

Development Management Sub Committee

Wednesday 22 April 2015

**Application for Planning Permission 14/05167/FUL
At 41 South Clerk Street, Edinburgh, EH8 9NZ
Change of use from post office (class 1) to bistro (class 3)
and erect 2 No. 150mm diameter flues painted black to match
existing pipework to rear of building (as amended).**

Item number	4.1(a)
Report number	
Wards	A15 - Southside/Newington

Summary

Whilst the proposal exceeds the number of non-shop uses within a defined shopping centre as stated in Policy Ret 10 of Edinburgh City Local Plan, the proposal is of an appropriate commercial use which would complement the character of the centre and would not be detrimental to its vitality and viability. In addition it complies with Policy Env 6 Conservation Area - Development and Policy Env 4 Listed Buildings Extension and Alterations. There is no detrimental loss of residential amenity. There are no other material considerations which outweigh this decision.

Links

Policies and guidance for this application	LPC, CITR10, CITR12, CITE6, CITE4, NSG, NSBUS, NSLBCA, OTH, CRPSSI,
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Report

Application for Planning Permission 14/05167/FUL At 41 South Clerk Street, Edinburgh, EH8 9NZ Change of use from post office (class 1) to bistro (class 3) and erect 2 No. 150mm diameter flues painted black to match existing pipework to rear of building (as amended).

Recommendations

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

Background

2.1 Site description

The site lies on the east side of South Clerk Street and relates to the ground floor and basement of a former post office building with three floors of residential properties above. It is within a row of retail premises and the Kings Hall lies to the south.

The application property forms part of a 4-storey stone tenement block built circa 1850. The building is category C listed and was listed on 28 April 1977 (Ref: 28551).

This application site is located within the Southside Conservation Area.

2.2 Site History

22 August 2013 - Advertisement consent was refused and enforced for fascia signage; (application number 13/01543/ADV).

27 November 2014 - Listed Building Consent was granted for the removal of post box plate and door from front elevation; (application number 14/04070/LBC).

15 December 2014 - An application for Listed Building Consent was submitted for internal alterations to vacant post office to form bistro and erection of 2 No. 150mm flues painted out black to rear of building (application number 14/05168/LBC). This application is pending decision.

Main report

3.1 Description Of The Proposal

Scheme 2

The application proposes a change of use from post office (class 1 Shops) to bistro (class 3 Food and Drink) and to erect 2 No. 150mm diameter flues taken up to roof level at rear of building and painted black to match the existing pipework to rear of building. An extract fan is also proposed to achieve a maximum of 30 air changes per hour.

Scheme 1

The proposed flues to the rear of the building were lower in height.

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 development is acceptable in this location;
- b) the proposed flues respect the character and appearance of the conservation area;
- c) the proposal will result in the unnecessary damage to historic structures or diminish its interest as a listed building;
- d) the proposal will result in an unreasonable loss of neighbouring amenity;
- e) any impacts on equalities or human rights are acceptable; and
- f) comments raised have been addressed.

a) Location of Development

The site falls within the town centre of Nicolson Street/Clerk Street but outwith a primary frontage.

Policy Ret 10 states that a change of use will be permitted to a non-shop use provided:

- (a) permitting the change of use would not result in four or more consecutive non-shop uses; and

- (b) the proposal is for an appropriate commercial or community use which would complement the character of the centre and would not be detrimental to its vitality and viability.

In this case there are two shop uses to the north and to the south of the site lies the Kings Hall which despite lying within a defined shopping centre is a community church. Beyond this are two non-shop uses then an empty unit. It is accepted that, by granting the change of use this would result in four consecutive units in a non-shop use. However, the proposal lies within a cluster of commercial uses.

At the time of the site visit there were two units which were closed and not trading within this part of South Clerk Street. The conversion of a vacant unit, which fails to contribute to the centre's vitality on a major thoroughfare, can be supported at a time when shops do not appear to be viable. An exception to policy is justified as such a change would not adversely affect the vitality and viability of the shopping centre.

The proposal is of an appropriate commercial use which would complement the character of the centre and would not be detrimental to its vitality and viability.

An exception to policy Ret 10 is justified.

