

## Committee Minutes

---

# Development Management Sub-Committee of the Planning Committee

Edinburgh, 26 November 2008

**Present:** - Councillors Lowrie (Convener), Burgess, Child, Dundas, Hinds, Keir, Milligan, Morris, Mowat, Munn, Paisley, Peacock, Rose and Thomas.

### **1 3 Windsor Street, Edinburgh – Certificate for Lawful Use as a Guest House**

An application (08/02342/CLE) for certificate of lawfulness for an existing use as a guest house had been submitted under section 150 of the Town and Country Planning (Scotland) Act 1997, in respect of a house at 3 Windsor Street, Edinburgh.

The Head of Planning and Strategy reported in detail on the application and history of the uses on the site. In conclusion, he said that sufficient evidence had been provided to identify the continued use of the premises as a guest house and that the application should be granted.

#### **Decision**

To approve the recommendation by the Head of Planning and Strategy to grant a certificate of lawfulness of existing use as a guest house, as detailed in the report.

(Reference – report by the Head of Planning and Strategy, submitted).

### **2 36 Morrison Crescent, Edinburgh - Flats**

The Convener ruled that this item, of which insufficient notice had been given on the agenda, be considered as a matter of urgency in order that the Sub-Committee could submit its views on the proposals to a forthcoming appeal consideration.

Development Management Sub-Committee  
of the Planning Committee  
26 November 2008

The Sub Committee, on 12 November 2008, had further considered an application (08/01890/REM) by Fountain North Ltd. to erect 26 flats designated for 'shared equity' as an affordable housing block, at 36 Morrison Crescent. The Head of Planning and Strategy had previously recommended that consent be granted subject to conditions.

Having noted that the applicants had appealed against non-determination of the application, the Sub-Committee had agreed that it would have been of a mind to refuse planning permission as planning authority, for reasons as indicated at the meeting and had asked the Head of Planning and Strategy to report back on the detail of the reasons.

The Head of Planning and Strategy now reported further, as requested, on the Sub-Committee's reasons for refusal.

### **Decision**

To agree that Scottish Ministers be advised that had the planning authority been able to determine the application, it would have refused planning permission for the following reasons: –

- 1) The proposal was contrary to the Central Edinburgh Local Plan policies CD10 and CD11 and to the Edinburgh City Local Plan policies Des1 and Des3 in respect of Development Design as the proposal was not of the highest possible architectural and urban quality; did not respect the constraints of the site or the character of the surrounding area, and did not add visual interest. The proposal also failed to pay particular attention to the enhancement of a main approach to the city centre and to reinforce the visual significance of such gateway locations as required by the above policies;
- 2) The proposal was contrary to the Central Edinburgh Local Plan policy CD17 and the Edinburgh City Local Plan policy Des3 as the proposed materials would be inappropriate in this context and would not be of a quality which was in harmony with the essential character of the city;
- 3) The proposal was contrary to the Central Edinburgh Local Plan policy H11 and the Edinburgh City Local Plan Hou8 as the form of the development and in particular the proposed rear decked access/balconies would result in the overlooking of neighbouring properties to the rear and an adverse impact on the amenity and privacy of occupiers and neighbours.
- 4) The proposal was contrary to the Council's non-statutory guidelines in respect of Daylight, Privacy and Sunlight in that it would result in the overlooking of the gardens and windows of the properties to the rear, to the detriment of their privacy and amenity.

Development Management Sub-Committee  
of the Planning Committee  
26 November 2008

(Reference – Development Management Sub-Committee 1 October 2008 (item 2); Development Management Sub-Committee 12 November (item 2); report by the Head of Planning and Strategy, submitted).

### **3 25 Niddry Street, Edinburgh – Drop-in Centre**

The Convener ruled that this item, of which insufficient notice had been given on the agenda, be considered as a matter of urgency in order that the application could be considered timeously.

An application (08/01768/FUL) had been submitted for change of use from office premises to drop-in centre at 25 Niddry Street, within the city centre, and within the Old Town Conservation Area. The proposals were for a change of use from offices to drop-in centre by the Salvation Army Trustee Company. The Head of Planning and Strategy considered that the change of use was acceptable with minimal impact on neighbouring residential amenity and not affect the character or appearance of the conservation area.

27 letters of objection had been received commenting on the proposals.

