

Development Management Sub Committee

Wednesday 19 April 2017

**Application for Planning Permission 16/06037/FUL
At 19 East Silvermills Lane, Edinburgh, EH3 5BG
Change of use from office space to residential, subdividing
the open floor plan to form five studio flats, two one-
bedroom flats, and internal storage areas.**

Item number	4.10
Report number	
Wards	A05 - Inverleith

Summary

The proposal does not comply with the adopted Edinburgh Local Development Plan policy Hou 5 in respect of daylight to the proposed apartments. However, an exception is justified on the basis that the proposal relates to a conversion, rather than to new-build flats, and the failure to let the premises for more than 10 years indicates that commercial letting is not viable.

Links

Policies and guidance for this application	CRPNEW, LHOU01, LHOU05, LDES12, LEN06, NSLBCA, NSBUS,
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Report

Application for Planning Permission 16/06037/FUL At 19 East Silvermills Lane, Edinburgh, EH3 5BG Change of use from office space to residential, subdividing the open floor plan to form five studio flats, two one- bedroom flats, and internal storage areas.

Recommendations

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

Background

2.1 Site description

The application property is part of a six storey flatted development on the north side of St Vincent Place, to the south of East Silvermills Lane. The lower two floors are below street level at the front. However, due to the sloping site, they are at ground floor to rear. The property lies between the category A listed St Stephen's Church (reference 27527, listed on 14 December 1970) to the west and unlisted flats at 26 and 27 Fettes Row to the east. To the north of the property there are modern flats, and St Vincent Place is a pedestrianised street.

The property is in the World Heritage Site.

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

2.2 Site History

19 March 2001 - planning permission was granted for development of Silvermills car park for a mixed use commercial and residential development (application number 00/02009/FUL).

19 September 2016 - planning permission was granted for window alterations and new windows (application number 06/02883/FUL).

9 July 2010 - planning permission was refused for change of use from office to five residential flats at ground floor level (application number 10/01308/FUL).

22 October 2010 - planning permission was granted for change of use from office to five residential flats (application number 10/02440/FUL). This planning permission was not implemented.

Main report

3.1 Description Of The Proposal

Planning permission is sought for the change of use of the lower floor of the building from office use to form five studio flats and two one bedroomed flats. Each flat will be single level, with flats numbered '6' and '7' being north facing and the remainder being south facing.

The only external alteration is the formation of glazing on the east elevation.

Seven existing car parking spaces are proposed for use by the owners/occupants of the new flats.

Supporting Statement

The applicant has submitted a supporting statement. This is available to view via the Planning and Building Standards online services.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

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

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 principle of the proposed change of use is acceptable;
- b) a satisfactory residential environment will be provided by the accommodation;
- c) open space and car parking provision is acceptable;
- d) impact on the character of the conservation area is acceptable;
- e) any matters raised in representations have been addressed; and

f) equalities and human rights impacts have been addressed.

a) The principle of the change of use

The adopted Edinburgh Local Development Plan (LDP) sets out in policy Hou 1 that priority will be given to the delivery of the housing land supply and the relevant infrastructure as detailed in the plan including on "other suitable sites in the urban area, provided proposals are compatible with other policies in the plan". The application site is a suitable site for housing within the urban area. Compatibility with other LDP policies is detailed below.

As the proposal is for conversion of commercial space to residential within an existing mixed use development, LDP policy Hou 5 is relevant. The policy states that "planning permission will be granted for the change of use of existing buildings in non-residential use to housing, provided:

- a) a satisfactory residential environment can be achieved;
- b) housing would be compatible with nearby uses;
- c) appropriate open space, amenity and car and cycle parking standards are met; and
- d) the change of use is acceptable having regard to other policies in this plan including those that seek to safeguard or provide for important or vulnerable uses".

The principle of housing use accords with criterion b) in terms of being compatible with nearby uses. This part of the New Town is characterised by a mix of residential and commercial uses. The acceptability of the proposal in respect of criteria c) and d) is set out below.

b) Satisfactory residential environment

The proposed units will exceed the minimum floorspace requirement for studio and one bedroom flats. The flats numbered '1' to '4' will range from 42 square metres (sq/m) to 45sq/m. Flat '5' will be 79sq/m, flat '6' will be 50sq/m, and flat '7' will be 97sq/m. Each will be single aspect, with one flat being north-facing. As the proposal relates to space below street level at the front, daylight to the proposed flats is the major consideration in terms of quality of environment.

