

Full Planning Application 05/00016/FUL
at
3 Waters Close
Edinburgh
EH6 6RB

Development Quality Sub-Committee
of the Planning Committee

16 March 2005

1 Purpose of report

To consider application 05/00016/FUL, submitted by Martin Wishart. The application is for: **Change of use from domestic dwelling to new extension to existing restaurant (as amended).**

It is recommended that this application be **REFUSED** for the reasons in Appendix B.

2 The Site and the Proposal

Site description

The existing property is a ground floor flat facing south onto a narrow close. The close is a short cul-de-sac route leading to a side entrance to Lambs House, and lies immediately off a slightly wider road section on the Shore. The flat is set back some 7m back from the Shore.

The property as a whole is a late Victorian tenement with flats above all accessed from Waters Close, and linking to a northern half of flats accessed from the Shore. The ground floor on the Shore is wholly commercial, including the restaurant to be extended sitting at the southern half of the frontage, facing the Water of Leith.

To the immediate south, opposite the flat is a listed Georgian building with pub at ground floor and flats over (accessed from the side).

Site history

5.9.1951 - temporary consent granted for ten years for the entire building to be used as a bonded warehouse ("so as not to prejudice the comprehensive redevelopment of the area")

15.3.1978 - consent granted to convert upper storeys into flats. Ground floor to be used as storage.

4.3.1981 - retrospective consent granted for change of use from store to flat. Enforcement action on the unauthorised window form (which were to be changed to a traditional form) was pursued but abandoned due to Council ownership/ financial grounds.

1983 - two units on ground floor (held on Planning account) restored as shopfronts and made available for lease (consent not required).

30.8.1991 - consent refused for change of use shop to restaurant at no. 54.

18.10.1991 - consent granted for change of use shop to restaurant at no. 54.

20.8.2001 - application to expand restaurant into unauthorised corner flat (see 1981) abandoned without validation.

6.2.2002 - consent granted to expand restaurant into the unauthorised flat unit (see 1981) ref 01/03551/FUL.

Description of the Proposal

The application proposes an extension to an existing restaurant on the Shore through expansion into an existing ground floor flat on a side lane.

The extension is illustrated as operating as a conference/private dining room, not directly accessible to the public from the main restaurant area other than via staff areas (also added in the application). It is noted however that internal layout may alter without further referral to a planning authority. For determination purposes therefore the entire area must simply be considered as an ancillary section of a restaurant.

It would have its own access door onto the lane. The layout implies that the public would access and egress via the close, adjacent to the main flat door, and immediately below the flats above.

Physical alterations to the exterior involve the fitting of obscure glazing, fitting of a new door and repainting on the close. A new fire door is also added into a private rear courtyard.

3 Officer's Assessment and Recommendations

DETERMINING ISSUES

The determining issues are:

- Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against the granting of permission.
- Do the proposals comply with the development plan?
- If they do, are there any compelling reasons for not approving them?
- If they do not, are there any compelling reasons for approving them?

ASSESSMENT

The issues to be considered by Committee in determining this application are a) the principle of losing a residential unit b) the acceptability of the proposed use in terms of the local plan c) the effect on neighbouring amenity d) parking considerations e) the effect on the character and appearance of the conservation area.

a) Loss of existing housing is contrary to policy H8 of the local plan, and whilst the existing unit is less than ideal in terms of daylight, the policy does not make provision for exceptions, and that issue would not outweigh the policy.

b) The site falls within a Mixed Activity area in the local plan where a restaurant use may be accepted as long as it is proven that it has no potential effect upon existing residential amenity. In this instance, this is not the case.

c) The proposal clearly has a potential to cause further noise nuisance to residents above (the objector already notes disturbance from the currently more isolated facilities below).

This is worsened by an entrance to the facility on the narrow lane, beneath first floor residential windows. Even were adequate internal insulation provided, the applicant could not mitigate against noise from clients exiting onto the lane. Due to the enclosed nature of the close this would also tend to focus any noise upwards, and may lead to public use and congregation in an area currently unused for any public purpose.

The proposal is therefore considered to be highly likely to cause loss of residential amenity, and should be resisted for this reason.

The applicant has argued that the area within will not be a kitchen or part of the main dining area. However, in planning terms, if consented then no further planning permission would be required for any internal alterations (i.e. the

internal area could become a kitchen or a further public dining area). It is also noted that, although the existing proprietor may be deemed a "good neighbour" in many respects, the property could be sold to another operator without any planning control. Planning must therefore consider the application only in relation to policy compliance, and any "considerations" relating to the quality of the existing restaurant must be put aside, and the implications of an unrestricted restaurant use below flats must be fully considered.

d) The property does not have scope to park any vehicles.

