

Full Planning Application

at

40 Potterrow

Edinburgh

EH8 9BT

Development Quality Sub-Committee of the Planning Committee

Proposal: Proposed change of use from manufacturing workshop to ground floor public house/ cafe and first floor restaurant

Applicant: Millbraid Ltd.

Reference No: 03/02486/FUL

1 Purpose of report

To recommend that the application be **REFUSED**

Reasons

1. The proposal is contrary to Central Edinburgh Local Plan Policies L2, L3 and H11 in respect of commercial leisure uses and their restraint, and off residential amenity as the proposal will introduce a further commercial leisure use into an area of sensitivity where, due to the late night hours of operation, it will lead to an unacceptable increase in noise and disturbance, to the detriment of residential amenity.

2 Main report

Site description

The site lies to the east of Potterrow and comprises a flat roofed, two storey, block and brickwork, vacant industrial unit. The property was previously used as a manufacturing workshop. At ground floor level a pend gives access to the rear of the building. However, the application site relates only to the building footprint and does not include the yard to the rear and side of the site.

To the north is a builder's yard, which wraps around the north east of the site. Further to the north is a four-storey tenement style building with a public house on the ground floor and residential units above. To the south and south east is the Central Mosque. This building sits within a large open area and is not physically attached to the application building. To the west is an NCP car park. This site is identified for future re-development for a mix of uses including residential.

Potterrow is a busy thoroughfare, with on street parking being restricted.

The building is not listed, but it does lie within the South Side Conservation Area.

Site history

There is no relevant planning history for this site.

Development

The application is for a change of use from manufacturing workshop to public house on the ground floor and restaurant above.

At ground floor level it is proposed to form three new entrances in the existing window openings onto Potterrow. From these entrances two new staircases are to be formed to the upper restaurant. The ground floor will be a public house/café and toilets, with the kitchens being located on the first floor. The pend will remain as an opening.

The upper floor will house the kitchens, toilets and a large restaurant area. Ventilation for the kitchen is via a flue, which terminates at roof level. This flue also extends down to ground level, into the preparation area.

Externally, full height glazed windows are to be formed within existing window openings on the west facade, facing Potterrow. The main entrance door will also be altered to form a fully glazed access door.

Consultations

Environmental and Consumer Services

There are no major Environmental Health concerns with this proposal, subject to adequate conditions to limit impact. The building structures are sufficiently separated from neighbouring properties such that plant, machinery and entertainment noise should all be readily controllable issues (both structure-borne and air-borne) and also far enough away to allow for reasonably good dispersal of cooking odours. Street noise from patrons may be an issue, but ambient levels from the same nature of source in this vicinity are such that there is likely to be only marginal additional loading.

Consequently, this Department has no objections, subject to the following standard conditions to protect neighbouring amenity.

1. AM09C
2. AM10C
3. AM12C
4. AM21C
5. AM24C

Culture and Leisure

An archaeological desktop study was undertaken in order to examine and assess the possible archaeological implications of the above development application. This assessment has revealed that there are no known archaeological constraints upon this particular planning application.

Representations

The application was advertised on 1 August 2003 and neighbour notification was carried out on 1 July 2003. Eleven letters of representation and two petitions have been received. The letters are from Fiona Hyslop MSP, Kenny MacAskill MSP, Councillor Cairns - Southside Ward, Southside Community Council, Edinburgh Old Town Association, the Central Mosque, Potterrow residents and Muslims attending the Central Mosque. The two petitions are from the Pakistan Society Edinburgh with 289 signatures and Potterrow residents with 12 signatures. Comments are as follows: -

1. There is an over-supply of licensed premises already in this area.
2. Additional problems with noise and disturbance, particularly late at night.
3. Cumulative effect of other licensed premises.
4. Detrimental to residential amenity.
5. Close to residential properties, contrary to policy H11.
6. Siting a public house next to the mosque would be highly insensitive.
7. Ventilation would be inadequate due to this being a two-storey block and surrounding tenements being four/five storeys.
8. The application retains an unattractive building within a conservation area.
9. The public house may prejudice further residential development.
10. Insensitive location adjacent to the mosque could cause racial/abusive behaviour.
11. Disturbance to those worshipping.

Policy

The site is identified in the Central Edinburgh Local Plan as being within a Mixed Activities Zone and an 'area of sensitivity'. It lies adjacent to the Potterrow Major Development Opportunity (9) and is also within the South Side Conservation Area.

Relevant Policies:

Policy CD4 (CONSERVATION AREAS) requires that developments in a conservation area retain all features which contribute to the area's character and appearance.