The applicant has taken consideration of the Council's daylight criteria set out in the Edinburgh Design Guidance. By separating the kitchens from the living areas, the ADF for the living areas has been increased. However, three of the flats will fail to provide an ADF of 1.5% for living rooms. Artificial light will be required for the kitchen areas in all flats to achieve an ADF of 2%.

The ground floor of the building suffers from a lack of daylight which would have been acceptable for the commercial use originally proposed. In the context of this application, the daylighting level is not of a standard which the Council would normally consider acceptable. The proposed flat sizes and internal layouts are a step towards making the best of the limited daylight available.

Notwithstanding that the flats will have sufficient floorspace to meet the minimum standards, the failure to provide adequate daylight, and the fact that the flats are single aspect, will mean that the proposed flats will not comply with the Edinburgh Design Guidance (EDG) required by LDP policy Hou 5. The single aspect character of the proposed flats derives in part from difficulties in obtaining access to the two lower ground floors on legal grounds, and from the need to avoid external stairwells which would have had an adverse impact on the original design concept. The applicant has clarified in the supporting statement that a previous grant of planning permission, reference 10/02440/FUL could not be implemented due to land ownership issues. The flats on the floors above are generally not single aspect. However, the character and planning history of the lower floor is sufficiently distinct from the character of the higher levels to allow the layout of the flats themselves to have a different character.

The application premises have remained unoccupied since 2006; information pertaining to the marketing strategy is included in the supporting statement, and when planning permission was previously granted for change of use of the basement to form five flats in 2010, the lack of successful letting for office use was a material consideration.

With reference to shop units, conversion from commercial to residential use can be supported by the LDP where a shop unit has been vacant for a significant period of time and been actively marketed. Although this proposal does not relate to a shop unit specifically, a comparison may be made in this situation where a mixed use development has been approved, but the commercial element has singularly failed to succeed.

Given that the premises have remained unoccupied for more than a decade since the construction of the building, and given that the applicant has provided considerable detail of the marketing strategy, this consideration should outweigh the fact that proposed accommodation would not comply with the EDG.

With regard to amenity of neighbours, the existing windows are within 10 metres of neighbouring windows to the north. However, this also applies to the flats above first floor level and is accepted as part and parcel of living in a modern housing development in the city centre. No new windows are proposed. Privacy will not be adversely affected.

c) Open space and parking

No open space or amenity space is proposed. The redline site boundary includes the building, but no other land. As the proposal is for conversion to residential, and that the flats above were not provided with amenity space, the lack of open space should not be given sufficient weight to justify refusal of planning permission.

The Council has no objection to the application on the grounds of road safety or parking provision. The proposed seven parking spaces for the flats meets current Council parking standards.

d) Impact on the character of the conservation area

The immediate area, and the New Town Conservation Area generally is characterised by a mix of modern and traditional buildings with a mix of residential and commercial uses. The change of use of part of the building from commercial to residential will preserve the character of the conservation area.

No external alterations to the building are proposed. As such, there will be no impact on the appearance of the conservation area.

e) Public comments

In total, 10 representations have been received, each of which is in objection.

Material representations in objection

- The inability to lease the premises is not a good reason to approve planning permission. This is addressed in part 3.3(b).
- New windows are proposed. No external changes are proposed.
- The proposed flats are too small. This has been addressed in part 3.3(b).
- Neighbours in flats at No4 St Vincent Place were not notified as neighbours. There was no requirement to notify neighbours at No4 St Vincent Place, as they are not statutorily notifiable neighbours.
- Parking problems. This is addressed in part 3.3(c).

Non-material representations in objection

- There are Title Deed/Deed of Real Burden restrictions in place. This is a legal matter.
- The applicant did not discuss the application with residents. There is no statutory requirement for pre-application notification for this application.
- The existing lightwell is common property. This is a legal matter.
- Access to the lightwell from the flats should not be allowed. This is a legal matter.
- Water and drainage issues. These are not planning matters.
- The applicant does not have the right to work in the car park or connect to existing plumbing. This is a legal matter.
- Where does the lift go? This is not a planning matter.
- The approval of existing owners is required. This is a legal matter.
- Storm water outlets must not be obstructed. This is a matter for consideration at Building Warrant stage.
- A barrier has privatised space. This is not part of the application.
- No information has been provided about central heating. This is a matter for consideration at Building Warrant stage.
- Noise from new flats. Residential use is not a bad neighbour per se, and noise arising from residential use is controllable through other statutory regimes.

