

Notice of Review: 144 Main Street, Pathhead

Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the installation of replacement windows (retrospective) at 144 Main Street, Pathhead.

2 Background

- 2.1 Planning application 22/00264/DPP for the installation of replacement windows (retrospective) at 144 Main Street, Pathhead was refused planning permission on 13 May 2022; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 13 May 2022 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

- 4.1 In accordance with agreed procedures the LRB:

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
 - Have determined to progress the review of written submissions.
- 4.2 The case officer's report identified that there were no consultations required and one representation received. As part of the review process the interested party was notified of the review. No additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported back to the LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 The nature of the proposal is such that it is considered that no conditions would be required if the LRB is minded to grant planning permission.
- 5.2 If the LRB dismisses the review, the unauthorised windows will need to be replaced with windows of a design and style to be approved by way of a planning application, to be submitted by the applicant. In this case the applicant will be asked to comply with this requirement within six months of the LRB decision. However, the failure to undertake the required works will result in the Council having to consider issuing an enforcement notice to resolve the breach of planning control.

6 Recommendations

- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 26 August 2022
Report Contact: Whitney Lindsay, Planning Officer
whitney.lindsay@midlothian.gov.uk

Background Papers: Planning application 22/00264/DPP available for inspection online.

Appendix A



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Installation of replacement windows (retrospective) at 144
Main Street, Pathhead, EH37 5SG

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File No: 22/00264/DPP

Scale:1:500





Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100544096-006

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

| | | | |
|-----------------------|---|--|--|
| Company/Organisation: | <input type="text" value="designxyz"/> | | |
| Ref. Number: | <input type="text"/> | You must enter a Building Name or Number, or both: * | |
| First Name: * | <input type="text" value="Robert"/> | Building Name: | <input type="text"/> |
| Last Name: * | <input type="text" value="Jeffords"/> | Building Number: | <input type="text" value="3"/> |
| Telephone Number: * | <input type="text" value="07367182571"/> | Address 1 (Street): * | <input type="text" value="Cowdenfoot loan"/> |
| Extension Number: | <input type="text"/> | Address 2: | <input type="text"/> |
| Mobile Number: | <input type="text"/> | Town/City: * | <input type="text" value="Dalkeith"/> |
| Fax Number: | <input type="text"/> | Country: * | <input type="text" value="Midlothian"/> |
| | | Postcode: * | <input type="text" value="EH222FT"/> |
| Email Address: * | <input type="text" value="robert@designxyz.co.uk"/> | | |

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

| | | |
|----------------------|---|--|
| Title: | <input type="text" value="Mrs"/> | You must enter a Building Name or Number, or both: * |
| Other Title: | <input type="text"/> | Building Name: <input type="text"/> |
| First Name: * | <input type="text" value="Avril"/> | Building Number: <input type="text" value="144"/> |
| Last Name: * | <input type="text" value="Herron"/> | Address 1 (Street): * <input type="text" value="Main Street"/> |
| Company/Organisation | <input type="text"/> | Address 2: <input type="text"/> |
| Telephone Number: * | <input type="text"/> | Town/City: * <input type="text" value="Pathhead"/> |
| Extension Number: | <input type="text"/> | Country: * <input type="text" value="Scotland"/> |
| Mobile Number: | <input type="text"/> | Postcode: * <input type="text" value="EH37 5SG"/> |
| Fax Number: | <input type="text"/> | |
| Email Address: * | <input type="text" value="robert@designxyz.co.uk"/> | |

Site Address Details

| | |
|---|---|
| Planning Authority: | <input type="text" value="Midlothian Council"/> |
| Full postal address of the site (including postcode where available): | |
| Address 1: | <input type="text" value="144 MAIN STREET"/> |
| Address 2: | <input type="text"/> |
| Address 3: | <input type="text"/> |
| Address 4: | <input type="text"/> |
| Address 5: | <input type="text"/> |
| Town/City/Settlement: | <input type="text" value="PATHHEAD"/> |
| Post Code: | <input type="text" value="EH37 5SG"/> |

Please identify/describe the location of the site or sites

| | | | |
|----------|-------------------------------------|---------|-------------------------------------|
| Northing | <input type="text" value="664007"/> | Easting | <input type="text" value="339691"/> |
|----------|-------------------------------------|---------|-------------------------------------|