Councillor Mowat suggested that a request be made to the applicants to engage in discussions with the Council and Police regarding the possibility of CCTV being installed on Niddrie Street.

#### **Decision**

To approve the recommendation by the Head of Planning to grant conditional planning permission, as detailed in the report, and subject to the following amendments to conditions as recommended: -

- 1) Condition 4, to be amended to read - 'Cooking operations on the premises shall be restricted to the use of a six burner hob with grill; no other forms of cooking shall take place without the prior written approval of the planning authority.'
- 2) Condition 7, to be amended to read –'The design and installation of any plant, machinery or equipment shall be such that any associated noise complied with NR35 when measured within any nearby living apartment, and no structure borne vibrations be perceptible within any nearby living apartment.'
- 3) The Sub-Committee also agreed that an Informative be added, as follows: -

Development Management Sub-Committee  
of the Planning Committee  
26 November 2008

‘Prior to the use being taken up, the applicant shall liaise with the police and staff in Planning and Strategy and Community Safety in the Council to assess the need for CCTV in Niddry Street and the potential to implement this. The results of this liaison shall be reported to the local ward Councillors.’

(Reference – report by the Head of Planning and Strategy, submitted).

**Declaration of Interests**

Councillors Rose and Paisley declared a non-financial interest in the above item, each being an acquaintance of an employee or volunteer with the applicants (Salvation Army).

**4 8 Inverleith Gardens, Edinburgh – Hours of Operation**

An application (08/03411/FUL) had been submitted for modification of a condition on a previous consent (reference 07/01179/FUL), relative to permission for operation of a restaurant at 8 Inverleith Gardens, Edinburgh, to allow an extension of opening hours from 10.00 pm to midnight Monday to Saturday and from 10.00 pm to 11pm on Sundays. The Head of Planning and Strategy recommended that consent be granted.

9 letters of representation had been received commenting on the proposals.

**Motion**

To approve the recommendation by the Head of Planning and Strategy to grant a modification to previous consent, to allow an extension of opening hours, as detailed in the report.

- moved by Councillor Lowrie, seconded by Councillor Keir.

**Amendment**

That planning permission be refused for the reason that it would have a detrimental effect on the residential amenity of neighbouring properties, for reasons of noise and disturbance, and an insufficiency of parking space in the late evening hours. Also, that the Head of Planning and Strategy be requested to negotiate with the applicants on any extension of hours that could minimise any disturbance to neighbouring properties.

- moved by Councillor Hinds, seconded by Councillor Child.

**Voting**

For the motion	-	7
For the amendment	-	7

Development Management Sub-Committee  
of the Planning Committee  
26 November 2008

There being an equal number of votes for the motion and the amendment, the Convener used his casting vote in favour of the motion.

**Decision**

To approve the recommendation by the Head of Planning and Strategy to grant a modification to the previous consent, to allow an extension of opening hours, as detailed in the report.

(Reference – report by the Head of Planning and Strategy, submitted).

**5 Other Planning Applications**

The Sub Committee considered the remaining planning applications on the agenda.

**Decision**

To determine the applications as detailed in Appendix 1 to this minute.

(Reference – reports by the Head of Policy and Strategy, submitted)

Development Management Sub-Committee  
of the Planning Committee  
26 November 2008

## APPENDIX 1

### Applications

(As referred to in item 5 of the foregoing minute)

**Note:** Detailed conditions/reasons for the following decisions are contained in the statutory planning register.

Agenda Item No.	Address/ Reference No	Details of Proposals	Decision
3	3 Windsor Street (08/02342/CLE)	Application for Certificate of Lawfulness of Existing Use – Use as a Guest House.	To approve the recommendation by the Head of Planning and Strategy to grant a certificate of lawfulness of existing use as a guest house, as detailed in the report. (See item 1 of minutes of meeting.)
4	5 Dalmahoy (land adjacent to) (08/02310/FUL)	Proposed extension to cemetery.	To approve the recommendation by the Head of Planning and Strategy to grant conditional planning permission, as detailed in the report.
5	8 Inverleith Gardens (08/03411/FUL)	Modification of consent (07/01179/FUL) to extend opening.	To approve the recommendation by the Head of Planning and Strategy to grant a modification to previous consent, to allow an extension of opening hours, as detailed in the report.  (Note: On a division by the Sub-Committee – see item 4 of minutes of meeting.)
6	5A (1F2) Links Gardens (08/03438/FUL)	Retrospective permission for double glazed UPVC windows.	To approve the recommendation by the Head of Planning and Strategy to refuse the planning application and authorise enforcement action, for the reasons as detailed in the report.
7	4 Lower Gilmore Bank (08/03621/FUL)	Change of use from restaurant to office (class 3 to 4).	To approve the recommendation by the Head of Planning and Strategy to grant conditional planning permission, subject to a legal agreement, as detailed in the report.

