

Planning Permission 12/03091/FUL
at
89 Duke Street
Edinburgh
EH6 8HF

Development Management Sub-Committee
of the Planning Committee

1 Purpose of report

To consider application 12/03091/FUL, submitted by Company: Douglas Thomson. The application is for: **Change the use of consented office conversion to 9 dwellings and alteration and sub-division to form 5 new dwellings, demolition of 3 outbuildings and ancillary building in former playground/car park.**

It is recommended that this application be **Granted** by Committee.

2 The Site and the Proposal

Site description

The application site is located on the corner of Duke Street and Duncan Place, and the east elevation of the property faces onto Leith Links. The site is partially bounded with a stone boundary wall, gate piers and railings to the west, southeast and south elevation.

The application property is a monumental three storey, symmetrical building by G Reid and J Smith Forbes dating from 1930-31 and was built as Leith Academy. The building is a classically detailed hollow pentagon-plan with a 2-storey 10-bay flat roofed central hall cutting across the space. The building is category B listed (Ward 22). The building was listed on 05 March 1991, L.B reference 27432.

This property is located within the Leith Conservation Area.

Site History

26 May 2006 - Consent was granted for 39 flats and office accommodation (the latter in the central hall), subject to legal agreement to secure a Tram contribution of £90,000 (£60,000 for residential element and £30,000 for the office element) plus a transport contribution of £15,000 for upgrading a pedestrian crossing close to the site. The consent was issued on 26 November 2006 following the signing of a legal agreement, but these sums have never been paid to the Council (05/3765/FUL).

Listed building consent had previously been granted on 26 May 2006 (05/03765/LBC).

September 2012 - Concurrent listed building consent application, pending delegated decision November 2012 (12/03092/LBC).

Pre-Application Process

There were some informal pre-application discussions with the applicant's agent.

Description Of The Proposal

The application is to form nine maisonette flats within the central hall, plus five additional flats in the north part of the building, in addition to the 39 flats already approved in this former Leith Academy school building. Where earlier three storey tower wings are to be demolished, because they cannot be successfully utilised, new windows/doors will be installed and the brick work restored to match.

The central hall flat roof would have rooflights added and would be covered with sedum. Seven new doors would be created from windows so that the flats in the central hall can get access to the courtyard, four to the east and three to the west. A facade infill is being created over the central pavilion at the north corner of the building. This will require extending up the brick parapet with reclaimed red bricks and adding a semi-circular window screen in red brick over the first and second floors, respectively. This will provide a living room for Flat 39 (maisonette).

Two car parks are proposed, one in the south east former playground and a larger one in the north west playground, with a total of 53 spaces provided. A bicycle store with 27 racks (2 bikes per rack) is to be provided in the north pavilion wing at lower ground floor level. Nine bin stores will be provided.

3. Officer's Assessment and Recommendation

Determining Issues

Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of consent.

Do the proposals preserve the building or its setting or any features of special architectural or historic interest which it possesses? If not, there is a presumption against the granting of consent. For the purposes of this issue, preserve, in relation to the building, means preserve it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character.

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 use as flats on this site is compatible with the area;
- b) the proposals have an adverse impact on the character or appearance of the Leith Conservation Area;
- c) the proposals adversely affect the listed building or its setting;
- d) the accommodation and open space is satisfactory;
- e) there is any impact on any archaeological significance on the site;
- f) the proposals are detrimental to residential amenity or road safety; and
- g) developer contributions are required.

a) The use as residential is in accordance with the local plan designation of the site as Urban Area. The change of use of suitable buildings in non-residential use to housing is encouraged by Policy H3 of the local plan providing that satisfactory standards of accommodation are achieved, off-street parking is adequate, and the use is compatible with the surrounding area. The building stands alone on its site and the full use as residential, compared to the joint use of 39 residential flats and a central block of offices as previously approved, will create a workable and sustainable use for the

listed building. It will also avoid conflict between office use and residential use and mixed use parking.

