

Corporate Resources

Midlothian Council
Fairfield House
8 Lothian Road
Midlothian Dalkeith EH22 3ZQ

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Midlothian Council Licence No. 100023416 (2012)

Erection of balcony (retrospective) at 8 Mayburn Walk
Loanhead

APPENDIX A

File No: 12/00208/DPP

Scale: 1:1,250



APPENDIX B

NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect
of Decisions on Local Developments

The Town and Country Planning (Schemes Delegation and Local Review Procedure) (SCOTLAND)
Regulations 2008

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2008

CORPORATE RESOURCES

FILE: 12/00208/DPP

RECEIVED 10 AUG 2012

PA

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>

| 1. Applicant's Details | | 2. Agent's Details (if any) | |
|--|--------------|-----------------------------|--|
| Title | MR | Ref No. | |
| Forename | JAMES | Forename | |
| Surname | GARDNER | Surname | |
| Company Name | NA | Company Name | |
| Building No./Name | 8 | Building No./Name | |
| Address Line 1 | MAYBURN WALK | Address Line 1 | |
| Address Line 2 | LOANHEAD | Address Line 2 | |
| Town/City | | Town/City | |
| Postcode | EH20 9HG | Postcode | |
| Telephone | | Telephone | |
| Mobile | | Mobile | |
| Fax | | Fax | |
| Email | | Email | |
| 3. Application Details | | | |
| Planning authority | | MIDLOTHIAN COUNCIL | |
| Planning authority's application reference number | | 12/00208/DPP | |
| Site address | | | |
| 8 MAYBURN WALK LOANHEAD MIDLOTHIAN EH20 9HG | | | |
| Description of proposed development | | | |
| ERECTON OF BALCONY (RETROSPECTIVE) | | | |

Date of application

30.3.2012

Date of decision (if any)

10.05.2012

Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of Application

Application for planning permission (including householder application)



Application for planning permission in principle



Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)



Application for approval of matters specified in conditions

**5. Reasons for seeking review**

Refusal of application by appointed officer



Failure by appointed officer to determine the application within the period allowed for determination of the application



Conditions imposed on consent by appointed officer

**6. Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

Further written submissions



One or more hearing sessions



Site inspection



Assessment of review documents only, with no further procedure



If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

AN REFUSAL FORM IT REFERS TO RP20-DP6 IN WHICH IT SUGGESTS ERECTION OF A FENCE OR SCREENING TO MITIGATE SITUATION THE OPTION OF A FENCE WAS THE REFUSAL POINT BUT FEEL SCREENING OPTION COULD BE CONSIDERED WITHOUT DETRIMENTAL EFFECT, HOPEFULLY THIS COULD BE BENEFICIAL TO BOTH PARTIES.

7. Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

Can the site be viewed entirely from public land?



Is it possible for the site to be accessed safely, and without barriers to entry?



If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

WE HAVE A PADLOCK ON BACK GARDEN GATE FOR SECURITY PURPOSES BUT WOULD BE NO PROBLEM TO ARRANGE ACCESS WHENEVER REQUIRED.

8. Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

WITH REFERENCE TO THE ISSUES RAISED ON THE REFUSAL FORM I WOULD LIKE TO MAKE THE FOLLOWING POINTS:
1, ALTHOUGH OUR NEIGHBOURS FEEL THE EXISTENCE OF OUR BALCONY INVADERS THEIR PRIVACY, OUR FEELING IS THAT THE BALCONY, PER SE, DOES NOT RESULT IN ANY FURTHER PRIVACY INVASION THAN WOULD EXIST FROM OUR EXTENSION. (IE FROM PATIO DOORS ALONE). PLEASE SEE ATTACHED PHOTOGRAPHS OF VIEW FROM PATIO DOORS & FROM BALCONY
2, OUR PROPOSED SOLUTION TO CIRCUMVENT BOTH THESE CONCERNS WOULD BE TO CREATE A SCREEN AS SUGGESTED IN RP20-DP6 (FROM SOLID INTERWOVEN PANELS) TO MITIGATE THIS SITUATION. THIS WOULD NOT ONLY PROVIDE PRIVACY FOR OUR NEIGHBOURS FROM OUR BALCONY BUT ALSO FROM OUR PATIO DOORS AS AT THE MOMENT IF I AM WORKING OR SITTING AT PATIO DOORS THE NEIGHBOURS HAVE TO SIT BEHIND A BLANKET PINNED TO A WASHING LINE TO ACHIEVE THEIR PRIVACY. THE FOREMENTIONED SOLUTION WOULD OFFER COMPLETE PRIVACY FOR OUR NEIGHBOURS BUT WOULD RESULT IN LOSS OF NATURAL LIGHT, ETC

Have you raised any matters which were not before the appointed officer at the time your application was determined?

