

Development Management Sub Committee

Wednesday 17 April 2013

**Application for Listed Building Consent 12/04584/LBC
At 7 Clerk Street, Edinburgh, EH8 9JH
Demolition of the fly tower, single storey queue shelter and
associated structures to the rear of the auditorium of the
former Odeon cinema and infill of the existing opening in the
dividing wall between the auditorium and flytower**

Item number	9.1(b)
Report number	
Wards	A15 - Southside/Newington

Links

Policies and guidance for this application	LPC, CITE4, CITE6, NSLBCA, CRPSSI,
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Executive summary

Application for Listed Building Consent 12/04584/LBC At 7 Clerk Street, Edinburgh, EH8 9JH Demolition of the fly tower, single storey queue shelter and associated structures to the rear of the auditorium of the former Odeon cinema and infill of the existing opening in the dividing wall between the auditorium and flytower

Summary

The proposals comply with the development plan policies, have no adverse effect on the special character of the listed building and preserve the character and appearance of the conservation area.

Recommendations

It is recommended that this application be Granted subject to the details below (in section 3 of the main report).

Financial impact

There are no financial implications to the Council.

Equalities impact

This application has no impact in terms of equalities or human rights.

Sustainability impact

This application is not subject to the Edinburgh Standards for Sustainable Building.

Consultation and engagement

Pre-Application Process

Pre-application discussions took place on this application.

27 November 2012 - meeting with applicant, architect and Group Leader at which student residences were identified as potentially acceptable use for rear site. Also, a potential user for the former Odeon cinema was identified.

12 December 2012 - meeting with applicant, architect, Group Leader and case officer. A scheme for a 102 bedroom student residence was tabled as an enabling development to bring the former Odeon back into use, retaining the auditorium, but involving the demolition of the flytower. This approach was considered acceptable,

subject to general compliance with development plan policies. However, it was accepted that the scheme may not fully comply with design and daylighting/privacy guidelines given that it needed to be large scale to offset repair/maintenance costs and reduced rental income.

Publicity summary of representations and Community Council comments

The application was advertised on 11 January 2013. Two representations have been received, comprising support and general comments from the Cinema Theatres Association and the Cockburn Association.

The Associations welcome the retention of the auditorium and re-use of the former Odeon cinema.

The following material concern was raised:

- demolition would prevent re-use as theatrical venue.

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.

Background reading / external references

- [To view details of the application go to](#)
- [Planning and Building Standards online services](#)

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1. Background

1.1 Site description

The site comprises a former cinema and gap site to the rear.

The cinema was originally the New Victoria Cinema. It was also used for concerts in the 1970s and 80s. The building has been occupied by temporary entertainment users (during the Edinburgh Festival) since its closure on 23 April 2003 but remains largely vacant.

The main entrance to the building faces Clerk Street. The property has a large central portion containing the auditorium that is bounded by residential tenement blocks and associated gardens. The building narrows to the rear, which is accessed from Buccleuch Street (the western boundary of the site).

The building is category A listed. It was listed on 12 December 1974 (item number 30028).

The property was built as the New Victoria Cinema, which was executed by John Herdan (for W.E. Trent of London) in 1930. The building has been altered a number of times since the cinema opened to accommodate decorative fashions and fit-out requirements. In 1989, it was subdivided into five separate cinemas.

The front of the building is constructed in 'White Hathernware' faience and is designed in an Art Deco representation of the Classical style. This elevation is two-storey, with a loggia forming the first floor balcony. The ground floor was clad with dark red marble in 1956.

The internal accommodation comprises the following:

Entrance Foyer

The entrance foyer has been much altered and is currently in a poor state of repair. This area has false ceilings that have been partially removed to reveal service areas beneath and some evidence of original decorative detail.

Crush Hall

The crush hall sits behind the entrance foyer and extends the full width of the auditorium. This section is detailed in the same Art Deco representation of the Classical style as the façade. The crush hall has been altered, with the insertion of a suspended

ceiling and some modern door openings, although much of the original cornice detail and decorative detail to the walls remains.

Café

The first floor café retains much of its original wall and window detail (the windows were restored in 1999). However, the ceiling has been altered by the installation of hung circular ceiling panels.

Auditorium

The auditorium has been sub-divided horizontally to form three separate cinemas. The main cinema, which contains the balcony, has an atmospheric 'Greek Theatre' interior with channelled wall surfaces with Ionic order, niches with figures, a wide pedimented proscenium with octagonal Corinthianesque columns, a curved back wall with Ionic colonnades at balcony level, a Greek key gallery front and a sky ceiling with illuminated stars. The current cinema screen conceals the original proscenium arch.

The space beneath the balcony contains two further cinemas.