The use is compatible with the area.

b) The building is identified in the Leith Conservation Area Character Appraisal as a "*landmark building*" at the edge of "*open and green*" Leith Links, where "*residential development is confined to the outer side of all the roads around the links.*" The development will ensure that this situation is reinforced. The building will be renovated together with appropriate additions to the character of the building, with demolitions of unnecessary extensions and wings, which will tidy up its appearance by being replaced with flush brick finish and windows to match. The small first and second floor fillet extension on the internal courtyard elevation of the north pavilion should not be visible externally. The general external appearance and shape of the building will remain unaltered. The surrounding paved playground areas which become car parks will be enhanced with soft landscaping.

The proposals will enhance the Leith Conservation Area and reinforce the character of the conservation area by retaining the building's landmark status and reinforcing its open landscaped nature.

c) The proposals enhance the fabric of the listed building. Replacement brick infill panels, where redundant extensions are removed within the internal courtyard, and the tidying up of the surrounding playground areas to form parking areas with new fences and gates, will enhance the setting of the listed building on the edge of the Leith Links park. The demolitions will also maximise the available garden courtyard areas.

d) The size of the proposed five extra units in the main building is smaller than previously approved. The area taken up by several previously approved larger flats is being rearranged/subdivided to create more flats within the same space in order to make the scheme as a whole viable. The flats are dual aspect and have adequate fenestration, are of reasonable size with one to two bedrooms. There are no individual green spaces allocated to the flats but the two areas of common courtyard garden are 660m² total in area. This represents approximately 12% of the site. Policy Hou 3 requires a minimum of 20% of the total site area to be green. However, 12% is acceptable given the finite geometry of this existing site, the green space reclamation to be undertaken from a barren courtyard and its proximity to the open space of Leith Links.

In conclusion, the accommodation is satisfactory.

e) Given the important archaeological history of the area, dating from the siege of Leith in circa 1559/1560, a condition is recommended to ensure that a watching brief is maintained during ground breaking works and that a suitable record is made of any deposits found in accordance with an approved programme of works.

f) 53 parking spaces will be accommodated by adapting the front and rear playgrounds, which will include marked spaces and diamond shaped bin stores. The level of provision represents 100% for the flats proposed, and is acceptable. Minor alterations to the footways, lighting column and car park entrances fronting the site are required. Informatives are recommended.

The scheme is now wholly residential and is appropriate to the mainly residential surroundings at the edge of Leith Links. Due to the narrow courtyard configuration of the building on two sides of the central hall, some privacy issues between individual flats are unavoidable. The flats that fall short of the recommended privacy distances have windows that face into the communal gardens at 10 metres or less between windows. These windows are angled in relation to each other and are mainly secondary bedroom windows where there will be only a marginal infringement of privacy. Consent has already been given for the principle of such an arrangement and given the restrictions of the site, an exception is recommended. The proposals will not give rise to any significant loss of residential amenity.

g) On the previous application for 39 dwellings, there was a requirement for a Tram contribution of £90,000, but the scheme was below the threshold of 40 units which would have otherwise required an Affordable Housing contribution to be made. The Tram contribution was never paid although the legal agreement for it was signed. The applicants have submitted a supporting financial statement in respect of the Affordable Housing contribution, (now applicable for the additional 14 flats proposed), which proves that such a burden would be financially crippling to the project. It is therefore inappropriate to require such a sum now. The site was purchased at a high value in anticipation of the developer reaping the benefits of the future Tram route being constructed nearby. The Tram Route One will not now happen in the near future. It is therefore inappropriate to require any monies from the developer in this connection.

The conclusion from the analysis of the applicant's financial statement by Economic Development is that it is clear that this project cannot bear additional financial burdens, as it is already a loss making scheme with a considerable amount of money already written off. The sale prices in pounds per square foot of completed flats are cautious but reasonable. The construction costs per square foot are high although within an acceptable margin. Even without adding in the professional fees, the developer is making a very limited profit. With reasonable fees, the profits are lost. In respect of the previous contribution required towards a new pedestrian crossing, this is no longer required. Consequently, in order for the development to take place, it is recommended that no tram, affordable housing, or other transport contribution is required in this instance. In respect of the outstanding legal agreement for the application for 39 flats, the applicants should apply to discharge this.