Yes ☐ No ☒

If yes, please explain below a) why you are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

ADDITIONAL SHEET OF REASONS FOR OUR NOTICE OF REVIEW
PHOTOGRAPHS TAKEN FROM INSIDE EXTENSION RATIO DOORS
" TAKEN FROM PATIO DOORS WHEN OPEN
" TAKEN FROM BALCONY
" TAKEN FROM STAIRS OF BALCONY WITH
MAKESHIFT SCREENING.
(ALL SHOWING OUR VIEW INTO NEIGHBOURS GARDEN).

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form ☒
- Statement of your reasons for requesting a review ☒
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review. ☒

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:

[REDACTED]

Name:

J. GARDNER

Date:

9. 8. 2012

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

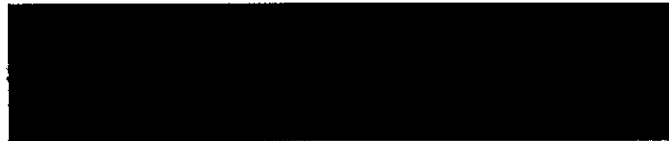
CONT

INTO OUR EXTENSION AND A REDUCTION IN OUR OUTDOOR,
A COMPROMISE WE ARE HAPPY TO MAKE.

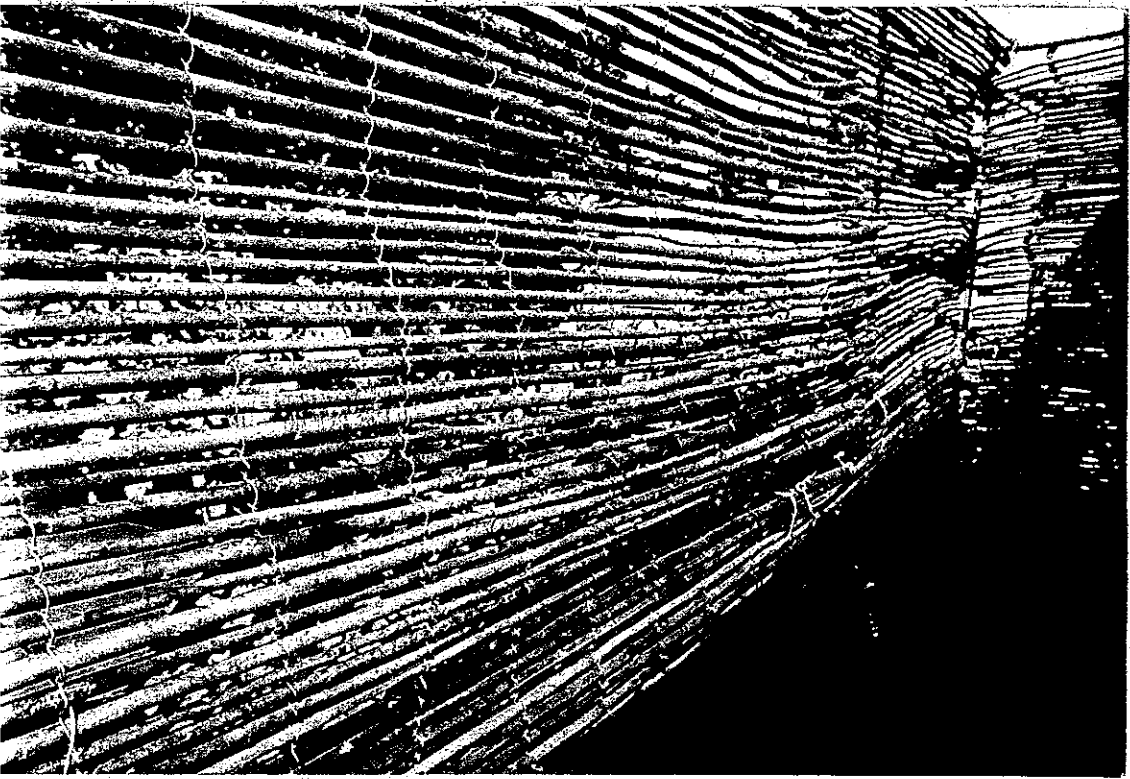
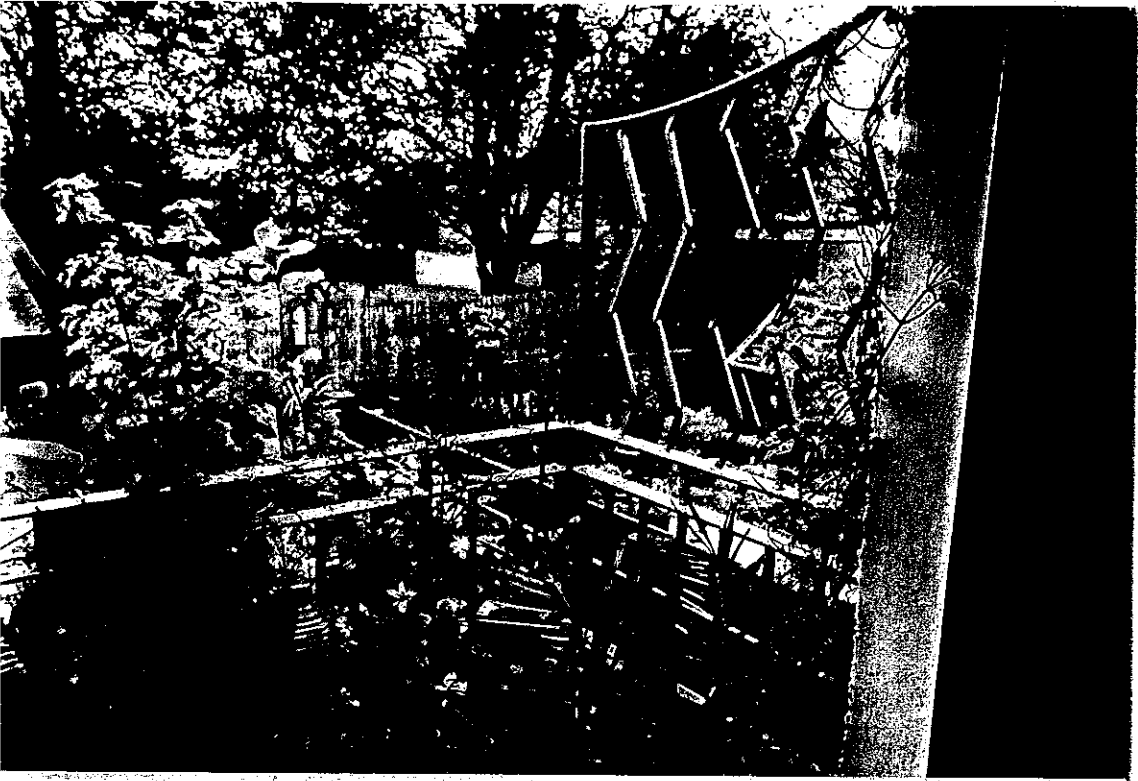
- 3, LASTLY THE PRESENCE OF OUR BALCONY WOULD
PROVIDE AN IMPORTANT ADDITIONAL POINT OF EXIT
IN THE EVENT OF FIRE IN THE KITCHEN/DINETTE
THAT WOULD NOT ALLOW OUR EXIT THROUGH THE
OTHER EXITS ON THIS LEVEL

ALSO INCLUDED IS A MAKESHIFT SCREENING
(ATTACHED ROUND THE TOP OF THE BALCONY)
PHOTOGRAPH TO GIVE AN IDEA OF PRIVACY
ACHIEVED BY EVEN THIS SLATED SCREEN.

WE WOULD BE EXTREMELY GRATEFUL IF
YOU WOULD CONSIDER THE ABOVE POINTS
WHEN REVIEWING OUR CASE OF REVIEW.



| | |
|---------------------|--------------|
| CORPORATE RESOURCES | |
| FILE: | 12/00208/DPP |
| RECEIVED | 10 AUG 2012 |
| P A | |