Although the existing flat has no parking, the use proposed is likely to worsen parking demands in peak times for the Shore neighbourhood i.e. evenings, when existing pressures from large numbers of bars and restaurants now mean that the area is parked to capacity in the evening (including high numbers of illegally parked vehicles frequently observed). The facility is shown as a private conference area for 8 persons, theoretically generating up to 8 further vehicles in the area.

e) Conservation Area Character Statement

The Leith Conservation Area covers the extent of the historic town, including the Madeira Area (Leith's 'First New Town'), and also Leith Walk - the town's main link with Edinburgh City Centre. The character of the Conservation Area derives from Leith's history both as a port and as an independent burgh. Several fine Georgian and Victorian warehouses survive, some now converted for residential or office use; in many cases these were initially built to hold wine and dry goods, although many were converted in the late 19th Century to serve the whisky industry. A rich mixture of civic buildings and mercantile architecture survive, particularly at Bernard Street and The Shore. Significant earlier buildings include Lamb's House and St Ninians Manse (both early 17th Century); although many more recent buildings have been built, and present street pattern of The Shore closely follows that of the historic town.

The Inner Harbour of the water of Leith provides a vibrant focus for the Conservation Area, with buildings along The Shore forming an impressive waterfront townscape. The Conservation Area also covers the older parts of Leith Docks, containing many early features including listed dock buildings and the Victoria Bridge, a scheduled Ancient Monument.

The Madeira area retains a largely Georgian domestic character, with stone buildings and slate roofs predominating; some of the Georgian buildings retain astragaled windows and doors with fanlights. Many of the roads are setted, the main exception being Prince Regent Street; stone garden walls are a feature of this area. North Leith Parish Church provides a visual focus to this mainly residential area, which also includes major public buildings such as Leith Library and Town Hall.

Leith Walk remains the main artery linking the centre of Edinburgh to the old burgh of Leith. It characterised mainly by Victorian tenements and pubs at

the ground floor level. There are a number of Georgian survivals, most notably Smith's Place dating from 1814. Between Smith's Place and Albert Street lies a series of tenemented streets, mainly designed by John Chesser.

Building types within the Conservation Area vary but are traditionally of stone with slate roofs; however more recent building has generally used block or render and traditional brick where previously found. Pockets of public housing development of the 1960s and 1970s, of a contemporary character, fall within the expanded Conservation Area. Open space is concentrated at Leith Links, which provides a spacious contrast to the relatively dense settlement pattern of the remainder of the Conservation Area.

The physical alterations are minimal and have no material effect upon the appearance of the conservation area. The use is compatible with the conservation area's mixed character.

It is recommended that the Committee refuses this application for reasons relating to loss of residential use, loss of amenity and parking.

ADDENDUM

The Committee considered the application on 16th March 2005 and were minded to Grant subject to conditions limiting the effect upon neighbouring amenity, such as a) doors to Waters Close to be for emergency exit use only; b) the area concerned to be prohibited from use as a kitchen.

Environmental Services has now responded, with a list of suggested conditions if approving the application.

The suggested additional conditions relating to Committee comments and Environmental and Consumer Services response would be:

1. No cooking or hot food preparation shall take place within the application site
2. No access to be taken to the development site from Waters Close for emergency exit purposes only.
3. The sound insulation properties and sound transmission characteristics of the development shall be such that no impact or airborne noise from the application premises shall be audible within any neighbouring living apartment.
4. All music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises.
5. The design, installation and operation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.

It should be noted that the conditions will pertain solely to the area of the current flat and with existing restaurant.

For the sake of clarity, the plans have been amended to solely refer to emergency access to Waters Close, and to specify the use of the internal area as being non related to cooking and hot food. The layout has also been altered to substitute an office for the proposed private dining area (at the applicant's own desire). A covering letter also indicates that the area shall not be used for bar purposes.

Alan Henderson

Alan Henderson
Head of Planning and Strategy

Contact/tel	Stephen Dickson on 0131 529 3901 (FAX 529 3706)
Ward affected	21 - Harbour
Local Plan	
Statutory Development Plan Provision	
Date registered	26 January 2005
Drawing numbers/ Scheme	1,4 Scheme 2

Advice to Committee Members and Ward Councillors

The full details of the application are available for viewing on the Planning and Building Control Portal: www.edinburgh.gov.uk/planning.

If you require further information about this application you should contact the following Principal Planner, Graham Dixon on 0131 529 3519. Email: graham.dixon@edinburgh.gov.uk.

If this application is not identified on the agenda for presentation, and you wish to request a presentation of this application at the Committee meeting, you must contact Committee Services by 9.00a.m. on the Tuesday preceding the meeting on extension 4229/4239. Alternatively, you may e-mail blair.ritchie@edinburgh.gov.uk or sarah.bogunovic@edinburgh.gov.uk

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Consultations, Representations and Planning Policy

Consultations

No Consultations received.

Representations

The application was advertised on 4th February 2005.

Four representations were received. These were from two residents in the flats above, expressing concern regarding potential noise and loss of amenity.

Councillor Munro requested that the application be presented to the Committee.

Full copies of the representations made in respect of this application are available in Group Rooms or can be requested for viewing at the Main Reception, City Chambers, High Street.

