

**Enforcement Report into Breach of Control  
at  
3 South Fort Street  
Edinburgh  
EH6 4DL**

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

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**Owner/s**

**Occupier**

**Reference No:** 09/00201/ELBB

**1. Purpose of Report**

**Breach of Control:**

Without planning permission or listed building consent, the replacement of original single glazed timber sash and case windows with double glazed sash and case windows, the removal of decorative fanlight, formation of alcove in front right-hand (southernmost) principal room, removal of wood panelling in left hand (northernmost) principal room and formation of full height walk-in cupboard.

**Recommendation:**

It is recommended that the Committee authorises enforcement action to be taken to remove the unauthorised replacement windows and alterations to the original plan form and reinstate architectural details that have been removed.

## **The Site**

### **Site Description**

The site forms the ground floor flat of a two storey with basement classical tenement on the corner of South Fort Street and Ferry Road. The site is category B listed (reference: 27402, dated 30.03.94) and lies in the Leith Conservation Area.

### **Site History:**

A number of site visits were carried out and the developer was advised that the works being carried out required listed building consent and was warned to cease all works until details of the proposed alterations were submitted to the Planning Authority for full consideration. The developer has ignored this request and has not submitted any details of the proposed works to the Planning Authority. Meanwhile the unauthorised alterations have continued and original windows have been removed.

### **Representations**

One letter of representation received.

### **3. Assessment**

The determining issues in this case are;

1. Whether there has been a breach of planning and 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 building as one of special architectural or historic interest.

1) The replacement of the windows constitutes development and requires planning permission because this results in a material change to the external appearance of the building. The property is flatted and does not benefit from any permitted development rights. The internal alterations do not constitute development requiring planning permission.

2) Development plan policies comprise policies E18, E21 and E28 of the North East Edinburgh Local Plan and Des 11, Env3 and Env5 of the finalised Edinburgh City Local Plan. The windows, excluding the rear left-hand room which was a non-conforming window, were original two over two, single glazed, timber sash and case windows. All the windows have been replaced with two over two, double glazed, timber sash and case windows. Despite using similar proportions, method of opening and materials, by virtue of being double glazed the replacement window's astragals are bulkier than the original single glazed windows. No statement has been submitted to the Planning Authority justifying their replacement and consequently the replacement windows are contrary to the development plan policies and the non-statutory guideline 'Replacement Windows and Doors'.

3) A number of internal alterations have been carried out, some of which represent conservation gain, some do not harm the special interest of the listed building and some are considered harmful to the special interest of the listed building.

In the hall a non conforming cupboard has been removed and the cornice exposed returning the hall to the original plan form which is considered to be a conservational gain. The decorative archway has also been retained. The decorative fanlight above the entrance door has been replaced with a single pane of glass. The removal of this architectural detail is considered harmful to the special interest of the listed building.

In the right-hand principal room the wood panelling and the cornice have been retained, the shutters have been restored and a fireplace of a comparable style has been installed. These alterations are not considered harmful to the special interest of the listed building. Within this room an additional alcove has been formed on the rear wall disturbing the balance of the wall. No evidence has been submitted to prove that this alteration was in situ prior to the unauthorised works and it is considered harmful to the special interest of the listed building. The two original bay windows have been replaced with two over two double glazed sash and case windows, without any justification, and are considered harmful to the special interest of the listed building.

In the left hand front room the cornice has been retained and the shutters restored. However the wood panelling has not been reinstated despite evidence that wood panelling had been in situ on the initial site visit. No evidence has been presented to the Planning Authority demonstrating that the wood panelling had been removed prior to the unauthorised alterations. A cupboard has also been formed in this room disturbing the plan form and two original bay windows have been replaced with two over two double glazed sash and case windows. The removal of the wood panelling, the formation of a cupboard and the replacement windows are considered harmful to the special interest of the listed building.

In the rear bathroom and kitchen a suspended ceiling has been formed to conceal the ventilation for the two rooms. In the kitchen a non conforming window has been replaced with a two over two double glazed timber sash and case window. These alterations in a secondary room are not considered harmful to the special interest of the listed building.

In the rear left hand room the cornice has been retained and there was no evidence of wood panelling on the initial site visit. The north facing original bay window has been replaced with a two over two double glazed timber sash and case window and a floor to ceiling cupboard has been formed disturbing the plan form. These alterations are considered harmful to the special interest of the listed building.



