

Development Management Sub Committee

Wednesday 24 April 2019

**Application for Planning Permission 18/10118/FUL
At 1 Bath Street, Edinburgh,
Change of use from storage to Class 2 office and excavate
pavement to provide basement lightwell with balustrade
and stair.**

Item number	4.3(a)
Report number	
Wards	B17 - Portobello/Craigmillar

Summary

The proposal complies with the development plan and the relevant non-statutory guidelines. The proposal will preserve the character and appearance of the Portobello Conservation Area and the character and setting of the listed building, and would not prejudice residential amenity or road safety. There are no material considerations which outweigh this conclusion.

Links

<u>Policies and guidance for this application</u>	LDPP, LEN04, LEN06, LHOU07, LEMP01, LTRA02, LTRA03, NSG, NSLBCA, NSGD02, OTH, CRPPOR,
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Report

Application for Planning Permission 18/10118/FUL At 1 Bath Street, Edinburgh, Change of use from storage to Class 2 office and excavate pavement to provide basement lightwell with balustrade and stair.

Recommendations

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

Background

2.1 Site description

The building is situated on the south-western corner of Bath Street, adjacent to Portobello High Street. The surrounding area is a mix of residential and commercial uses.

The site comprises the basement of the former Royal Hotel which was converted to flatted dwellings circa 2003. The building was constructed in the early 19th century with later alterations and additions. The property is category C listed (reference 26715, 04/09/1995).

This application site is located within the Portobello Conservation Area.

2.2 Site History

3 November 2003 - Planning permission granted for the change of use and sub-division of hotel to form seven residential flats, including formation of new entrance and windows on gable (application reference 03/00129/FUL).

29 May 2009 - Planning permission granted for the change of use from storage to Class 2 office and excavate pavement to provide basement lightwell with balustrade and stair (application number 09/00717/FUL).

5 June 2017 - Enforcement enquiry raised regarding the commencement of development after planning permission and listed building consent had lapsed. The enquiry was closed with no further action as the investigation found:

- No evidence of external works to the building; and
- Internal works carried out were not material operations.

Main report

3.1 Description Of The Proposal

It is proposed to change the use of the property from storage to an office (Class 2).

External alterations to the building include the following:

- Excavation of the pavement to provide a basement lightwell with a balustrade and stair;
- The balustrade will be a dwarf squared rubble wall with smooth stone cope and cast iron railings with arrowhead detail; and
- Formation of one door and two windows by reopening the existing openings currently blocked up. The windows will be sash and case to match the existing building. All to be constructed from timber with slimlite glazing.

There are no car or cycle parking spaces for the proposed office.

The proposed scheme is the same as the previous planning permission granted in 2009 (application reference 09/00717/FUL).

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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - 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 proposal is acceptable in principle;
- b) the proposal will preserve or enhance the character and appearance of the conservation area;
- c) the proposal will affect the character of the listed building;
- d) the proposal will be detrimental to the amenity of neighbours;
- e) the proposal will have any traffic or road safety issues;
- f) the proposal raises any other matters; and
- g) any public comments raised have been addressed.

a) Principle of the Development

The application site is currently in use as storage.

Policy Emp 1 of the adopted Edinburgh Local Development Plan (LDP) sets out criteria for office development within the city; the criteria is mainly applied to proposals which are of a larger scale and within identified locations. However, where it is demonstrated that sites in identified locations are unavailable or unsuitable, other accessible mixed use locations may be considered where the proposal is in keeping with the character of the local environment. Paragraph 206 of the LDP supporting text supports a flexible approach to office proposals in other mixed locations within the city.

Evidence to demonstrate that there are no available or suitable sites in identified locations has not been submitted. In this instance, due to the current use and the small scale nature of the proposal, it is considered that this requirement is unnecessary. The site is located in the urban area in a location which is of essentially mixed character and accessible by public transport. Therefore it is considered to comply with the objectives of Policy Emp 1.

The principle of the use is acceptable in this location. The proposal complies with LDP Policy Emp 1.

b) Impact on the Conservation Area

Policy Env 6 in the LDP requires development proposals to preserve or enhance the character or appearance of the conservation area and is consistent with the relevant conservation character appraisal.

The site lies within the Portobello Conservation Area. The character appraisal emphasises the importance of the varied architectural forms, with many fine Georgian and Victorian historic buildings. Also, the building materials are traditional: stone, harling, slate, pantiles, timber windows and doors. Many of the buildings towards the north east of Bath Street are set back from the pavement and have a consistent boundary treatment made up of dwarf walls and arrowhead railings. However, the buildings towards the junction with Portobello High Street are generally not set back from the pavement.

The proposed railings in terms of materials and detailing will be in-keeping with both the character and appearance of the Portobello Conservation Area. Whilst the excavation of the pavement to form a basement entrance is not characteristic of the Portobello Conservation Area, in this context, the width of the pavement and the design of the alteration will result in a sympathetic addition. Overall, the proposal is consistent with the conservation area character appraisal. Therefore, the proposal will preserve the character and appearance of the conservation area. The proposal complies with LDP policy Env 6.

c) Character of the Listed Building

Historic Environment Scotland's (HES) guidance notes Managing Change in the Historic Environment: Boundaries, External Walls and Interiors, sets out the principles that apply to altering historic buildings.