Planning Policy

The property lies in an area of Mixed Activities in the Leith Conservation Area as shown in the NEELP.

Relevant Policies:

Policy H7 (HOUSING AMENITY) establishes a presumption against new development and changes of use likely to introduce increased levels of traffic or activity to the detriment of residential amenity or the reasonable prospects of further residential development where this is an objective of the Local Plan.

Policy H8 (HOUSING RETENTION) establishes a presumption against proposals for change of use or redevelopment which would result in the loss of residential accommodation.

Policy T7 (CYCLE PARKING) requires new development to provide secure cycle parking in conformity with approved standards and in appropriate public locations where it contributes to greater cycle use.

Policy T10 (PRIVATE CAR PARKING) requires all new development to comply with approved car parking standards as set out in the Development Control Handbook.

Non-statutory guidelines 'RESTAURANTS, CAFES AND HOT FOOD SHOPS' provide guidance on the location of such uses and set out conditions to control their impact.

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Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that this application be **REFUSED** for the reasons below.

Reasons

1. The proposal is contrary to North East Edinburgh Local Plan Policy H8, in respect of Housing Retention, as the proposal removes a residential unit contrary to local plan objectives.
2. The proposal is contrary to North East Edinburgh Local Plan Policy H7, in respect of Housing Amenity, as the proposal has the potential to cause loss of amenity to flats above the proposal.
3. The proposal is contrary to North East Edinburgh Local Plan Policy T10, in respect of Private Car Parking, as the proposal contains no provision for parking and will worsen existing pressures for on-street parking.

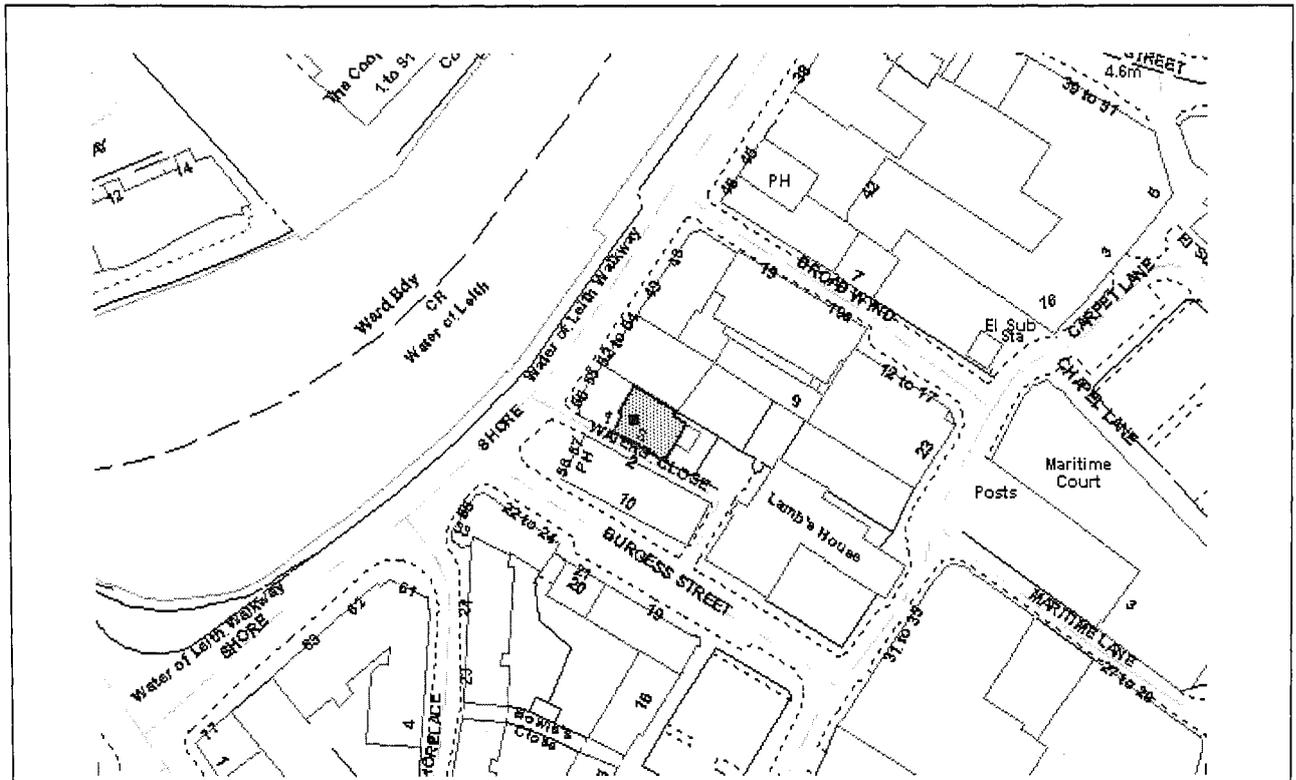
End

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Location Plan



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