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

To install replacement Upvc double glazed windows to front elevation

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

We are appealing this decision on the grounds that there are numerous other properties on Main Street Pathhead with Upvc windows installed on the front elevation. The majority of these windows are clearly not in a traditional 2 over 2 sash and case design. We believe that if the review body were to visit the site they would clearly see the vast array of window styles and materials used, very often in the same property.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

The only evidence that we could produce would be to take photographs of other properties on Main street to show various styles of Upvc windows in the area. The applicant is not comfortable with this as these are her neighbours properties.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/00264/DPP

What date was the application submitted to the planning authority? *

31/03/2022

What date was the decision issued by the planning authority? *

13/05/2022

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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☐ Yes ☒ No

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

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

We believe that if the review body were to visit the site they would clearly see the vast array of window styles and materials used, very often in the same property.

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

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

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

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

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 (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Robert Jeffords

Declaration Date: 11/06/2022

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 22/00264/DPP

Site Address: 144 Main Street, Pathhead

Site Description:

The application site is located within a primarily residential area that is situated within the conservation area. The application site relates to a single storey semi-detached dwellinghouse. The walls are finished in natural stone; the roof is finished in a clay pan tile. There is a single storey extension located to the rear of the property that is finished in a dry dash render with a clay pan tile pitched roof and contains white uPVC framed windows.

The windows within the front elevation were previously painted white, timber framed sash and case windows; these window have been replaced with white uPVC framed windows and are subject of the current planning application.

Proposed Development: Installation of replacement windows (retrospective)

Proposed Development Details:

Retrospective planning permission is sought for the installation of four replacement windows within the front, principal, elevation of the application dwelling.

The windows have been replaced with four, white uPVC, double glazed, non-traditional windows.it is noted that two of the windows include a mullion which has also been replaced with a white uPVC mullion.

Background (Previous Applications, Supporting Documents, Development Briefs): Planning history sheet checked.

No relevant planning history.

Consultations: No consultations required.

Representations:

One of the objection representations was submitted by The Architectural Heritage Society of Scotland, of which object to the above planning application. The representation that object raised concerns which can be summarised as follows:

- Noted that the proposal is contrary to HES Managing Change in the Historic Environment: Windows (Feb 2020);
- Noted that replacement windows should be of a traditional design, form, material finish and opening method;
- Concerned that uPVC is not an acceptable traditional material finish;

- Noted that uPVC requires ongoing complete replacement , typically every 20 years and that uPVC is not recyclable which increases the environmental footprint and conflicts with adopted policy DEV5; and
- Concerned that the windows do not preserve or enhance the present character of the Conservation Area, and are therefore contrary to adopted policy ENV19.

The above concerns will be taken into consideration in the assessment of the application.

Relevant Planning Policies:

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Historic Environment Policy for Scotland (HEPS) 2019 and Scottish Planning Policy (SPP) offer guidance on the protection and management of the historic environment and Conservation Areas and areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area. The Policy Statement and SPP also indicated that the planning authority should consider the design, materials, scale and siting of any development, and its impact on the character of the historic environment.

Historic Environment Scotland's Managing Change in the Historic Environment document on Windows states that windows make a substantial contribution to the character, authenticity and physical integrity of most historic buildings and also to the character and interest of historic streets and places. They are an important element of a building's design. The size, shape and positioning of the openings are significant, as are the form and design of the framing, astragals and glazing. Their style, detailing and materials help us to understand the date when a building was constructed or altered, its function, and advances in related technology.

The relevant policies of the adopted **Midlothian Local Development Plan 2017** are;

Policy **DEV2** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.

Policy **ENV19: Conservation Areas** seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas.

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 Planning Authority does not encourage the use of uPVC framed windows or doors within conservation areas; uPVC is not a traditional material and it rarely defines the character of a conservation area.

The original windows on the application property would more than likely have been timber sash and case windows. Google Street View and the application submission indicate that the windows prior to the windows currently installed were painted white, timber framed, 2 over 2 pane sash and case windows.

As regards replacement windows on the front elevation, care is required in terms of materials used, design and method of opening. Taking in to account the location of the application property within a conservation area ideally the windows on the front of the property should be replaced with timber sash and case windows.

