

**Full Planning Application**  
**at**  
**33-36 Drumsheugh Gardens**  
**EH3 7RN**

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

**Proposal:** Removal of condition restricting hotel use to class 12 (class 7)  
**Applicant:** Mr Taylor  
**Reference No:** 04/00183/FUL

**1 Purpose of report**

To recommend that the application be **REFUSED** for the following reasons;

**Reasons**

1. The proposal is contrary to Policy L5 (LICENSED PREMISES) of the Central Edinburgh Local Plan and the Council's non-statutory guidelines on 'LOCATION OF LICENSED PREMISES' in that a public bar would be in the midst of residential housing and as such would lead to an increase in noise and late night activity, which would adversely affect residential amenity.
2. The proposal is contrary to Policy H11 (HOUSING AMENITY) of the Central Edinburgh Local Plan insofar as a public bar in such close proximity to residential properties would increase noise and late night activity, which would adversely affect residential amenity.

## **2 Main report**

### **Site description**

The site lies to the north of Drumsheugh Gardens and comprises a four storey with basement traditional building with canted bay windows on the ground and first floors.

The surrounding area is predominately residential, with residential properties on either side of the hotel. Some small office units are also present in the street.

The property is category B listed and within the New Town Conservation Area.

### **Site history**

25 June 1997- Alterations and change of use from hostel to hotel, approved subject to conditions (reference number A00275/97).

21 January 1998- Consent approved for a new doorway (reference number A002821/97).

3 February 1999- Planning permission refused for the removal of condition GC5 requiring the hotel to be a class 12 use (reference A02978/98).

9 September 1999- Appeal dismissed for the removal of condition GC5 requiring the hotel to be a class 12 use (reference A02978/98). During the course of the appeal, the Reporter afforded the appellant the opportunity to put forward an alternative solution. This was not forthcoming.

A copy of this document is available in the party group rooms.

### **Development**

The proposal is for the removal of condition GC5 of planning permission, reference number A00275/97.

This condition states that 'the premises being used solely as a class 12 hotel, and for no other purpose (including any other purpose within class 12) without further planning permission; class 12 means class 12 of the Town and Country Planning (Use Classes) (Scotland) Order 1989'.

The applicant has submitted a statement in support of the proposal: This states that a change in Edinburgh's status with devolution and the small nature of the proposal would allow better facilities for conferences without impacting on residential amenity.

A copy of the applicant's statement of justification is available in the party group rooms.

## **Consultations**

### **Environmental and Consumer Services**

The premises are surrounded by residential properties and are in a quiet part of the city centre and as such this Department is concerned about any potential loss of amenity relating to noise particularly from patrons entering/leaving the premises.

Should the application be granted planning permission and problems with noise arise thereafter, Licensing or Environmental Protection Legislation would not provide the same level of protection in terms of amenity as planning controls.

This department recommends refusal of the application.

In response to a further letter dated 26 February 2004 from the applicant, Environmental Services have nothing further to add.

## **Representations**

The application was advertised on the 6 February 2004. Ten letters of objection have been received, a summary of which are as follows:

Increased noise and activity.

The proposal is contrary to L5 and H11 of the Central Edinburgh Local Plan.

Increase in anti social behaviour.

Increase in traffic within surrounding area.

## **Policy**

### **Central Edinburgh Local Plan:**

New Town Conservation Area

Mixed Activities Zone

Relevant Policies

Policy H11 (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 to the reasonable prospects of further residential development where this is an objective of the Local Plan.

Policy L2 (COMMERCIAL LEISURE USES) sets out criteria for assessing commercial leisure uses within the Retail and Office Cores, Mixed Activities Zone and other areas where commercial uses are present.

Policy L5 (LICENSED PREMISES) states that the change of use of premises under or in the midst of housing to a public house (or similar) will not be allowed

Non-statutory guidelines on 'LOCATION OF LICENSED PREMISES' support local plan policies on proposals for licensed premises in locations where the protection of residential amenity may also be an issue.

## **3 Conclusions and Recommendations**

### **DETERMINING ISSUES**

- does the proposal comply with the development plan?
- if the proposal does comply with the development plan, are there any compelling reasons for not approving it?
- if the proposal does not comply with the development plan, are there any compelling reasons for approving it?

### **ASSESSMENT**

To address these determining issues, the Committee needs to consider whether the removal of the condition would have a detrimental effect on residential amenity.

The condition the applicants seek to remove only allows the hotel to serve alcohol to those patrons consuming meals on the premises or who are resident there. Whilst the applicants have stated that the removal of the condition would not result in a public bar counter being formed, rather a dispensing one, once a full license is obtained from the Licensing Board, the ability to sell alcohol to members of the public would nonetheless exist.

The applicant has commented that 'if the premises were to be sold and a new owner wished to implement the full hotel license with a bar, then (he) would be required to obtain permission to install the bar, with all the other associated works. These works would be subject to a listed building consent application.' The installation of a bar would not necessarily require planning permission. It may require listed building consent as the applicants have stated. With regard to this, it must be noted that a listed building consent application would only consider the impact of a bar counter in the context of the character and setting of the listed building. Therefore the wider implications of installing a bar, for example, in respect of residential amenity would not be able to be considered.

The introduction of a public bar in this location would lead to an increase in late night activity. Given that this is a predominately residential area and the property adjoins residential properties on both sides, it is considered that the proposal is contrary to policies L5, H11 and the to Council's non-statutory guideline as stated. Environmental and Consumer Services have also raised concerns regarding this issue.

