

Development Management Sub Committee

Wednesday 28 August 2013

**Application for Planning Permission 13/01440/FUL
At 7 Bruntsfield Terrace, Edinburgh, EH10 4EX
Change of use from dwelling house to private day nursery.**

Item number	4.2
Report number	
Wards	A10 - Meadows/Morningside

Links

Policies and guidance for this application	LPC, CITE4, CITE6, CITH6, NSG, NSLBCA, NSBUS, OTH, CRPMER,
--	--

David R. Leslie

Acting Head of Planning and Building Standards

Contact: Barbara Stuart, Planning Officer
E-mail: barbara.stuart@edinburgh.gov.uk Tel: 0131 529 3927

Executive summary

Application for Planning Permission 13/01440/FUL At 7 Bruntsfield Terrace, Edinburgh, EH10 4EX Change of use from dwelling house to private day nursery.

Summary

The proposals are a departure from the development plan and non-statutory policies as there will be loss of housing stock and there may be some minor detrimental impact on residential amenity. There will be no adverse effect on the character or appearance of the conservation area or the setting of the listed building. Human rights have been considered and on balance the benefits are positive.

Balancing the range of considerations, the nursery would contribute positively to the local community and enhance the quality of life for young families with children and this outweighs any possible impact on residential amenity or loss of housing stock.

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 was assessed in terms of equalities and human rights. The impacts are identified in the assessment section (e) of the main report.

Sustainability impact

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

Pre-Application Process

There is no pre-application process history.

Publicity summary of representations and Community Council comments

The application was advertised on 10 May 2013. There have been seven letters of objection. The letters of representation raised the following material issues:

- loss of viable housing stock.
- Impact on the character and appearance of the conservation area.
- Loss of residential amenity due to noise.
- Increased traffic and parking problems.

Non-material representations:-

- Noise impact on business neighbours.

No comments were received from the Community Council.

Background reading / external references

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

Application for Planning Permission 13/01440/FUL At 7 Bruntsfield Terrace, Edinburgh, EH10 4EX Change of use from dwelling house to private day nursery.

1. Background

1.1 Site description

The property is currently a detached two storey villa in large garden grounds with a drive to either side of the front garden. It is on the south side of Bruntsfield Terrace and overlooks Bruntsfield Links to the north. To the west is a complex of offices (6 Bruntsfield Terrace) and to the east is a residential villa (8 Bruntsfield Terrace). The house dates from 1855-57 and was B listed on 12/12/1974 (Ref: 26899).

This property is located within the Merchiston and Greenhill Conservation Area.

1.2 Site History

There is no relevant planning history for this site.

2. Main report

2.1 Description Of The Proposal

The application is for a change of use from dwelling to private day nursery for pre-school age children. The nursery will be registered for approximately 54 children. Hours of operation will be from 8am to 6 pm Monday to Friday.

There are supporting statements that accompany this application. These documents are available to view on the Planning and Buildings Standards Online Services.

2.2 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?

2.3 Assessment

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

- a) the proposed change of use is acceptable in this location;
- b) the character and appearance of the conservation area is preserved or enhanced and there is no adverse impact on the setting of the listed building;
- c) there is any adverse impact on residential amenity;
- d) there is any adverse impact on traffic or road safety;
- e) any impacts on equalities or human rights are acceptable; and
- f) comments raised have been addressed.

a) The Acceptability of the Proposed Use in this Location:

Policy HOU 6 of the Edinburgh City Local Plan presumes against the loss of residential units unless:

- *the property provides a poor living environment which could not readily be improved*
- *the proposal is for a use that will benefit the local community without loss of amenity for neighbouring residents.*

The building currently fulfils its role as dwelling and is not providing inferior accommodation. However a change of use to nursery will provide a sought after local service that will be of benefit to the local community. The applicant has provided a supporting statement which indicates that there is a considerable need for additional nursery accommodation in this area. They currently operate a nursery in Forbes Road, in the immediate vicinity of the application site, and have an extensive waiting list for places. Therefore it has been demonstrated that the loss of housing stock can be justified by the provision of a community service. However, there is a potential adverse impact on residential amenity and so the proposals do not entirely comply with Policy HOU6