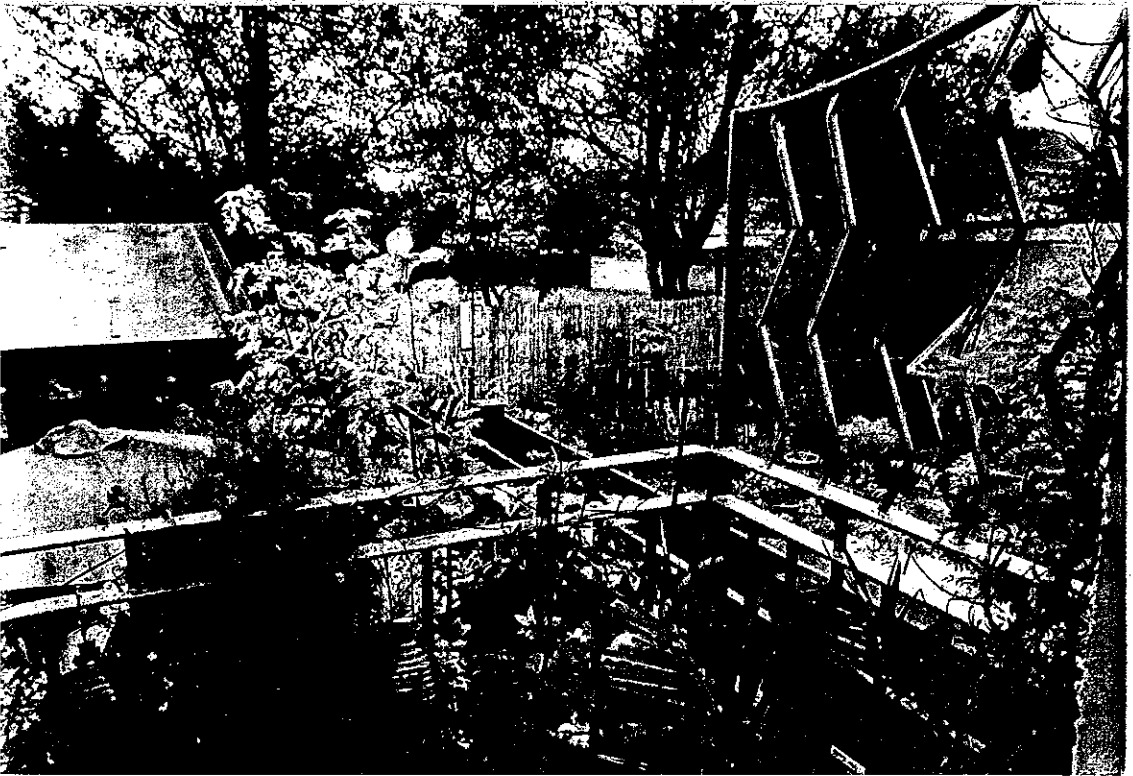
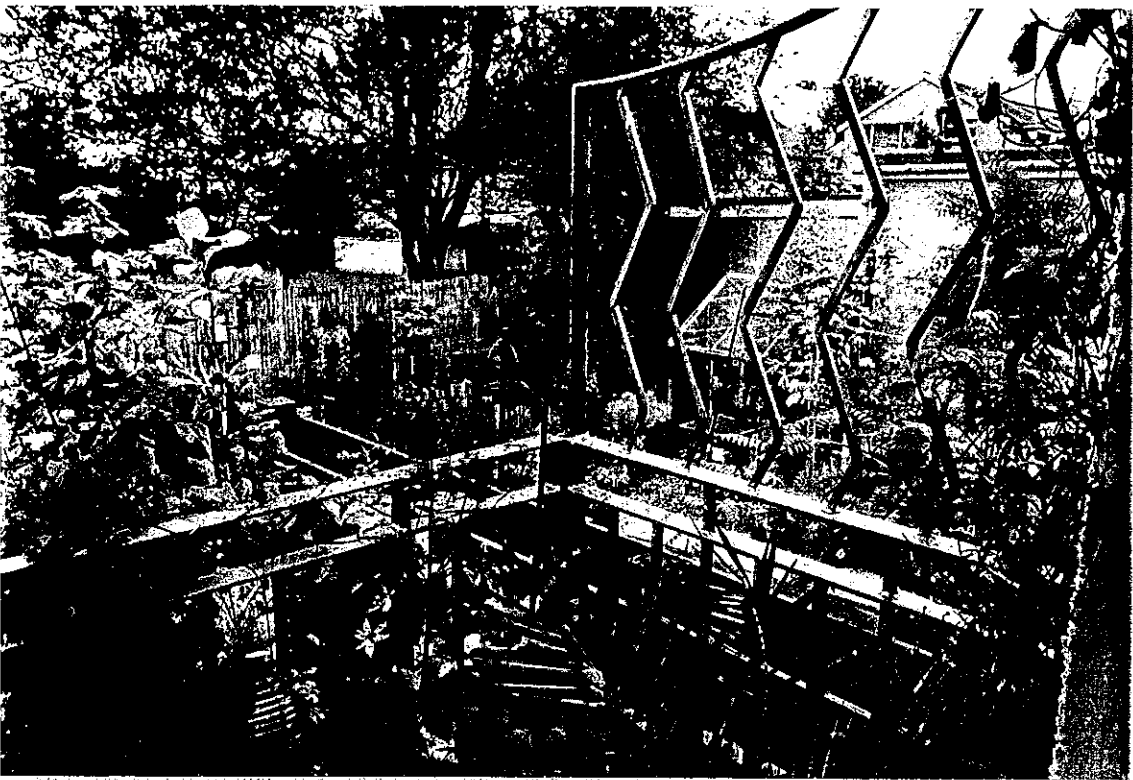