**John Bury**  
Head of Planning

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<b>Contact/tel</b>	Elaine Skedd on 0131 529 3478
<b>Ward affected</b>	Ward A12 - Leith Walk
<b>Local Plan</b>	North East Edinburgh Local Plan/finalised Edinburgh City Local Plan
<b>Statutory Development Plan Provision</b>	Housing and Compatible Uses/Urban Area
<b>File</b>	IDOX
<b>Date Complaint Received</b>	20 March 2009

## Planning Policy

### North East Edinburgh Local Plan

E18 (Listed Buildings) – Proposals affecting a listed building will be considered for their effect on its character. Alterations that diminish the architectural integrity of a listed building or its historic interest will not be allowed.

E21 (Conservation Areas – General) – Requires the retention of all features which contribute to its character and appearance.

E28 (Window Alterations) – In listed buildings replacement windows should exactly match the originals in design, materials and method of operation

### Finalised Edinburgh City Local Plan

Env 3 (Listed Buildings – Alterations and Extensions) – Proposals to alter or extend a listed building will be permitted where those alterations or extensions are justified, will not cause any unnecessary damage to historic structures or diminish its interest and where any additions are in keeping with other parts of the building.

Env 5 (Conservation Areas – Development) – Development will be permitted where it preserves or enhances the special character or appearance of the conservation area and demonstrates high standards of design and utilises materials appropriate to the historic environment.

### Non-statutory Guidelines

Alterations to Listed Buildings – The plan of a building is one of its most important characteristics. The original plan form should always be respected and all major works of alteration limited to areas of secondary importance. New partitions which affect the proportions of principal rooms will not be considered acceptable.

Replacement Windows and Doors – The replacement of original timber windows within a category B listed building is not considered acceptable. Repair, draught-stripping and secondary glazing are encouraged to improve the performance standard. Any proposals to remove original windows must be accompanied by a statement of justification seeking to demonstrate that they are beyond repair. In the event that new windows can be justified, these should be designed to replicate the originals in material and design. Double glazing or any change in design or materials will not be considered acceptable, unless these replace non-conforming windows.

## Appendix A

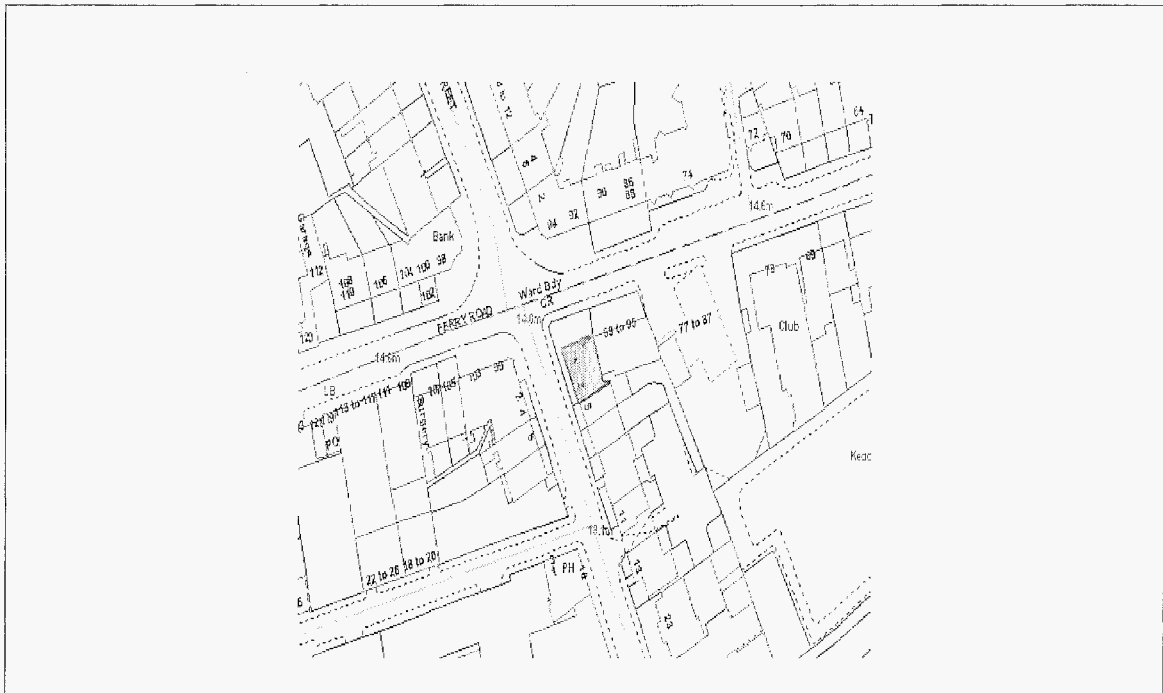


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## Location Plan



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