

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Local Review Body: Review of Planning Application Reg. No. 13/00508/DPP

Brent Quinn
Cockburn's Planning & Development
29 Ryehill Terrace
Edinburgh
EH6 8EN

Midlothian Council, as Planning Authority, having considered the review of the application by Mr James Ewen, 29/3 Mayfield Gardens, Edinburgh, EH9 2BX, which was registered on 4 November 2013 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Sub-division of dwellinghouse to form 3 flatted dwellings; erection of extension; alterations to window opening to form door opening; and alterations to garden levels at 33 Mayburn Terrace, Loanhead, EH20 9EH, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan, Site Plan	01A 1:1250 1:500	11.07.2013
Site Plan	03 1:100	11.07.2013
Existing elevations	02 1:100	11.07.2013
Proposed floor plan	05A 1:200 1:100	11.07.2013
Proposed elevations	04A 1:100	11.07.2013
Notice of review and supporting statement		04.11.2013

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

- 1. The development will provide an inadequate level of amenity for future residents due to the fact that it will be overlooked by existing neighbouring residential properties and that it has not been demonstrated that there will be an adequate level of garden ground being provided for each dwelling within the application site.*
- 2. The development will have a detrimental impact on the amenity and privacy of the occupants of the immediately adjacent residential properties due to the close proximity of the properties and the distances between the windows on neighbouring flatted dwellings.*

3. *The proposed development in having no off-street parking provision means that it does not comply with the Council's parking standards and will result in cars being parked on the street to the significant detriment of traffic and pedestrian safety on this busy public transport corridor.*
4. *For the above reasons, the proposal is contrary to policies RP20 and DP2 of the adopted Midlothian Local Plan 2008.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 21 January 2014. The LRB carried out a site visit on the 20 January 2014.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Development Plan Policies:

1. RP20 of the Midlothian Local Plan – Development within the built up area.
2. DP2 of the Midlothian Local Plan – Development Guidelines

Material Considerations:

1. The individual circumstances of the site and the application.

Dated: 21/01/2014

Councillor J Bryant
Chair of the Local Review Body
Midlothian Council

NOTICE TO ACCOMPANY REFUSAL ETC.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

1. 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. 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 reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by 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

Advisory note:

If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Development Management Manager tel: 0131 2713310 or via peter.arnsdorf@midlothian.gov.uk

PLEASE NOTE

This permission does not carry with it any necessary consent or approval to the proposed development which may be required under the Building (Scotland) Acts and Regulations or under any other Statutory Enactment.

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

Duration of Planning Permission and/or Listed Building Consent

The permission hereby approved lapses on the expiration of a period of either:

- a) three years from the date of this decision notice, if the permission is for **detailed planning permission (DPP)** or **listed building consent (LBC)** as specified in Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006); or*
- b) two years from the date of approval by the planning authority of the last application for matters specified in conditions to be approved if the permission is for **planning permission in principle (PPP)** as specified in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006). Applications for approval of matters specified in conditions shall be made to the planning authority within three years from the date of this permission.*

Prior to any work taking place on site all pre commencement conditions attached to a grant of planning permission must be agreed in writing with the planning authority. Failure to do so could result in any development works taking place being unauthorised and undertaken at your own risk and expense.

The Felling of Trees

Where full planning permission authorises the felling of trees on a development site, no further consent is required under the Forestry Act 1967 (as amended). However, developers should note that any tree felling not expressly authorised by full planning permission, and not exempted, requires a felling licence granted under the Forestry Act 1967 (as amended).

Developers should note that any felling carried out without either a licence or other valid permission is an offence. This can mean, on conviction, a fine of up to £2,500 (level 4 on the standard scale) or twice the value of the trees, whichever is higher with the conviction being recorded.

Contact your local Forestry Commission Scotland Office if you are not certain whether exemptions apply. You can get an application form for a felling licence from the Forestry Commission website www.forestry.gov.uk or any Forestry Commission Scotland Office.

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 submit 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 representors 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.