VIEW FROM BALCONY WITH MAKESHIFT
SCREENING.

| | |
|---------------------|--------------|
| CORPORATE RESOURCES | |
| FILE | 12/00208/DPP |
| RECEIVED | 10 AUG 2012 |
| PA | |

VIEW WHEN STANDING ON BALCONY

| | |
|---------------------|--------------|
| CORPORATE RESOURCES | |
| FILE | 12/00208/DPP |
| RECEIVED | 10 AUG 2012 |
| PA | |



VIEW FROM INSIDE EXTENSION WITH DOOR
OPEN

| | |
|-------------------|--------------|
| CORPORATE RESOUR. | |
| FILE: | 12/00208/DPP |
| RECEIVED | 10 AUG 2012 |
| PA | |

VIEW FROM INSIDE EXTENSION WITH DOOR
CLOSED

| | |
|---------------------|--------------|
| CORPORATE RESOURCES | |
| FILE | 12/00208/DPP |
| RECEIVED | 10 AUG 2012 |
| PA | |

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference:

12/00208/DPP

Site Address:

8 Mayburn Walk, Loanhead

Site Description:

The application site comprises a two storey semi-detached dwellinghouse, located on the north side of Mayburn Walk, Loanhead. The area is predominantly residential in character and the dwellings on the street all have a similar appearance, with red brick panels to ground floor, a light dry dash render to other parts of the elevations and concrete profiled roof tiles.

The application site has a garage and large garden room within the rear garden and the property has recently been extended to the rear.

Proposed Development:

Erection of balcony (retrospective).

Proposed Development Details:

The applicant is seeking retrospective planning for the erection of a metal balcony which has been erected to the rear elevation of the recently constructed rear extension. The extension was constructed with patio doors on the south elevation. No access was planned for these doors though, as railings were to be erected across them.

The floor of the balcony is set almost 1m from ground level. The balcony measures 1.06m deep and 2.29m wide. There are railings erected around the balcony.

The applicant has erected some bamboo (or similar) screening along the boundary with the neighbour at no. 6 Mayburn Walk.

Background (Previous Applications, Supporting Documents, Development Briefs):

10/00101/DPP – Erection of extension to rear of dwellinghouse. Granted

Consultations:

No consultations were required.

Representations:

One letter of objection has been received from residents at a neighbouring property. They state that they are concerned that their privacy will be adversely affected should the balcony gain planning permission. They claim that the recently constructed extension has reduced the amount of daylight at their patio. In order to sit out in their garden they now need to sit at the bottom of the garden, away from the house. They state that this part of the garden is immediately overlooked by the neighbour's new balcony.

Relevant Planning Policies:

RP20 – Development within the built-up area
DP6 – House extensions

Planning Issues:

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval. The application site is located within an area covered by the Midlothian Local Plan.

The application site is located in an area covered by policy RP20 which seeks to protect the character and the amenity of the built-up area. Also of particular relevance is policy DP6 which relates to house extensions. This policy requires that in providing additional space for the existing building there should be no material loss of amenity for adjoining houses.

Planning permission was granted in 2010 for the extension of the property. The balcony is a later addition that was not previously identified on drawings submitted to the planning authority. This application has come about due to a complaint received by the Enforcement Team.

The balcony is of a sufficient size that would allow people to sit out on it. During the Enforcement Officer's site visit there was a small table and two chairs on the balcony.

Despite the applicant erecting a screen around part of the balcony there is an unfortunate and significant adverse impact on the privacy of the residents of no.6 Mayburn Walk. It is possible for those using the balcony to directly overlook the neighbouring garden.