In conclusion, the development is acceptable as it will secure the long term future of a significant listed building in a prominent position at the edge of Leith Links, within the Leith Conservation Area with no significant detriment to amenity or highway safety.

There are no other material considerations which outweigh this conclusion.

It is recommended that the Committee approves this application, subject to conditions concerning archaeology, landscaping, waste management and informatives concerning road/public realm works.

REASON FOR DECISION

The proposals comply with the development plan and the non-statutory guidelines stated, and will not adversely impact on the setting of the listed building, on the conservation area, or upon residential or highway safety.

David R. Leslie

Acting Head of Planning & Building Standards

Contact/tel	Duncan Robertson on 0131 529 3560
Ward affected	A13 – Leith
Local Plan	Edinburgh City Local Plan
Statutory Development Plan Provision	Urban Area
Date registered	6 September 2012
Drawing numbers/ Scheme	01-11; 12A-15A; 16;17A-19A Scheme 2

Advice to Committee Members and Ward Councillors

The full details of the application are available for viewing at [Planning and Building Standards online services](#)

If you require further information about this application you should contact the following Principal Planner, Anna Grant, 0131 529 3521, anna.grant@edinburgh.gov.uk

Appendix A



Application Type Planning Permission
Application Address: 89 Duke Street
Edinburgh
EH6 8HF

Proposal: Change the use of consented office conversion to 9 dwellings and alteration and sub-division to form 5 new dwellings, demolition of 3 outbuildings and ancillary building in former playground/car park.

Reference No: 12/03091/FUL

Consultations, Representations and Planning Policy

Consultations

Environmental Assessment

The application proposes the change of use of a consented office conversion into 9 dwellings and alteration of existing consented dwellings to form 5 new dwellings. The total number of proposed dwellings is proposed to increase to 53. The property is on the corner of Duke Street and Duncan Place with Leith Links situated to the east.

The application building is situated on a main roundabout and road junction which is affected by road traffic noise. Therefore, this Department recommended a condition for the original application for the site (05/03765/FUL) which required road traffic noise be appropriately attenuated by fitting additional secondary glazing. A second application was submitted for the site (06/04302/FUL) which requested that the condition requiring secondary glazing be lifted as there were a number of difficulties arising for the developer due to the condition.

A noise impact assessment was provided with the application which indicated that the site fell within the upper levels of Noise Exposure Category C (NEC C) under the now revoked Planning Advice note 56. The noise impact assessment also advised that the existing in-situ single glazed windows were sufficient to reduce noise to an acceptable level. This Department was of the opinion at that time that it would be unusual for a single glazed window to be able to adequately reduce noise for the site within the upper noise levels found within NEC C. However, this Department understood that the Listed Building requirements meant it was not desirable to alter the existing windows and left the final decision on the matter to the Planning Authority.

Should planning agree that traffic noise is an issue which should be further explored within this application, Environmental Assessment will be happy to approach the developer at that stage in an attempt to further the issue.

Transport

Transport has no objections to the proposed application, subject to the following being included as conditions or informatives as appropriate:

- 1. A length of 2 metres nearest the road should be paved in a solid material to prevent deleterious material (e.g. loose chippings) being carried on to the road;*
- 2. Any gate or gates must open inwards onto the property;*
- 3. The works to form the footway crossing should be carried out in accordance with "Development Roads - Guidelines and Specification" and under cover of a minor roadworks consent; and*
- 4. The proposed access may require the relocation of an existing lighting column. Detailed proposals will be required and the work is to be completed at no cost to the Council.*

Archaeology

The historic maps of Leith, in particular Naish's 1709 survey of Leith and Alexander Wood's 1777 Plan of the Town of Leith, demonstrate that the proposed development site is located just outwith (to the east) of the post-medieval town fortifications, along one of the main historic routes (Duke Street) leading into the medieval and post-medieval town. However, the site does lie adjacent to the scheduled monument, one of a pair, is presumed to have been constructed as part of the English siege works relating to The Earl of Hertford's attack of 1559-60. The mound is not Somerset's Battery. However, it does appear on the contemporary Petworth map of the siege which depicts Leith surrounded by a series of large siege works similar to what was later seen in World War 1. It is possible that remains relating to this important siege will occur across this development site.