- Cooking odours. Smell from cooking which is incidental to the enjoyment of a dwelling is not controllable through the planning system.
- Vehicle access should only be via East Silvermills Lane. This relates to land outwith the application site boundary.
- Postal address should be corrected. This is not a planning matter.

f) Equalities and Human Rights

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

Conclusion

The proposal does not comply with the adopted Edinburgh Local Development Plan policy Hou 5, as read in conjunction with the EDG, in respect of daylight and single aspect nature to the proposed apartments. However, an exception is justified on the bases that the proposal relates to a conversion, rather than to new-build flats, and the failure to let the premises for more than 10 years indicates that commercial letting is not viable.

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

3.4 Conditions/reasons/informatives

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. The applicant is advised that, as the development is located in Zones 1 to 8, they will not be eligible for residential parking permits in accordance with the Transport and Environment Committee decision of 4 June 2013. See http://www.edinburgh.gov.uk/download/meetings/id/39382/item_7_7 (Category C - Newly sub-divided or converted).

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

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

In total, 10 representations have been received, all of which are in objection to the proposal. The matters raised are addressed in part 3.3 of this report.

Background reading/external references

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

Statutory Development

Plan Provision

Date registered 22 December 2016

Drawing numbers/Scheme 01 - 10,

Scheme 1

David R. Leslie

Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Mark Dunlop, Planning Officer
E-mail: mark.dunlop@edinburgh.gov.uk Tel: 0131 469 3642

Links - Policies

Relevant Policies:

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.

LDP Policy Hou 1 (Housing Development) sets criteria for assessing the principle of housing proposals.

LDP Policy Hou 5 (Conversion to Housing) sets out the criteria for change of use of existing buildings to housing.

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

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.

Appendix 1

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Consultations

Roads Authority Issues

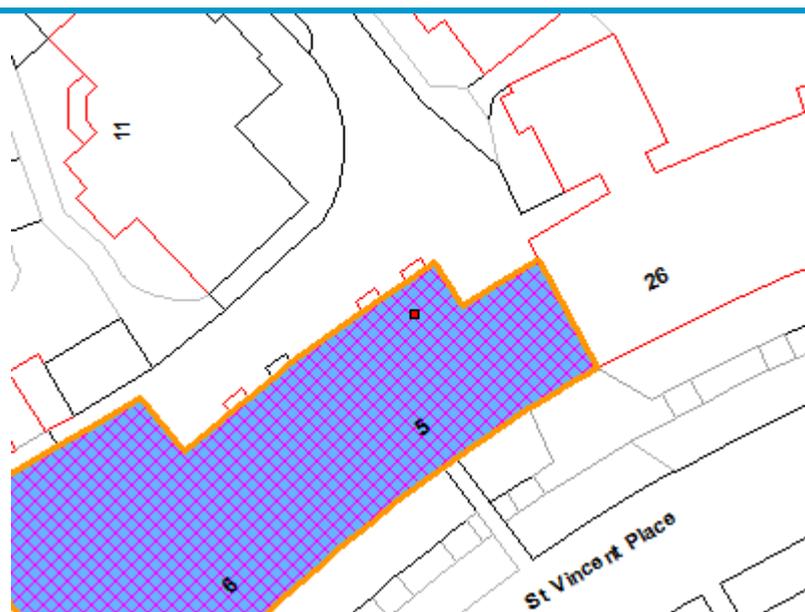
No objections to the application.

1. *The applicant should be advised that as the development is located in Zones 1 to 8, they will not be eligible for residential parking permits in accordance with the Transport and Environment Committee decision of 4 June 2013. See http://www.edinburgh.gov.uk/download/meetings/id/39382/item_7_7 (Category C - Newly sub-divided or converted);*

Note:

The proposed 7 parking spaces for the 7 studios meets current Council parking standards.

Location Plan



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