However, there are a large number of upvc sash and case windows on the fronts of properties in Pathhead. Upvc is not a traditional, vernacular material and does not make a positive contribution to the conservation area. However in 1996 in relation to a planning application for replacement windows at no 66 Main Street, Pathhead the Planning Committee took the view that white upvc sliding sash and case windows may be acceptable in the conservation area subject in particular to the method of opening, the profile of the windows and the dimensions of the frames matching as near as possible the original windows. (uPVC windows are not acceptable where they would detract from the distinct uniform character of the street scene or of a building containing flatted property.) Since then uPVC sash and case windows have been approved on the fronts of the houses within the Pathhead and Ford and Edgehead conservation areas.

Furthermore, whilst the Planning Authority does not look to encourage the use of uPVC, it is noted that planning permission was recently granted for the installation of uPVC windows within traditional buildings situated within the conservation area by the Local Review Body in March and November 2020 (planning ref's 19/00476/DPP and 20/00001/DPP). This was on the basis that the replacement uPVC windows were required to be of a high standard that would still visually read as traditional timber framed windows.

The uPVC framed windows are not of a high quality, traditional design or opening method. The windows within the front elevation of the attached neighbouring property are traditional, painted white, timber sash and case windows. Therefore, the uPVC windows fail to preserve or enhance the character or appearance of the conservation area or the application building, resulting in a significant adverse impact on the character and appearance of the application property and the conservation area, which is contrary to policies ENV19 and DEV2 of the adopted Midlothian Local Development Plan and Historic Environment Scotland policy and guidance.

There is no harmful loss of amenity as a consequence of the development proposal.

Overall, all relevant matters have been taken into consideration in determining this application. It is considered that the proposal does not accord with the principles and policies of the adopted Midlothian Local Development Plan 2017 and is not acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is refused.

Recommendation: Refuse planning permission.

Reg. No. 22/00264/DPP

designxyz
3 Cowdenfoot Loan
Dalkeith
EH22 2FT

Midlothian Council, as Planning Authority, having considered the application by Mrs Avril Herron, 144 Main Street, Pathhead, EH37 5SG, which was registered on 31 March 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Installation of replacement windows (retrospective) at 144 Main Street, Pathhead, EH37 5SG

In accordance with the application and the following documents/drawings:

| <u>Document/Drawing.</u> | <u>Drawing No/Scale</u> | <u>Dated</u> |
|--------------------------|--------------------------------|--------------|
| Location Plan | 1:2500 | 31.03.2022 |
| Illustration/Photograph | CAD/22/325/001 Front Elevation | 31.03.2022 |
| Proposed Elevations | CAD/22/325/002 1:10 W1 AND W2 | 31.03.2022 |
| Proposed Elevations | CAD/23/325/003 1:10 W3 | 31.03.2022 |

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

- The replacement windows are located within the principal elevation and replaced four traditional timber framed sash and case windows. The visual mix of four bulky framed, non-traditional, uPVC windows and a uPVC mullion alongside traditional timber framed sash and case windows within the principle street elevation visually detracts from the appearance of the traditional application property and conservation area.*
- The uPVC framed windows are not of a high quality, traditional design or opening method. Therefore, the replacement windows fail to preserve or enhance the character or appearance of the conservation area or the application building, resulting in a significant adverse impact on the character and appearance of the application property and the conservation area, which is contrary to policies ENV19 and DEV2 of the adopted Midlothian Local Development Plan and Historic Environment Scotland policy and guidance.*

Dated 13 / 5 / 2022

.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: planningconsultation@coal.gov.uk

Website: www.gov.uk/coalauthority

STANDING ADVICE

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Standing Advice valid from 1st January 2021 until 31st December 2022