*Accordingly, this site has been identified as occurring within an area of archaeological potential in particular relating to the 1590-60 siege of Leith. This application must be considered therefore under the terms of the Scottish Government Historic Environment Policy (SHEP); Scottish Planning Policy (SPP), PAN 02/2011 and also Edinburgh City Local Plan (2010) policy ENV 9. **The aim should be to preserve archaeological remains in situ as the first option, but alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be an acceptable alternative.***

Having assessed the probable impact of this proposed development, it is considered that on current information such a proposal would be regarded as having a low-moderate archaeological impact. Ground-breaking works associated with demolition and construction could disturb significant remains associated with earlier 1559/60 century Siege of Leith and development of the Leith.

Accordingly, it is recommended that the following condition be attached to the consent, if granted, to ensure that a programme of archaeological works is undertaken prior to/during demolition and construction in order to excavate, record and analyse any significant archaeological deposits that may be uncovered.

"No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis and reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority."

This work would be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme or archaeological works and for the archiving and appropriate level of publication of the results, lies with the applicant.

Affordable Housing

Only the additional 14 units, on top of the 39 already approved, are applicable for an affordable housing requirement. Consequently three of the 14 units should be let or sold as suitable units. Alternatively, a commuted sum of £87,500 should be secured through a section 75 agreement from the developer in order to comply with Council guidelines. An informative is recommended.

Education

The site is located within the catchment areas of:

- *Leith Primary School;*
- *St Mary's RC Primary School;*
- *Leith Academy; and*
- *St Thomas of Aquin's RC High School.*

There is current space capacity at Leith Primary School and at Leith Academy. Where considered necessary, RC intakes would be managed by giving priority to baptised Roman Catholics. In summary we have no objection to the proposal.

Representations

Advertised on 14 September 2012. No representations have been received.

Representations, if any, are available to view in the document list at [Planning & Building Standards online services](#).

Planning Policy

Allocated as Urban Area in the Edinburgh City Local Plan.

Relevant Policies:

Relevant policies of the Edinburgh City Local Plan.

Policy Env 4 (Listed Buildings – Alterations & Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

Policy Env 6 (Conservation Areas Development) sets out criteria for assessing development in conservation areas.

Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

Policy Des 11 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

Policy Hou 2 (Housing Mix) requires the provision of a mix of house types and sizes in new housing developments.

Policy Hou 5 (Conversion to Housing) sets criteria for assessing the change of use to residential.

Policy Hou 7 (Affordable Housing) requires 25% affordable housing provision in residential development of twelve or more units.

Policy Tra 4 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in supplementary planning guidance, and sets criteria for assessing lower provision.

Policy Tra 5 (Private Cycle Parking) requires cycle parking provision in accordance with levels set out in supplementary guidance.

Non-statutory guidelines on 'SUB-DIVISION OF LISTED BUILDINGS' supplement local plan conservation and design policies, providing guidance on sub-division with the aim of protecting the character and appearance of listed buildings.

Non-statutory guidelines 'DAYLIGHTING, PRIVACY AND SUNLIGHT' set criteria for assessing proposals in relation to these issues.

Non-statutory guidelines on 'PARKING STANDARDS' set the requirements for parking provision in developments.

The Open Space Strategy and the audit and action plans which support it are used to interpret local plan policies on the loss of open space and the provision or improvement of open space through new development.

Non-statutory guidelines on the 'SETTING OF LISTED BUILDINGS' supplement local plan conservation and design policies, providing guidance for the protection and enhancement of the setting of listed buildings.

The Leith Conservation Area Character Appraisal emphasises the areas unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value

Appendix B



Application Type Planning Permission
Application Address: 89 Duke Street
Edinburgh
EH6 8HF

Proposal: Change the use of consented office conversion to 9 dwellings and alteration and sub-division to form 5 new dwellings, demolition of 3 outbuildings and ancillary building in former playground/car park.