Although the site is in a residential area, it is close to the commercial activities of Bruntsfield Place and across the road from Bruntsfield Links and so is an area that is already active. The Links will provide the nursery with the opportunity to access good quality open space and enhance the learning experience for the children. It is close to a large number of bus routes which will enable staff and customers to access the site without driving. The provision of a new nursery will be of benefit to the local community and will not be at odds with the character of the area. Therefore the proposed use is suitable in this location.

Although the proposals do not fully comply with HOU6 as there may be some impact on residential amenity, in all other respects the site represents a suitable location for a day nursery and an exception is justified.

b) Impact on the Character and Appearance of the Conservation Area:

The Merchiston and Greenhill Conservation Area Character Appraisal highlights

“The general atmosphere of most of the area is of high amenity and serenity. However, this is in contrast to the main through routes which are characteristically places of activity in terms of social and commercial activities, and traffic movement.”

The site is on a residential street close to Bruntsfield Place, a busy commercial street. Although the nursery is not directly on this street, its proximity will mean that it is not at odds with the character of the area. There will be no outward changes to the appearance of the building which will mean that it will have minimal impact on the appearance of the conservation area. The use will be compatible with the character of the conservation area.

As there will be no change to the exterior, there will be no detrimental impact on the setting of the listed building.

c) Impact on Residential Amenity:

The Noise Impact Assessment that was submitted assessed possible impact from noise to residential neighbours by criteria specified by Environmental Assessment. This assumed neighbouring windows were open. The results of this document found that the stone boundary wall around the rear garden would protect neighbours in their gardens and on their ground floor from excessive noise when the children are in the garden but that first floors would be subject to a noise level in excess of what Environmental Assessment would find acceptable.

It has been suggested by the applicant that the garden could be divided in two to focus noisy activities away from residential neighbours. However the enforcement of this arrangement would be very difficult. It is also unreasonable, in enforcement terms, to prohibit outright the use of the garden by the nursery as an outdoor activity space.

The supporting statement provided by the applicants indicates that they have operated a nursery for 17 years at Forbes Road, in the same neighbourhood as the application site, with some initial complaints that eased off as relations with the neighbours became established. A complaint was received in May 2013 about the number of children in the garden and after investigation by the Council no further action was taken. A further nursery operated by them on Claremont Park has never received any complaints. There is no established record of this operator causing particular problems for Environmental Assessment's Noise Team.

The application site is located near a busy thoroughfare and across the road from a well used park, both of which generate an ambient noise level associated with such a level of activity. Any perceived noise from the nursery would be with the backdrop of the noise from these activities.

By the criteria established by Environmental Assessment, there may be some detrimental impact on neighbouring premises from noise of children in the garden when their upper floor windows are open. However, this should be considered in the context of the background noise that may be associated with being close to the park and Bruntsfield Place. On balance, the house presents a suitable environment for a

nursery and the benefits of its use as one outweighs the minimal effect it may have on residential amenity.

d) Impact on Road Safety:

Transport has not objected and it is expected that most arrivals and departures of children from the nursery will be conducted by foot. Those who use cars spread the times of drop off and pickup. There is limited parking space available to the front and in metered sections of the street. The site is immediately adjacent to a large number of bus routes which would help negate the need for clients and staff to use cars. Therefore it is not expected that there will be an undue impact on parking, traffic or road safety.

e) Impact on Equalities and Human Rights:

The proposals may have a minor negative impact on neighbouring amenity as the Noise Impact Assessment has indicated that there may be some disturbance when the children are in the garden and neighbours have their windows open. However, the house is detached so there will be no noise issues from indoor activities. Hours of operation are limited to 8am to 6pm Monday to Friday and so there will be no infringement on residents' quality of life in general.