W1

W2

W3

Previous/existing windows



W1

W2

W3

Current/new windows




W1

W2

W3

Current/new windows

Note:
windows constructed from UPVC
with air vent & double glazed glass units

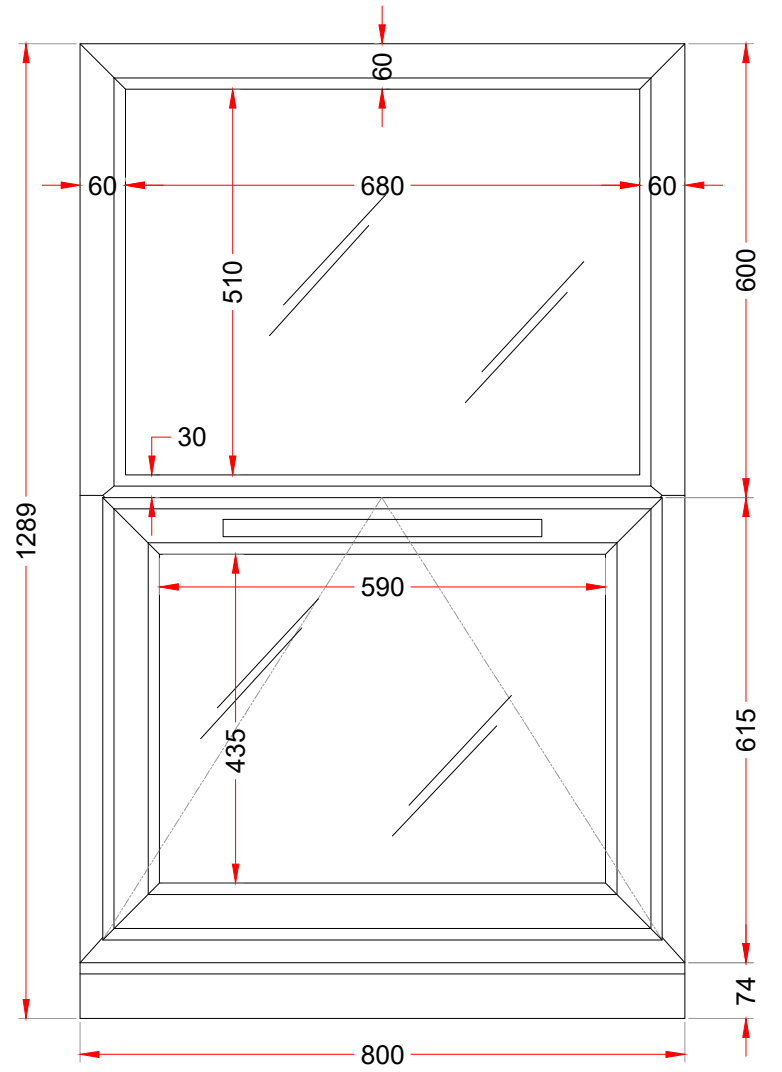
| | | | | | | | |
|--|---------------------------|--|---------------------------------------|-------------------------------------|-----------------------|-----------------|--|
| <u>Project</u> 144 Min St. Pathhead | | <u>Title</u> Front elevation photos | | <u>Drawing No</u> CAD/22/325/001 | <u>drawn by</u> RJ | <u>Revision</u> | <div>designxyz edinburgh scotland 0736780571 info@designxyz.co.uk www.designxyz.co.uk freestanding handcrafted furniture</div>  |
| <u>Client</u> Mrs A. Herron | <u>Scale</u> 1:10 @ A3 | <u>Date</u> 26/03/22 | <u>Drawing Status</u> For planning | | | | |



