

Development Management Sub Committee

Wednesday 14 January 2015

**Application for Planning Permission 14/00123/FUL
At 2F, 10A Queensferry Street, Edinburgh
Change of use from existing office (Class 4) to form four
one-bedroom apartments (as amended to three).**

Item number	4.6
Report number	
Wards	A11 - City Centre

Summary

The proposed change of use complies with the Development Plan. It is considered that there are compelling reasons which justify a departure from the Environmental Assessment recommendation. The noise short comings of this site caused by the presence of the night club, and to a lesser extent restaurant extract noise and traffic, are outweighed by the site being a city centre location in an existing mixed activities area, where tenements and flats exist in the midst of commercial uses and which are subject to similar environmental issues.

Links

<u>Policies and guidance for this application</u>	CITH5, CITE4, CITH8, CITE6, NSLBCA, NSP, CRPNEW,
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Report

Application for Planning Permission 14/00123/FUL At 2F, 10A Queensferry Street, Edinburgh Change of use from existing office (Class 4) to form four one-bedroom apartments (as amended to three).

Recommendations

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

Background

2.1 Site description

The property is Category B listed, designed by James Gillespie Graham and dated 1823. It consists a 4-storey, 7-bay classical tenement with later timber and plate glass shop premises at ground floor. It was listed on 12 December 1974 ref: 30150.

The site is on the corner of Queensferry Street Lane, on the second floor of a block which has shops at ground floor, a Chinese restaurant at first floor and flats on the top floor. The site, the flats and the restaurant are all served off the same stair entrance to the street. The lane to the side is narrow single track and has a setted finish. An entrance to a basement night club known as the Castle Club is opposite the rear corner of the site in the lane in the form of a steel security door. The Castle Club is licensed to open from 10am to 3am daily. The Chinese restaurant below the site is ventilated by a single flue on the rear edge of the roof, 10 metres from the rear facade of the site, which exhausts westwards away from the site. There are some air conditioning coil fans on the vertical rear wall of the building but at lane level.

The site is part of the Edinburgh World Heritage Site.

This application site is located within the New Town Conservation Area.

2.2 Site History

7 November 2013 - Previous application for same development, (9 offices to 4 apartments) withdrawn (13/3939/FUL).

Main report

3.1 Description Of The Proposal

The proposal, as amended, is to change the second floor of the building to three apartments from offices, with bedrooms to the front and lounge/kitchen accommodation to the rear. Flats 1 and 2 will be single bedroom apartments. Flat 3 will be a two bedroom apartment.

Scheme 1 - Four one bedroom flats proposed.

3.2 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.

In considering whether to grant consent, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. 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?

3.3 Assessment

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

- a) the proposed use is acceptable in this location;
- b) the use will result in any loss of amenity for occupants;
- c) there would be any impact on the character and appearance of the conservation area;
- d) there are any highway issues;
- e) the objection received has been addressed; and
- f) there are any equality or human rights issues.

a) Proposed Use

The application relates to an upper floor unit, originally in residential use but which is currently in office use. Converting this floor back to residential is consistent with the physical layout of the floor and is supported by Policy H5 of the local plan - returning commercial properties to residential use within the city centre, subject to other policies in the local plan. Therefore the use is consistent with the development plan subject to these other considerations and is acceptable.

b) Amenity

In terms of amenity, the site is on a very busy street with both pedestrian and vehicular traffic. A bus stop and other commercial premises surround it at street level.

A night club is present in the basement opposite in the lane but only the door access is directly onto the lane. The night club has a license for daily use between 10am and 3am but tends to operate at the end of the week for 2-3 days only.

Policy H8 of the local plan seeks to safeguard against any detrimental effects on the living conditions of nearby residents from changes of use. The change to residential use will have a positive impact on the existing residential community within the area.

Policy Hou 5 seeks to ensure that any conversions to residential use create an acceptable living environment for the occupiers. The site is located within the City Centre core where a mix of uses is encouraged. The main conflict in achieving an acceptable residential environment for the occupiers is the presence of the night club on the adjacent Queensferry Street Lane.

Environmental Assessment is concerned that with windows open, the new residents may be subject to unacceptable noise from patrons of the night club congregating on the lane below, and from occasional noise emanating through the open door to the basement of the club. This may lead to a loss of amenity for occupiers of the future flats and potentially resulting in noise complaints which might ultimately compromise the operation of the night club. On this basis Environmental Assessment have recommended refusal of the application.