Reference No: 12/03091/FUL

Conditions/Reasons associated with the Recommendation

It is recommended that this application be Granted by Committee, subject to any conditions, reasons and informatives stated below.

Conditions:-

1. No development shall take place until the applicant has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Head of Planning and Building Standards, having first been agreed by the City Archaeologist.
2. The design and installation 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.
3. The waste management facilities, as shown on the approved plans, shall be implemented prior to the occupation of the development to the satisfaction of the Head of Planning and Building Standards.
4. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and all planting, shall be submitted to and approved in writing by the Head of Planning and Building Standards before work is commenced on site.

5. The approved landscaping scheme shall be fully implemented within six months of the completion of the development, and thereafter shall be maintained by the applicants and/or their successors to the entire satisfaction of the planning authority; maintenance shall include the replacement of plant stock which fails to survive, for whatever reason, as often as is required to ensure the establishment of the approved landscaping scheme.

Reasons:-

1. In order to safeguard the interests of archaeological heritage.
2. In order to protect the amenity of the occupiers of the development.
3. In order to meet the Council standards for waste management and recycling.
4. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
5. In order to ensure that the approved landscaping works are properly established on site.

Informatives

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. Before any part of the development is occupied, the roadworks to secure suitable footway crossings and 2 metre solid access strips, shall be implemented at no cost to the Council and to the satisfaction of the Director of City Development.
3. Before any part of the development is occupied the roadworks, including a lighting column relocation, shall be implemented at no cost to the Council and to the satisfaction of the Head of Planning and Building Standards.

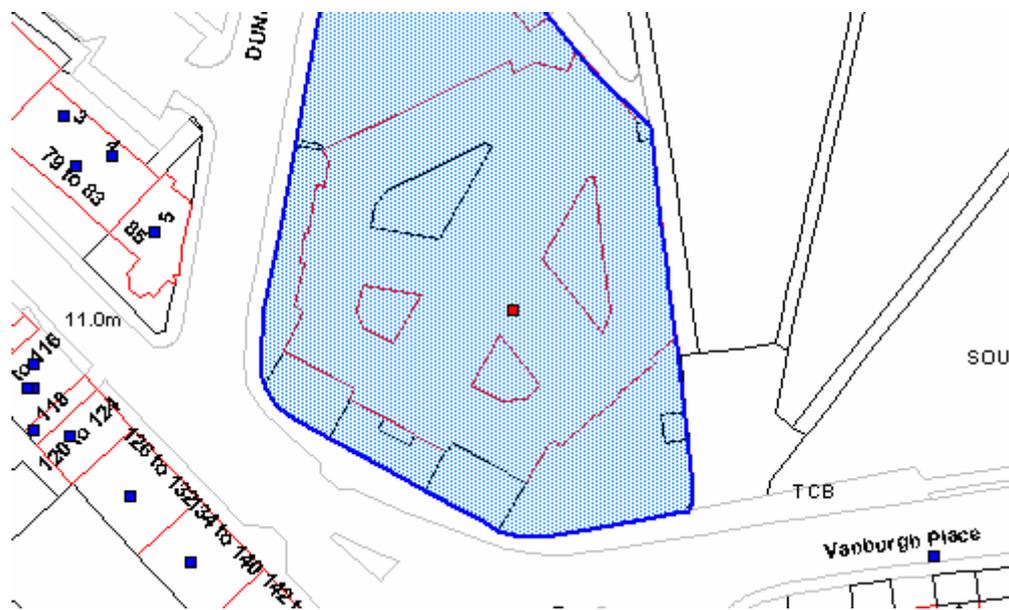
End

Appendix C

Application Type Planning Permission

Proposal: Change the use of consented office conversion to 9 dwellings and alteration and sub-division to form 5 new dwellings, demolition of 3 outbuildings and ancillary building in former playground/car park.

Reference No: 12/03091/FUL



Location Plan

Reproduction from the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office
© Crown Copyright.
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence
Number 100023420 The City of Edinburgh Council 2005.