W 1




W 2



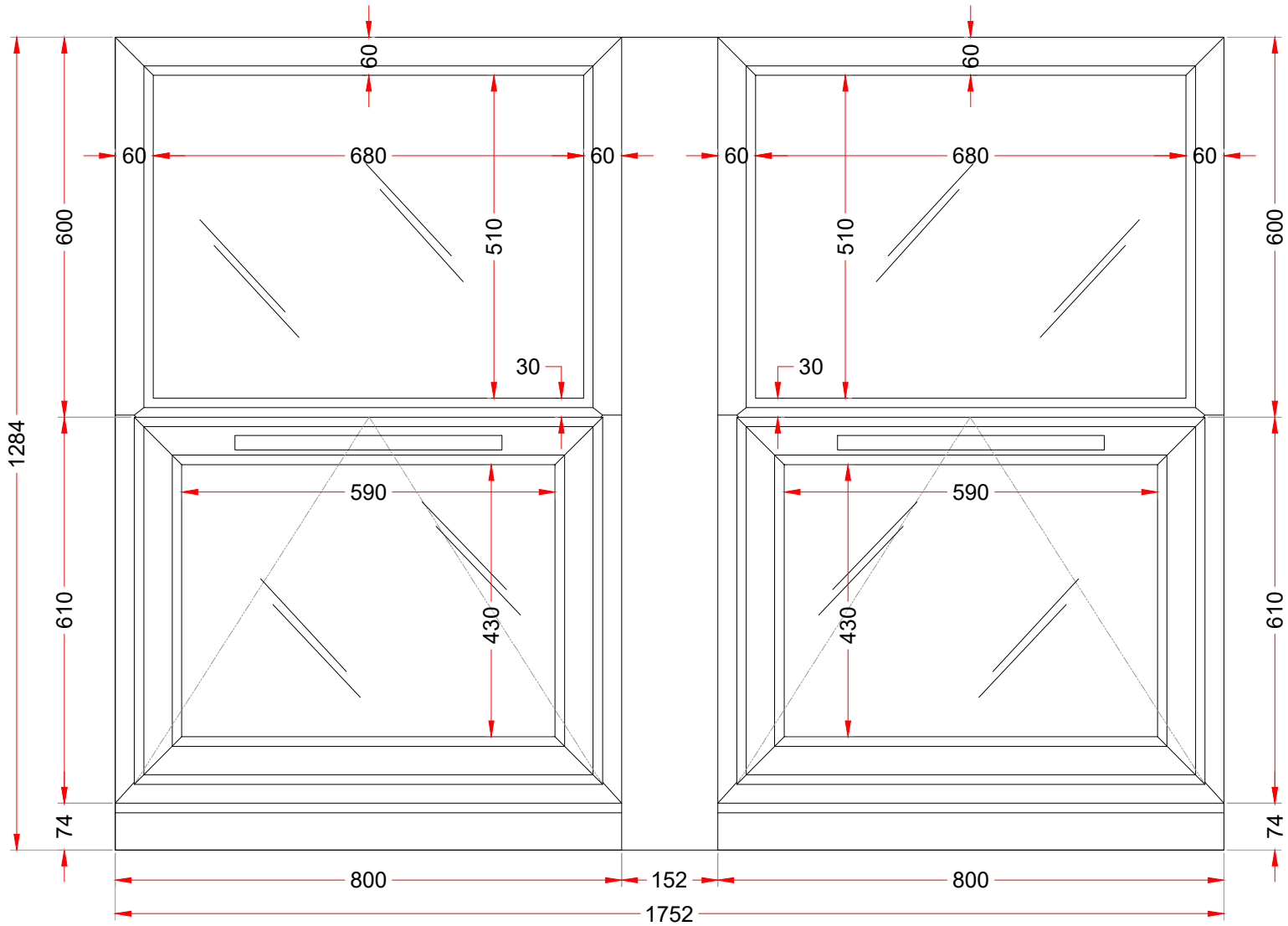
W 1 & W2
elevation drawing

Note:
windows constructed from UPVC
with air vent & double glazed glass units

| | | | | | |
|---|-----------------------------------|-------------------------|---------------------------------------|-----------------------|-----------------|
| <u>Project</u> 144 Min St. Pathhead | <u>Title</u> W1 & W2 elevation | | <u>Drawing No</u> CAD/22/325/002 | <u>drawn by</u> RJ | <u>Revision</u> |
| <u>Client</u> Mrs A. Herron | <u>Scale</u> 1:10 @ A3 | <u>Date</u> 26/03/22 | <u>Drawing Status</u> For planning | | |
| <div><div>designxyz</div><div>edinburgh scotland 0736780571 info@designxyz.co.uk www.designxyz.co.uk</div><div> freestanding handcrafted furniture</div></div> | | | | | |




W 3



W3 elevation drawing

Note:
windows constructed from UPVC
with air vent & double glazed glass units

| | | | | | | |
|--|------------------------------|-------------------------|---------------------------------------|-----------------------|-----------------|---|
| <u>Project</u> 144 Min St. Pathhead | <u>Title</u> W3 elevation | | <u>Drawing No</u> CAD/22/325/003 | <u>drawn by</u> RJ | <u>Revision</u> |  designxyz edinburgh scotland 0736780571 info@designxyz.co.uk www.designxyz.co.uk freestanding handcrafted furniture |
| <u>Client</u> Mrs A. Herron | <u>Scale</u> 1:10 @ A3 | <u>Date</u> 26/03/22 | <u>Drawing Status</u> For planning | | | |