In conclusion, whilst it is regrettable that the hotel is experiencing difficulties with their Conference facilities, this is a predominantly residential area, where the existing residential amenity is paramount. The principal for a public bar facilities in this location is unacceptable. This view has not changed since the appeal in 1999 and policy has not altered since this time.

It is recommended that the Committee refuses this application, for the reasons stated.

Alan Henderson

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**Alan Henderson**  
Head of Planning and Strategy

**Contact/tel** Mark Russell on 529 3665

**Ward affected** 16 -Dean

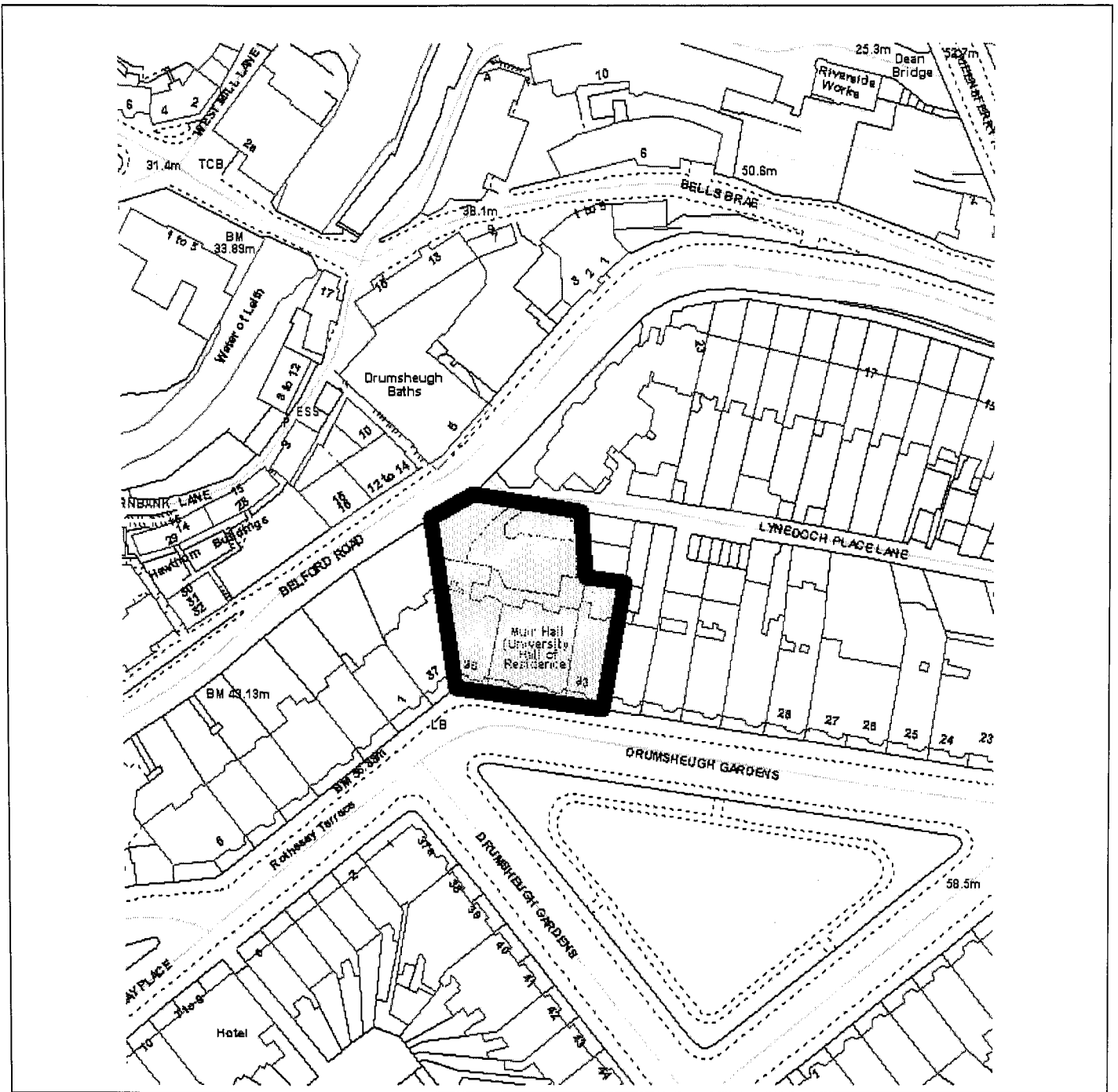
**Local Plan** Central Edinburgh Local Plan

**Statutory Development  
Plan Provision** New Town Conservation Area/Mixed Activities Zone

**File** 04/00183/FUL

**Date registered** 28 January 2004

**Drawing numbers/  
Scheme** 1 to 6



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# **PLANNING APPLICATION**

<b>Address</b>	<b>33-36 Drumshough Gardens, EH3 7RN</b>		
<b>Proposal</b>	<b>Removal of condition restricting hotel use to class 12 (class 7)</b>		
<b>Application number:</b>	<b>04/00183/FUL</b>	<b>WARD</b>	<b>16- Dean</b>
<b>THE CITY OF EDINBURGH COUNCIL THE CITY DEVELOPMENT DEPARTMENT- PLANNING &amp; STRATEGY</b>			