Environmental Assessment also confirmed that there are a number of complaints on record from local residents relating to noise from the club late at night. These have come from Shandwick Place, Hope Street and Queensferry Street Lane. Complaints range from hearing music directly from the club, street noise and patrons smoking outside the club. However, not all the complaints have been substantiated and the club was forced to revise its door security and crowd dispersal procedures.

The proposals have been reconfigured to amend the internal layout to reduce the number of properties from 4 to 3 to allow bedrooms to be relocated away from the potential conflict. The revised internal layout now provides kitchen, bathroom and lounge windows along this elevation. There are no bedrooms on to Queensferry Street Lane which would be occupied when the night club is in operation.

Restaurant Ventilation

The applicant has carried out a number of noise surveys to assess the impact of the ventilation system of the ground floor restaurant on the amenity of the future occupiers. High acoustic performance windows with trickle vents were recommended by the noise analyst. To mitigate the concerns, the applicant has moved the more sensitive habitable bedroom accommodation from the back to the front of the building looking over the main street and rearranged the layout to form three flats instead of four.

There is an extract flue from the restaurant which is situated to the rear elevation of the building. Environmental Services have expressed concern about the impact of this on the amenity of the properties. The extract duct is located approximately 10 metres from the rear of the application site and is vented away from the properties. The extract is also partly screened by the roof of the restaurant.

Applicant's Supporting Statement

The applicant's contention is that the night club opens only 2-3 times a week, that there are flats above the site which are equally affected by the presence of the night club in the lane and the restaurant ventilation; that they are a charity and have marketed the site for over a year without interest being shown in any commercial let or sale. Only interest has been shown in residential development. It also states that the charity need to expand into larger premises and that the charity's capital is locked into the site and that this needs to be released in order for them to move to new premises.

On balance, the presence of a night club may cause occasional nuisance to occupiers of the proposed flats, but this can be mitigated by closing the windows when necessary, and otherwise the bedrooms will be to the front away from direct impact by noise from the lane. Triple glazing with night vents will mitigate against external noise for the majority of the time.

The proposed change of use to residential use is considered to create an appropriate residential environment for the occupiers of the premises. A condition is proposed for the glazing of the properties as recommended in the noise survey.

c) Conservation Area

The New Town Conservation Area Character Appraisal states under the heading of Activities and Uses:-

This area has been subject to increasing pressure from commercial uses. Shandwick Place, the western extension of Princes Street, has become a significant retail location with purpose built properties replacing the original Georgian houses. Less intensive retail use has also colonised Alva Street and William Street behind Shandwick Place and the cross streets of Stafford Street and Queensferry Street. Adjacent to these retail areas, many of the original Georgian buildings are used for offices.

There are no external changes to the building proposed, apart from the glazing. The use reverts this floor of the block to residential use so that there will not be any impact on the local environment and therefore the character and appearance of the architecture or the essential mixed character of the conservation area.

d) Transport

There is no minimum requirement for on-site car parking in this city centre location and the site is right next door to a bus stop and close to the Tram route. It is not considered that any parking provision is necessary and that there will be no detrimental impact on highway safety as a result of this development.

e) Comments Received

The site/floor of the building was originally residential and it is unlikely that the three flats (as amended from four) will generate any more noise than the current office use. There should not be any loss of amenity for the flats above as a result of this development. The objection has therefore been addressed.

f) Equalities and Human Rights Impacts

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

Conclusion

The proposed change of use complies with the Development Plan. It is considered that there are compelling reasons which justify a departure from the Environmental Assessment recommendation. The noise short comings of this site caused by the presence of the night club, and to a lesser extent restaurant extract noise and traffic, are outweighed by the site being a city centre location in an existing mixed activities area, where tenements and flats exist in the midst of commercial uses and which are subject to similar environmental issues.

Consequently, the application is recommended for approval subject to a condition to ensure that new acoustic triple glazing with night vents is installed in the most noise sensitive rooms of the site.

There are no material considerations which outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. Details of triple glazing and night vents shall be fitted in flat three (2 windows to rear and two to the lane) shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.
2. The new glazing system so approved shall be implemented prior to the new flats first being first occupied.

Reasons:-

1. In order to protect the amenity of the occupiers of the development.
2. In order to protect the amenity of the occupiers of the development.

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.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

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

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

Advertised on 24 January 2014.

Material representations

One letter received from a neighbour in a flat above the site on the grounds that four more households will create a lot more noise.

The above comments are addressed in paragraph c) of the Assessment section of this report.