Fly Tower

Externally, the fly tower comprises a large windowless brick box to the rear of the auditorium. The stage, which once occupied the interior, was replaced with cinema screens 4 and 5 in 1989.

Buccleuch Street gap site

This site is located on the east side of Buccleuch Street directly behind the former Odeon cinema. Part of the site is occupied by a single storey, sandstone, hipped roofed structure, which was the queue shelter of the former cinema. The queue shelter is listed as a pre-1947 curtilage building. The site is bounded by four storey sandstone tenements with commercial uses at ground floor level.

This property is located within the Southside Conservation Area.

1.2 Site History

June 1999 - planning permission and listed building consent approved to alter front elevation and internal redecoration, and minor refurbishment (99/00283/FULand LBC).

March 2003 - planning permission and listed building consent approved for the erection of 9 units in a four storey residential development with accommodation in the attic space on a temporary car park site located on the east side of Buccleuch Street directly behind the Odeon cinema. (Applications 02/03976/FUL and 02/03976/LBC).

July 2005 - planning applications withdrawn for the demolition of cinema to form 240 bed student residence with bar/restaurant (class 3) accommodation, retaining existing Clerk Street façade. (Applications 05/00327/FUL and 05/00327/LBC)

January 2006 - application for a liquor licence (entertainment licence) refused at Licencing Board Meeting, 16 January 2006.

October 2007 - application submitted for the renewal of planning approval 02/03976/FUL. Awaiting conclusion of a legal agreement (07/04375/FUL).

January 2008 - listed building consent approved for the erection of 9 units in a four storey residential development (07/04666/LBC).

January 2008 - letter from Historic Scotland recommending the upgrading of the former Odeon Cinema, 7 Clerk Street, at Category A (15 January 2008). (It should be noted that in 2008 The Picture House, Hall Street, Campbeltown list description was updated and category changed from B to A as part of the Cinema Thematic Study 2007-08 (Historic Scotland Item Number 36)).

October 2008 - planning permission minded to grant for partial demolition and conversion of former cinema (in part) and new development to create hotel (incorporating bar/restaurant facilities), artist's studios/galleries and community facilities (08/00197/FUL). Consent was subject to the signing of a legal agreement, which was never undertaken.

May 2010 - Scottish Ministers refused listed building consent for partial demolition of and alterations (internal and external) to the listed building following a call-in of application 08/00197/LBC. This was in line with the DPEA Reporter's recommendation. The Reporter concluded that the auditorium is of particular interest as one of few remaining of this style in the UK and the work of an eminent architect. The scheme which would result from demolition would deliver economic benefits to the local community and nationally, but would not be so significant as to outweigh the presumption against demolition. The repair of the building is not economically unviable, and while no potential restoring purchasers have been found who are acceptable to the applicants there remains interest in the purchase of the building from parties whose intentions would be to preserve it.

June 2011 - planning permission refused for partial demolition and conversion of former cinema (in part) and new development to create hotel (incorporating bar/restaurant facilities), artist's studios/galleries and community facilities (08/00197/FUL). The application was re-assessed against policy Env 2 "Listed Buildings - Demolition" of the Edinburgh City Local Plan, which was adopted on 28 January 2010 and new and additional information on the marketing and valuation of the property. Material considerations in the decision notice refusing listed building consent in May 2010 were also considered.

June 2011 - listed building consent refused for partial demolition of and alterations (internal and external) to former Odeon cinema (11/00394/LBC). Refusal of listed building consent and planning permission was on the basis that the proposals failed to comply with Policy Env2 and did not have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Since January 2011, a number of meetings have been held with the owner regarding various options for re-use of the former cinema involving retention of the auditorium. None of these have produced a viable scheme.

February 2012 - listing category upgraded from B to A.

January 2013 - application for Certificate of Lawful Use issued for live entertainment and as a cinema (Class 11) with ancillary bar, restaurant and coffee shop premises (12/04368/CLP).

2. Main report

2.1 Description Of The Proposal

The proposals comprise partial demolition of the listed building, i.e. removal of the fly tower, and demolition of the former queue shelter on Buccleuch Street. The proposed internal alterations involve the infill of the opening in the dividing wall between the fly tower and proposed new seven storey, 102 bedroom student housing block.

The proposed new development forms part of the associated application for planning permission (12/04587/FUL).

A Planning and Design Statement, which includes a Conservation Plan, has been submitted by the applicants.

These documents are available to view on the Planning and Building Standards Online Services.

2.2 Determining Issues

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

2.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) the proposal adversely affects the listed building;
- b) the proposal preserves or enhances the character and appearance of the conservation area;
- c) comments raised have been addressed; and
- d) the proposals have any equalities or human rights impacts.

a) Impact on Character of Listed Building

The proposal involves the demolition of a relatively minor part of the listed building. The previous applications for demolition of the auditorium were assessed in terms of the Scottish Historic Environment Policy (SHEP) and policy Env2 of the Edinburgh City

Local Plan. However, these policies are not relevant to the current application as they concern total or substantial demolition of listed buildings.