Positive impacts will be enhanced provision of local pre-school child care that will enable young families to access an important service and enhance their quality of life. It will provide good quality learning and care environment for young children with access to both secure external space in the rear garden and to the Links on the opposite side of the road.

The possible negative impact on human rights is minor, and the potential positive impact is high. The negative impact in this instance will be outweighed by the positive impact that this proposal will bring.

In order to become registered as a day nursery, the applicants will need to meet criteria set by the Care Commission and demonstrate that their service will offer dignity, privacy, choice, safety, equality and diversity and allow the realisation of potential. Building Standards as part of the Building Warrant process will require the building to be accessible and will require ramps and accessible toilets. It is intended that the ramps will be temporary and unfixed to the listed structure. Modifications to the listed structure will need to be dealt with under a separate application for Listed Building Consent.

Therefore the proposed nursery is not considered likely to result in any issues of equalities.

These factors have been taken into account of as part of the assessment and merits of this application and are addressed in assessments a) and c).

An Equality and Rights Impact Assessment can be viewed on the Planning and Building Standards online services.

f) Representations:

Material representations:

- issues of use and loss of housing stock (addressed in assessment (a)) where the loss of housing stock is justified by the gain in terms of a community facility and the appropriateness of the location in its proximity to a transport corridor and public park.
- impact on the character of the conservation area (addressed in assessment (b))
- issues of residential amenity (addressed in assessment (c)) where it is argued that the possible impact on residential amenity from noise when windows of adjacent properties are open is minor compared to the benefits that the proposal brings. The issue of residential amenity has only been raised by business neighbours.
- issues of parking and road safety (addressed in assessment (d)) where it is explained that Transport has no objections and that most arrivals and departures to the nursery will be conducted by foot.

Non-material comments relate to:

- impact on the amenity of business neighbours. Business neighbour's amenity is not considered and protected by the planning process.

Conclusion:

The building that is the subject of this application would create an acceptable location for a nursery having a private rear garden whilst also having access for supervised play on Bruntsfield Links on the opposite side of the road. It is detached, so will present no nuisance to neighbours from sound travelling through party walls. The proposals will provide a required provision of nursery care for the surrounding area in a location that will provide a stimulating learning environment. The possible issues of noise affecting residential neighbours will primarily occur when their upper windows are open. On balance, the potential nuisance value is limited and in all other respects the building offers a good location for a nursery.

The proposals are a departure from the development plan in that the proposed use may have some effect on residential amenity. It will have no adverse effect on the character or appearance of the conservation area or the setting of the listed building and will not have an impact on road safety. There are no other material considerations which outweigh this conclusion.

It is recommended that the Committee approves this application, subject to the conditions and informatives attached.

3. Recommendations

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

3.2 Conditions/reasons

1. Hours of operation will be from 8AM to 6PM Monday to Friday.

Reasons:-

1. In order to safeguard the amenity of neighbouring residents and other occupiers.

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.

Statutory Development

Plan Provision

Date registered 25 April 2013

Drawing numbers/Scheme 01,

Scheme 1

David R. Leslie

Acting Head of Planning and Building Standards

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.

Policy Hou 6 (Loss of Housing) identifies the circumstances in which the change of use of an existing dwelling to another use will be permitted.

Relevant Non-Statutory Guidelines

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

Non-statutory guidelines 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

Other Relevant policy guidance

The Merchiston & Greenhill Conservation Area Character Appraisal emphasises the consistent domestic grain, scale and building mass; the high quality stone built architecture of restricted height, generous scale and fine proportions enclosed by stone boundary walls and hedges which define the visual and physical seclusion of the villas; the uniformity resulting from the predominant use of traditional building materials; and the predominance of residential uses within the area

Appendix 1

Consultations

Transport

No objections

Environmental Assessment

The application is for a change of use from an existing detached residential building to private day care nursery for children between the ages of newborn to five years old. The property is located on Bruntsfield Terrace which fronts onto Bruntsfield Links. There is a residential property neighbouring at 8 Bruntsfield Terrace and an office at 6 Bruntsfield Terrace. The application site has a large garden to the rear which backs onto 1 Greenhill Gardens which is also residential. It is proposed that the nursery will be operating during daytime hours Monday to Friday.