When privacy issues such as the one raised in this case arise they can sometimes be mitigated by the erection of a fence or some such other screen. However, in order to adequately protect the privacy of the neighbouring residents the fence would have to be erected to such a height that it would have a detrimental overbearing impact on the amenity of the neighbours.

There is an alternative way in and out of the rear extension.

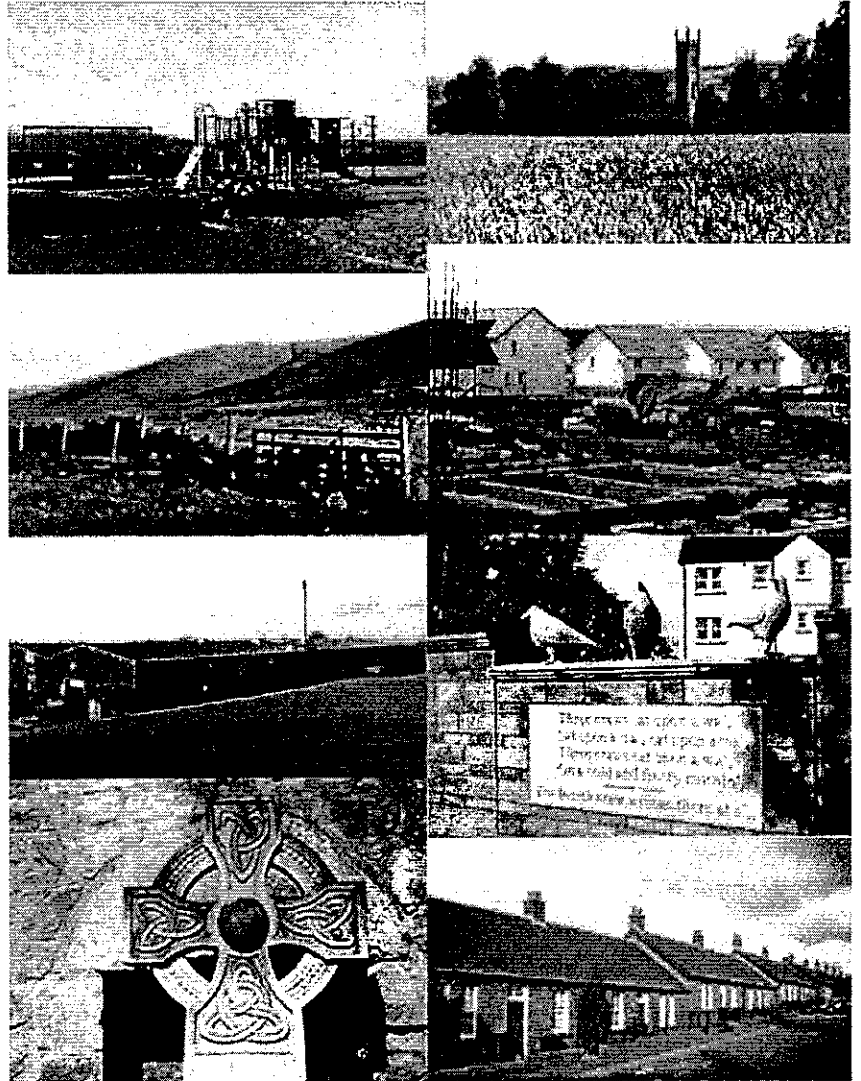
Given the above issues the balcony does not comply with the terms of policies RP20 and DP6 and should be refused and removed.

Recommendation:

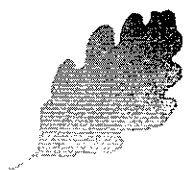
Refuse

APPENDIX D

Midlothian Local Plan



Midlothian



Midlothian Local Plan

ADOPTED BY RESOLUTION OF
MIDLOTHIAN COUNCIL
ON 23 DECEMBER 2008

This Plan has been produced by the
Planning Unit Strategic Services

Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
Midlothian
EH22 3ZN

2.2 The Built Heritage

Policy Title

RP20 DEVELOPMENT WITHIN THE BUILT-UP AREA

2.2.1 National Planning Policy National policy as set out in SPP 1 *The Planning System* states that one of the three general objectives of development plans and development control is “to maintain and enhance the quality of the natural heritage and built environment”. In addition, the importance of good design is highlighted as a priority for the planning system, given that “mistakes cannot be easily or cheaply rectified”.