Historic Scotland and The Theatres Trust, both statutory consultees, welcome the retention of the majority of the former cinema and its most significant parts and accept the loss of the fly tower section as this part is essentially utilitarian, containing no significant decorative features. The loss of the queue shelter has already been approved in previous consents.

The consultees' only concern was that the demolition of the fly tower would not compromise the future use of the remaining parts of the building. The stage and fly tower areas have not been in use for many years, as these areas have been occupied by Cinemas 4 and 5. As the building has not been in use as a theatrical venue for decades, it is highly improbable that there would be demand for this use in the future, particularly as Edinburgh Festival Theatre provides this facility in close proximity.

The need for demolition of the fly tower section is linked to a proposed enabling development, namely the 102 bedroom student residence to the rear of the auditorium. The scale of this development is critical to providing sufficient cross-funding to enable the re-use of the vacant A listed former cinema and cover its repair and on-going maintenance costs.

The cinema has been vacant for several years and previous attempts to re-use the property were rejected in planning terms due to requiring substantial demolition of the building. Recent propositions by third parties to re-use the building in its entirety have fallen through and the owner is left with a vacant property, the condition of which will continue to deteriorate without long-term occupation in a viable use.

A full assessment of the proposed enabling development is provided in the associated application for planning permission (12/04587/FUL).

Internally, there are no significant historic or architectural features as these areas were plainly detailed originally and were subsequently remodelled as additional cinema screens. The proposed infill wall will be to the rear of the original pedimented proscenium therefore no damage to important historic features will occur.

In conclusion, the loss of the fly tower is acceptable as it is not a key element of the listed building and its removal will allow an enabling development of sufficient scale to secure the re-use of the main parts of the former cinema.

A condition has been applied to ensure that the fly tower is recorded for historic purposes.

b) Impact on Character and Appearance of Conservation Area

The South Side Conservation Area Character Appraisal identifies the essential character of the Buccleuch Street area as sandstone built Georgian tenements with mews buildings behind. These predominantly four or five storey tenements follow a building line which lies to the heel of the pavement. The area to the north and west is characterised by 1960s international style architecture overlaid on the planned Georgian residential formality of George Square.

The former queue shelter to be demolished on Buccleuch Street is not of any special architectural or historic significance. Its demolition will have no detrimental impact on the character of the conservation area and the principle of removal has previously been approved. This will enable the infill of a gap site, which is uncharacteristic of this part of the conservation area being occupied by a single storey detached building.

c) Representations

The material concern raised is as follows.

- Demolition of the stage and fly tower areas would prevent future re-use as a large scale theatrical venue - this has been addressed in section 2.3 a). The former cinema has not functioned as a theatre for decades and demand for this use is highly unlikely in the future.

d) There are no apparent human rights or equalities issues.

The proposals comply with development plan policies, have no adverse effect on the special character of the listed building and preserve the character and appearance of the conservation area.

3. Recommendations

3.1 It is recommended that this application be Granted subject to the details below

3.2 Conditions/reasons

1. The application shall be notified to the Scottish Ministers prior to determination.
2. No works or development hereby authorised (including for the avoidance of doubt demolition of the existing former cinema flytower) shall take place until the planning authority has received satisfactory evidence to confirm that the proposed occupation of the remainder of the former Odeon cinema building, 7 Clerk Street, Edinburgh for the purposes of live entertainment and as a cinema within Class11 of the Town and Country Planning uses (Scotland) Order 1997 together with ancillary bar, restaurant and coffee shop premises (as approved under the terms of the certificate of lawful use ref: 12/04368/CLP issued by the planning authority on 14 January 2013) has commenced and contracts have been let for the associated enabling and internal fit-out works.
3. The Royal Commission on the Ancient and Historical Monuments of Scotland shall be given access to the site, at any reasonable time in a period of at least three months from the date of this consent, for the purposes of recording the building, structure or other item of interest.

Reasons:-

1. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

2. In order to safeguard the character of the statutorily listed building.
3. In order to safeguard the interests of architectural heritage.

Informatives

It should be noted that:

1. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

Statutory Development

Plan Provision

The site is within the Edinburgh City Local Plan in an Urban Area. The Clerk Street frontage is within the Nicolson Street/Clerk Street Shopping Centre on a safeguarded Tram Route.

Date registered

23 December 2012

Drawing numbers/Scheme

01 - 04

Scheme 1

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Links - Policies

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.

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

Appendix 1

Consultations

No consultations undertaken.

Location Plan