The applicant has submitted a noise impact assessment which has considered the noise impacts from the rear garden area on the surrounding residential properties.

It concludes that the noise levels generated in the proposed outside play area would exceed the recommended noise limits inside the neighbouring residential properties. The applicant suggested that the noise impact could be mitigated by only using the western half of the garden for the play area and the eastern half for storytelling, these areas would be divided by an acoustic fence. Environmental Assessment had concern that this form of mitigation would not work as some of the neighbouring residential properties would still have a direct line of sight onto the play area. Nevertheless Edinburgh Council Planning Enforcement Officers have confirmed that this method of mitigation is not enforceable. Therefore Environmental Assessment cannot consider this as an appropriate method of mitigation.

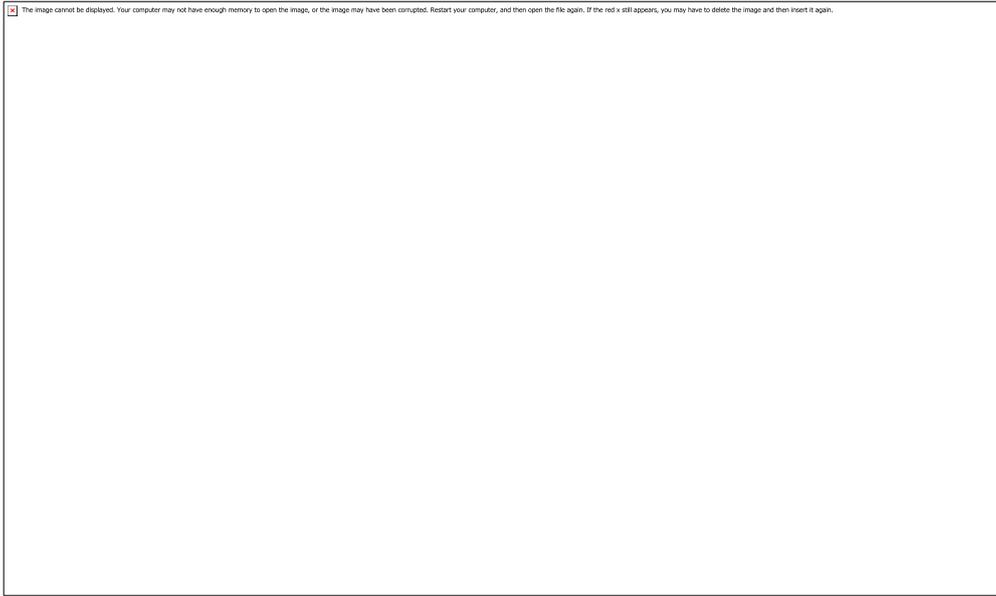
Planning Enforcement Officers have also confirmed that a condition restricting the use of the entire or part of the garden area would be unreasonable. Therefore Environmental Assessment cannot consider this as an appropriate method of mitigation.

The predicted noise levels stated within the applicant's noise impact assessment indicate that noise from the outside play area is likely to exceed Environmental Assessments recommended levels by a minimum of 6dB within the residential property next door. The recommended levels are based upon those found within BS8233:1999 Sound Insulation and Noise Reduction for Buildings – Code of Practice and are deemed representative of an acceptable internal noise level. This level of exceedance indicates that complaints are likely from the neighbouring residents.

It is therefore the opinion of Environmental Assessment that the noise levels predicted to affect the residential property next door from children playing outside the proposed nursery are likely to impact upon the neighbouring residential amenity.

Environmental Assessment recommends that the application be refused.

Location Plan



© Crown Copyright and database right 2012. All rights reserved. Ordnance Survey License number 100023420

END