2.2.2 SPP 3 *Planning for Housing* (now replaced by SPP 3 *Planning for Homes* – see para. 3.2.6) encourages the full and effective use of land within existing built areas, giving priority to reusing derelict and vacant land. However, it also requires that “infill development respects the scale, form and density of its surroundings and enhances rather than detracts from the character and amenity of existing residential areas”. It indicates that this should be an important consideration for planning authorities when preparing development plans and in determining applications, and for developers when preparing proposals.

2.2.3 Structure Plan Policy The ELSP 2015 recognises the importance of protecting and

enhancing the amenity of all urban areas to safeguard and improve the quality of life of residents of the Lothians. Policy ENV1G requires local plans, in encouraging the development of infill sites, the redevelopment of brownfield land and the conversion of existing buildings, to promote a high quality of design in all new development.

2.2.4 Local Plan Policy Midlothian is not characterised by large areas of brownfield land ripe for redevelopment. It follows therefore that the main areas of new development will be on greenfield sites on the edge of the built-up areas. There will, however, be opportunities for new development within the existing urban areas, including conversion, intensification, infill or redevelopment.

2.2.5 Policy RP20 applies to the existing built-up area of all towns and villages, and the areas of new housing allocations. The Local Plan Proposals Map defines the urban boundaries of the main settlements and also identifies village envelopes. The purpose of the policy is to ensure that new development does not damage or blight land uses which are already established in the neighbourhood, particularly where residential amenity will be affected. Sections 3.7 and 4 contain guidance with regards to wind turbines (policies NRG1 and NRG2), energy for buildings (policy NRG3), the form and layout of development on greenfield sites (policy DP2), extensions to existing housing (policy DP6) and control over advertising (policy DP8), which may be relevant to proposals for development within the built-up area.

RP20 DEVELOPMENT WITHIN THE BUILT-UP AREA

Development will not be permitted within existing and future built-up areas, and in particular within residential areas, where it is likely to detract materially from the existing character or amenity of the area.

4.6 House Extensions

DP6 HOUSE EXTENSIONS

1 Background

While increasing the accommodation of a house, extensions can also add to their architectural interest. It is important that they do not detract from the appearance of the property or that of neighbouring houses. Extensions that reflect the style of the original are most likely to be successful. Novel architectural solutions can also be acceptable.

In providing additional space for the existing building, there should be no material loss of amenity for adjoining houses.

2 Detailed Requirements

Extensions to existing houses must be well designed and must maintain or enhance the appearance of the house and the locality. The design of extensions should take account of the guidelines summarised below:

- a) the size of the extension should be clearly subservient to the original property;
- b) matching or complementary external wall and roof materials should be used;
- c) use of facing brick for an extension to a stone building and use of concrete tiles where the existing roof is slate or clay tiles should be avoided;
- d) the roof pitches should match those of the existing roof;
- e) architectural detailing, scale and proportion should be similar to the existing;
- f) when extending in the same plane, especially if changes in external materials are to be used or if it is likely to be difficult to obtain a close match, a break or step from the main building should be pointed;
- g) extensions must not block, to a material extent, sunlight from reaching adjoining gardens;
- h) extensions must not result in loss of privacy for neighbouring property;
- i) an adequate garden area must remain after the house has been extended; and
- j) extensions which are two or more storeys high must incorporate a pitched roof unless the existing roof is flat.

3 Front Porches

Front porches to detached or semi-detached houses are usually acceptable where their design follows the principles described above, provided they project less than two metres out from the front of the house.

4 Dormer Extensions

Dormer extensions should incorporate dormer "windows" rather than a "box" dormer. The dormers should not extend other than to a limited extent beyond the glazed area. Windows should line up with any existing ones below. Dormers should not rise off the wall head, nor rise above the existing ridge level, nor occupy a predominant proportion of the existing roof area.

Large dormers to the front of a house can be an incongruous feature, especially in a street with no other roof level extensions. In such cases, use of velux roof lights may be an acceptable alternative.

Note: Supplementary planning guidance is available on Dormer Extensions and on Rear Extensions to Single Storey Semi-Detached and Terraced Houses.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 12/00208/DPP

Mr James Gardiner
8 Mayburn Walk
Loanhead
EH20 9HG

Midlothian Council, as Planning Authority, having considered the application by Mr James Gardiner, 8 Mayburn Walk, Loanhead, EH20 9HG, which was registered on 30 March 2012 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Erection of balcony (retrospective)
at 8 Mayburn Walk, Loanhead, Midlothian, EH20 9HG**

in accordance with the application and the following plans:

| <u>Drawing Description.</u> | <u>Drawing No/Scale</u> | <u>Dated</u> |
|-----------------------------|---------------------------------------|--------------|
| Location Plan | 10-09-BW01 1:1250, 1:200, 1:100, 1:50 | 30.03.2012 |
| Proposed elevations | NTS | 30.03.2012 |

The reason for the Council's decision is set out below:

The balcony has a significant detrimental impact on the amenity of the neighbouring residents and therefore does not comply with the terms of policies RP20 and DP6 of the adopted Midlothian Local Plan.