Background reading/external references

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

**Statutory Development
Plan Provision**

Allocated as Primary Shopping Frontage at street level within the Central Area in the Edinburgh City Local Plan.

Date registered

14 January 2014

Drawing numbers/Scheme

01 - 02; 03A,

Scheme 2

David R. Leslie

Acting Head of Planning and Building Standards

Contact: Duncan Robertson, Senior planning officer

E-mail:d.n.robertson@edinburgh.gov.uk Tel:0131 529 3560

Links - Policies

Relevant Policies:

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

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

Policy Hou 8 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

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.

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

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

Appendix 1

Application for Planning Permission 14/00123/FUL At 2F, 10A Queensferry Street, Edinburgh Change of use from existing office (Class 4) to form four one-bedroom apartments (as amended to three).

Consultations

Environmental Assessment

The application proposes the change of use of office premises to residential flats. A restaurant is situated below with residential properties and office premises above. The entrance to a club is situated to the south-east on Queensferry Street Lane. A restaurant entered off Queensferry Street is situated across Queensferry Street Lane to the south east.

Environmental Assessment has concerns in relation to this application.

The application site is surrounded by a number of uses and noise sources which are likely to impact upon the residential amenity by way of noise. To the north-east, Queensferry Street is a well trafficked central street with significant traffic noise.

To the south-east, across Queensferry Street Lane, is the entrance to a nightclub open until the early hours. The application proposes to site bedroom windows looking directly over the club entrance. The Council has a number of complaints on record from local residents relating to noise from patrons of the club premises coming and going late at night. This application proposes to bring residential properties closer to the club and associated entrance and this section would be concerned that music noise from the club as well as patron noise could impact upon the residential amenity of the proposed properties. Supporting information from the agent advises that double or triple glazing could address this issue however no confirmation has been provided that this would indeed be the case. In any case, this section would not support the use of glazing to address commercial noise as the occupants should be allowed to open their windows for ventilation purposes subsequently negating any noise mitigation effects provided by the glazing. The supporting information advises that there will be no impact from the club operations but a noise impact assessment has not been provided which confirms this to be the case.

A number of pieces of plant surround the site to the south-east and to the rear at the south-west. In addition, a noisy ventilation system operates to the rear of the premises. No information has been provided which would prove that noise from the surrounding plant will be within the levels supported by this section to ensure no disturbance occurs to the residents of the proposed properties (with windows open).

A restaurant is situated directly below the application properties which has the potential to impact upon the amenity of the properties by way of noise. No supporting information

has been provided which would indicate that this issue has been assessed and remains a concern of this section.

A low level ventilation flue extract point is situated to the rear of the application premises which will be lower than the window height of the proposed residential properties and around 10 metres away. There remains a concern that odours from the ventilation extract will enter the application properties should the windows of the properties be opened by any future occupants.

In conclusion, Environmental Assessment is of the opinion that the noise and odour sources surrounding the application premises are likely to seriously and cumulatively decrease the level of amenity within the proposed properties. In addition, the occupants of the properties which include windows to rear may be unable to open them for ventilation purposes due to odours and noise from the rear. Whilst to the front, it is unlikely that windows will be able to be opened due to the significant street and traffic noise affecting this facade. In effect, the general amenity of the properties is likely to be poor.

It is also likely that the introduction of these residential premises will impact upon the operations of the surrounding commercial premises should the future occupants complain to the Council with regards to noise or odours. Such complaints can lead to the surrounding operations being unable to meet their obligations in terms of noise, odours or licensing and ultimately could be forced to close.

Environmental Assessment recommends that the application is refused.

Environmental Assessment Addendum

Following our site visit on 11th November and post-discussion I write to confirm a number of further details which are relevant to the aforementioned application.

Colleagues in the Licensing Team have confirmed that the adjacent club, currently Castle Club, 3a Queensferry Street Lane, has a standard premises license which allows them to operate daily from 11am to 3am, and later (5am) during the summer and winter festivals.

Generally the Noise and Licensing Teams received complaints from a number of different residents in the area about noise from the club operations each year. Complainants residents range from addresses on Shandwick Place, Hope Street, Queensferry Street Lane. Complaints range from hearing music directly from the club, street noise and patrons smoking outside the club. Not all complaints are substantiated however in 2012 officers took action whereby a review of door security/crowd dispersal procedures were undertaken.

This information substantiate our concerns about bringing residential use into closer proximity to the Licensed premises.