Policy CD5 (CONSERVATION AREAS - REDEVELOPMENT) sets out the criteria against which new development in conservation areas will be assessed, and seeks to preserve or enhance their character and appearance.

Policy CD8 (ARCHAEOLOGICAL EVALUATION) sets out procedural requirements for applications for development or redevelopment of sites of known or suspected archaeological significance.

Policy CD10 (NEW DEVELOPMENT - OBJECTIVE) encourages new development of the highest possible architectural and urban quality.

Policy CD17 (MATERIALS) sets out requirements for materials in new developments and seeks a greater use of stone, roofing slate and other traditional materials in appropriate cases.

Policy CD19 (BUILDING ALTERATIONS) sets out requirements for the design, form, materials and positioning of alterations and extensions.

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 L3 (LEISURE USES - RESTRAINT) requires particular care to be taken to prevent an excessive concentration of commercial leisure uses in the following areas of mixed but essentially residential character: Tollcross, Grassmarket and Nicolson Street/Clerk Street and environs.

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.

Non-statutory guidelines 'COMMERCIAL LEISURE USES: CENTRAL EDINBURGH LOCAL PLAN POLICY L3: SUPPLEMENTARY PLANNING GUIDANCE' provides specific guidance in respect of such uses in identified areas of sensitivity.

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.

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

The determining issues are:

- Do the proposals preserve or enhance the character and appearance of the conservation area? There being a strong presumption against the granting of planning permission if this is not the case;
- Do the proposals comply with the development plan?
- If the proposals do comply with the development plan, are there any compelling reasons for not approving them?
- If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

ASSESSMENT

To address these determining issues, the Committee needs to consider whether a) the proposals will preserve or enhance the character and appearance of the conservation area, b) this is an acceptable location for a public house and restaurant, and c) the proposal will be detrimental to residential amenity.

a) The site lies within the South Side Conservation Area. The character of the conservation area is summarised in the local plan as follows: - *The buildings of the South Side are predominantly tenemental, with examples of Georgian and Victorian architecture in the Scottish style. Wallhead gables once common in many Scottish cities, is a particular feature of many buildings. The development of the area started in the late eighteenth century, although several villas predate this, with the construction of George Square, laid out as a spacious speculative housing development by James Brown in 1766. The expansion of the South Side continued into the nineteenth century with the construction of late Georgian squares (such as St Patrick Square and Hill Square); subsequent development resulted in a high density mix of flats, shops, pubs, schools and churches. The University of Edinburgh occupies much of the northern part of the conservation area with several significant buildings (e.g. Medical School and McEwan Hall) as well as more recent, and less sympathetic, academic buildings.*

Policies CD19 and CD5 permit alterations to existing buildings provided they are compatible with that building, and will not have a detrimental impact on the character or appearance of the conservation area. The proposed external alterations are to form large vertical windows within the width of the existing window openings. These alterations are considered sympathetic to and compatible with the character of the building and will not have a detrimental effect on the appearance of the conservation area. In addition the premises are currently in a poor state of repair and their re-use and refurbishment is supported.

b) The site lies within the Mixed Activities Zone. Within this area Policy L2 supports commercial leisure uses. However the site is also within an 'area of sensitivity' where Policy L3 identifies certain areas of the City as being 'sensitive' to excessive concentrations of commercial leisure uses. The non-statutory supplementary guidelines for policy L3 provides a definition of the extent of this area and Potterrow falls within this.

Within areas of sensitivity proposals for commercial leisure uses will not be acceptable, unless they meet certain criteria. The proposal should not contribute to late night activity, and the hours of operation should be restricted to 8 am to 8 pm. The criteria also state that there should be no adverse impact upon residential amenity.

Given that the proposal is for a public house and restaurant, policy L3 and its supporting supplementary guidance presume against it. This mix of uses would undoubtedly contribute to late night activity and conflict with the criteria set out in the supplementary guidance. The application is therefore contrary to policy L3, and hence L2 and H11.

c) In addition, the Potterrow MDO promotes housing, among other uses, on the car park opposite the site. Policy L3 and H11 both seek to resist development where it will be detrimental to existing residential amenity and the reasonable prospect of further residential development where this is an objective of the Plan, which is the case here.

The closest existing residential properties are located to the north, above the public house known as the Native State. Environmental Services has raised no objections to the proposals stating that the building structures are sufficiently separated from neighbouring properties such that plant, machinery and entertainment noise should all be readily controllable issues.

Ventilation is considered acceptable, given that it is sufficiently distant from residential uses to allow for reasonably good dispersal of cooking odours.

In conclusion, Potterrow is identified as an 'area of sensitivity' and as such policy L3 seeks to prevent further late night commercial uses, which will be detrimental to residential amenity. The proposals are therefore unacceptable.

