a high standard of design.

Appendix A

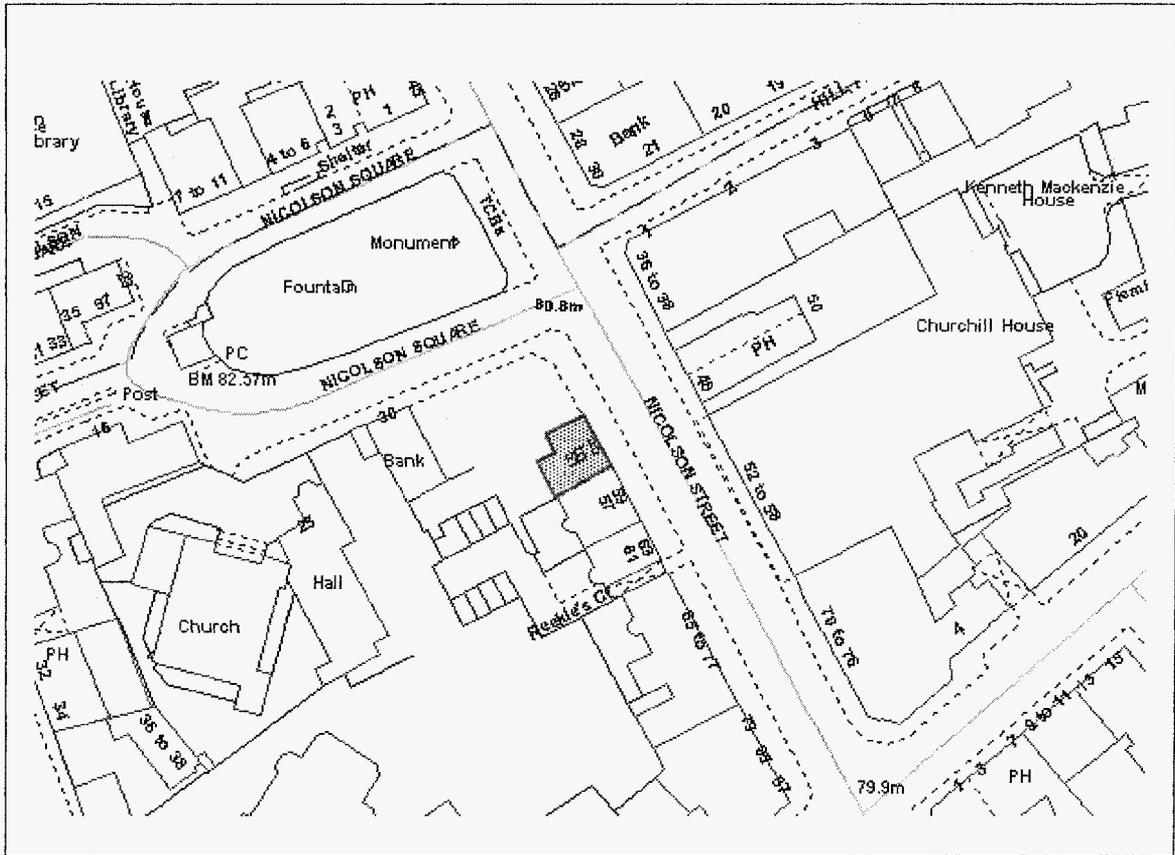


Address: 51 Nicolson Street
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EH8 9BZ

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Location Plan



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