Development Management Sub-Committee  
of the Planning Committee  
26 November 2008

Agenda Item No.	Address/ Reference No	Details of Proposals	Decision
8	4 Merchiston Avenue, 3-5 Blantyre Terrace (08/03428/FUL)	Change of use from 3 townhouses comprising of 26 bed/sitting room units into 11 private residential units.	To approve the recommendation by the Head of Planning and Strategy to grant conditional planning permission, subject to a legal agreement, as detailed in the report.
9	95-97 St Leonard's Street (08/03576/FUL)	Alterations to shop front in retrospect.	To approve the recommendation by the Head of Planning and Strategy to refuse the application and authorise enforcement action, for the reasons as detailed in the report.
10	36 Morrison Crescent (land adjacent to) (08/01890/REM)	Erection of 26 Flats designated for 'shared equity' - affordable block as part of Springside development.	To agree that Scottish Ministers be advised that had the planning authority been able to determine the application, it would have refused planning permission for the following reasons:-  1) The proposal was contrary to the Central Edinburgh Local Plan policies CD10 and CD11 and to the Edinburgh City Local Plan policies Des1 and Des3 in respect of Development Design as the proposal was not of the highest possible architectural and urban quality; did not respect the constraints of the site or the character of the surrounding area, and did not add visual interest. The proposal also failed to pay particular attention to the enhancement of a main approach to the city centre and to reinforce the visual significance of such gateway locations as required by the above policies;

Development Management Sub-Committee  
of the Planning Committee  
26 November 2008

Agenda Item No.	Address/ Reference No	Details of Proposals	Decision
			<p>2) The proposal was contrary to the Central Edinburgh Local Plan policy CD17 and the Edinburgh City Local Plan policy Des3 as the proposed materials would be inappropriate in this context and would not be of a quality which was in harmony with the essential character of the city;</p> <p>3) The proposal was contrary to the Central Edinburgh Local Plan policy H11 and the Edinburgh City Local Plan Hou8 as the form of the development and in particular the proposed rear decked access/balconies would result in the overlooking of neighbouring properties to the rear and an adverse impact on the amenity and privacy of occupiers and neighbours.</p> <p>4) The proposal was contrary to the Council's non-statutory guidelines in respect of Daylight, Privacy and Sunlight in that it would result in the overlooking of the gardens and windows of the properties to the rear, to the detriment of their privacy and amenity.</p> <p>(See item 2 of minutes of this meeting.)</p>

Development Management Sub-Committee  
of the Planning Committee  
26 November 2008

Agenda Item No.	Address/ Reference No	Details of Proposals	Decision
11	25 Niddry Street (08/01768/FUL)	Change of use from offices to drop-in centre.	<p>To approve the recommendation by the Head of Planning to grant conditional planning permission, as detailed in the report, subject to the following amendments as recommended: -</p> <p>1) Condition 4, to be amended to read - 'Cooking operations on the premises shall be restricted to the use of a six burner hob with grill; no other forms of cooking shall take place without the prior written approval of the planning authority.'</p>
			<p>2) Condition 7, to be amended to read – 'The design and installation of any plant, machinery or equipment shall be such that any associated noise complied with NR35 when measured within any nearby living apartment, and no structure borne vibrations be perceptible within any nearby living apartment.'</p> <p>3) The Sub-Committee also agreed that an Informative be added, as follows –</p> <p>'Prior to the use being taken up, the applicant shall liaise with the police and staff in Planning and Strategy and Community Safety in the Council to assess the need for CCTV in Niddry Street and the potential to implement this. The results of this liaison shall be reported to the local ward Councillors.'</p> <p>(See item 3 of minutes of meeting.)</p>