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

Alan Henderson

Alan Henderson
Head of Planning and Strategy

Contact/Tel Gina Bellhouse on 0131 529 3905 (FAX 529 3717)

Ward affected 33 - Southside

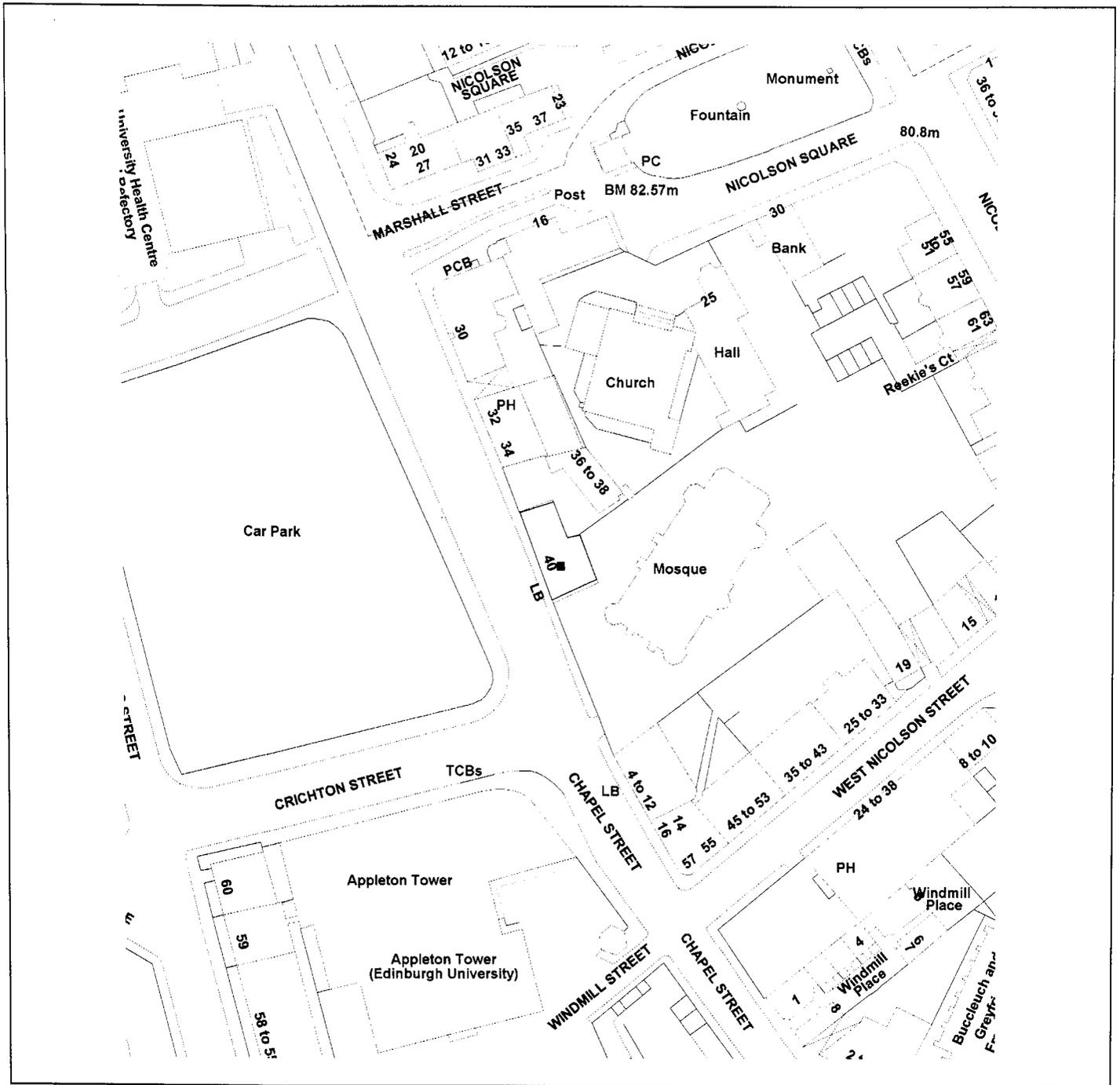
Local Plan Central Edinburgh Local Plan

**Statutory Development
Plan Provision** Mixed Activities

File af

Date registered 21 July 2003

**Drawing numbers/
Scheme** 01-07
Scheme 1



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PLANNING APPLICATION

Address	40 Potterrow		
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Application number:	03/02486/FUL	WARD	33- Southside
THE CITY OF EDINBURGH COUNCIL THE CITY DEVELOPMENT DEPARTMENT- PLANNING & STRATEGY			