Dated: 10/05/2012



.....
Peter Arnsdorf
Development Management Manager
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

PLEASE NOTE

If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval

required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Development Manager, Development Management Section, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3ZN. A notice of review form is available from the same address and will also be made available online at www.midlothian.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Prior to Commencement (Notice of Initiation of Development)

Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site www.midlothian.gov.uk

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

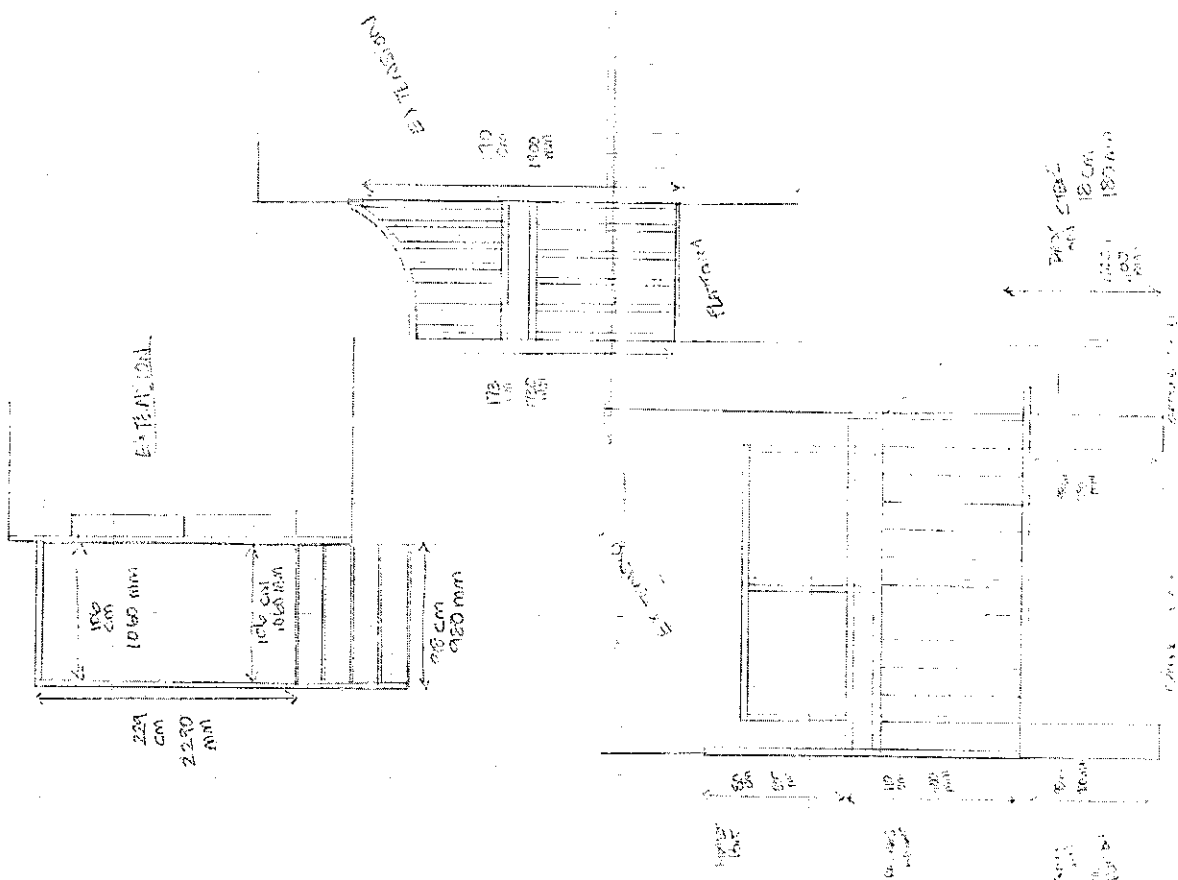
Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

Making comment on an application

Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.

The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representatives on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.

APPENDIX F



CORPORATE RESOURCES
FILE: 111-100-100
MAR 23 1992