Policy Ret 12 supports restaurants and cafes in principle in designated shopping centres provided this will not lead to an unacceptable increase in noise, disturbance, or on-street activities to the detriment of living conditions for nearby residents and provided there is not considered to be an excessive concentration of such uses. The proposal lies within a parade of shops where there is a mix of uses. The issues regarding disturbance to neighbouring properties are assessed in section 3.3(d).

The proposed development is acceptable in this location.

b) Impact of proposed flues on Character and Appearance of the Conservation Area

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

The external alterations associated with the change of use of the building are to the rear of the building and face onto a shared drying green. The new pipe work is of similar scale to the existing and painted in black to match the existing pipe work so there is no detrimental impact upon the appearance of the listed building and the conservation area.

The proposal complies with Policy Env 6 of Edinburgh City Local Plan.

c) Listed Building

The internal alterations involve removing the existing serving counter and forming a new partition wall which is in keeping with the Council's Guidance for Listed Buildings and Conservation Areas as the internal arrangement is relatively plain and there are no features of architectural interest.

Externally new flues are proposed of a similar scale and painted the same colour as the existing pipe work. There is no detrimental impact upon the appearance of the listed building.

The proposal complies with Policy, Env 4 of Edinburgh City Local Plan.

d) Neighbouring Amenity

The site lies outwith an area of restriction as defined within the Council's Guidance for Businesses but within a cluster of existing commercial uses, where there are residential units above the application site. The Guidance supports cafes and takeaways within such areas provided it will not lead to an unacceptable increase in disturbance, on-street activity or antisocial behaviour to the detriment of the living conditions of nearby residents.

Environmental Assessment has concern regarding noise to neighbouring properties. Likely noise sources from proposed operations on the premises are kitchen machinery, kitchen activity, patron conversation, music, and externally, waste collections at the rear. The premises are located in a busy city centre area where existing background noise is high and it is commonplace to find class 3 uses situated beneath residential flats. The agent has outlined measures such as thermal insulation to overcome any increase in noise which would be assessed at building warrant stage; therefore a noise impact assessment is not required in this instance.

Revised plans have been submitted showing the new flues positioned externally in such a manner that does not affect the existing residential amenity. A new kitchen is to be formed with ventilation to the rear. A condition is recommended to ensure that there is satisfactory ventilation to protect the amenity of the neighbouring residential properties.

There is no significant loss to neighbouring amenity.

e) Equalities or human rights impacts

This application was assessed in terms of equalities and human rights. No impact was identified. A copy can be found on the Planning and Building Standards online services.

f) Public Comments

No comments have been received.

Community Council

No comments were received.

Conclusion

In conclusion, the proposal is an acceptable infringement of Policy Ret 10 of the Edinburgh City Local Plan as it exceeds the number of non-shop uses within the defined shopping centre. The scale, form and design of the proposal would preserve the character and appearance of the conservation area and would not result in the unnecessary damage to historic structures or diminish its internal alterations. There is no significant loss of residential amenity subject to a condition requiring adequate ventilation. No impact on equalities and human rights was identified.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. No development shall take place until the ventilation ducts shown on drawing number 3A are installed and before the use is taken up, the kitchen shall be ventilated by a system capable of achieving 30 air changes per hour.

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.
2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
4. This consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.
5. This application relates to a flatted building. This planning permission does not affect the legal rights of any other parties with an interest in the building. In that respect, the permission does not confer the right to carry out the works without appropriate authority.

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:

The application has been assessed and has no impact in terms of equalities or human rights.

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

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

No representations have been received.

Background reading/external references

- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Edinburgh City Local Plan and Rural West Edinburgh Local Plan](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development
Plan Provision**

The site lies within the urban area of the Edinburgh City Local Plan and is designated as within Nicolson/Clerk Street town centre and within Southside Conservation Area.

Date registered

15 December 2014

Drawing numbers/Scheme

1-3A,

Scheme 2

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Links - Policies

Relevant Policies:

Relevant policies of the Edinburgh City Local Plan.

Policy Ret 10 (Alternative Use of Shop Units – Elsewhere in Defined Centres) sets criteria for assessing the change of use of a shop unit to a non-shop use in defined centres (excluding core and primary frontages).

Policy Ret 12 (Food and Drink Establishments) sets criteria for assessing the change of use to a food & drink establishment.

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

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

Relevant Non-Statutory Guidelines

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.

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

Other Relevant policy guidance

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