Policy Env 3 in the Edinburgh Local Plan (LDP) states that development affecting the setting of a listed building should not be detrimental to the architectural character or appearance of the building or its setting.

Policy Env 4 in the LDP states that proposals to alter a listed building will be permitted where those alterations are justified; will not result unnecessary damage to historic structures or result in an diminution of the buildings interest; and any additions would be in keeping with other parts of the building.

The building was originally constructed as a hotel in the early 19th century; it was converted to residential flatted dwellings and the basement left for storage circa 2003. There is clear evidence to show the building has been altered. Within the basement there are existing window openings which have been blocked up and there are visible stone lintels on the north west (front) elevation.

The proposal involves reinstating the openings to form two sash and case windows and a door. The windows will be detailed to match those on the existing building. The door will retain the width of the existing opening and will be detailed to match the windows. This alteration is sympathetic to the building and will not detract from the character of the listed building.

The excavation of the pavement to create a basement lightwell with a balustrade and stair will introduce a new addition to the listed building. It is acknowledged that this would not have been an original component in the design of front elevation. However, the design qualities of the dwarf wall and railings relate well to historic boundary treatments of this nature in terms of proportions, materials and detailing; the applicant has submitted a drawing showing a detailed section of the boundary treatment. This alteration will have a neutral impact on the building and will not detract from the character or appearance of the listed building or its setting.

In conclusion, the proposed alterations to the listed building will not result in the diminution of its interest or have a detrimental impact on the setting of the listed building. The proposal complies with LDP policy Env 3 and Env 4 and also complies with the principles in HES guidance notes.

d) Impact on Neighbouring Amenity

Policy Hou 7 of the adopted Edinburgh Local Development Plan (LDP) states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents will not be permitted.

Environmental Protection have been consulted on this application and raise no objections to the proposal. The change of use from Class 6 storage to a Class 2 use is in keeping with the range of neighbouring uses. Furthermore, the use is small in scale and is not expected to generate a significant increase in traffic movements, noise or disturbance. The proposal is unlikely to have a materially detrimental effect on the living conditions of nearby residents.

Policy Des 12 of the LDP also seeks to protect neighbouring amenity with regards to daylight/sunlight, overshadowing, privacy and overlooking.

The proposed alterations will not result in a loss of neighbouring amenity in terms of daylight/sunlight, overshadowing, privacy or overlooking.

The proposal complies with LDP policy Hou 7 and Des 12 in terms of neighbouring amenity.

e) Traffic and Road Safety

Policy Tra 2 of the LDP provides criteria for private car parking within new developments.

There is no proposed parking for the office. The site is well served by public transport and active travel routes and acceptable in terms of policy Tra 2.

Policy Tra 3 of the LDP provides criteria for private cycle parking within new developments. The Edinburgh Design Guidance sets out minimum parking standards for new developments. For a Class 2 use, the requirement is 1 cycle parking space per 250 square metres for employees and 1 per 500 square metres for customers. The proposal has a site area of 220 square metres. Therefore, there is no requirement for cycle parking; the proposal complies with policy Tra 3.

Concerns have been raised in relation to pedestrian safety due to the width of the pavement being reduced. At present the pavement currently measures approximately 4 metres, as a result of the development this will be reduced to 2 metres. The Edinburgh Design Guidance states that a general minimum of 2 metres width for a footway on a local street is acceptable. The proposal complies with the guidance and is in line with the majority of Bath Street. The development will not have a negative impact on the convenience and safety of pedestrians.

It should be noted that the proposed excavation of the pavement to provide a basement lightwell and balustrade will require the promotion of a partial Stopping Up order; these works cannot be carried out with planning permission alone. This will be concluded through separate negotiations with the Council's legal department. However, an informative will be added to the permission to highlight this requirement.

Overall, the proposal complies with Policy Tra 2 and the parking standards set out in the Edinburgh Design Guidance. Furthermore, the proposal is acceptable in terms of convenience and pedestrian safety.

f) Any Other Matters

Waste

Waste services have been consulted and raise no objection to the proposal. As the premises will be in commercial use it will be the responsibility of the operator to ensure there are provisions in place for the collection of waste.

Neighbour Notification Process

Concerns have been raised regarding neighbouring properties not being notified of the planning application. The neighbour notification process was checked and confirmed that the process was carried out in accordance with regulations.

g) Public comments

The application has received 27 letters of representation, all objecting to the proposal.

Material Considerations

- Impact on residential amenity - addressed in section 3.3(d) of the assessment;
- Impact on pedestrian safety - addressed in section 3.3(e);
- Increase in anti-social behaviour - addressed in section 3.3(a);
- Impact on parking - addressed in section 3.3(e);
- Impact on the listed building - addressed in section 3.3(c);
- Impact on the conservation area - addressed in section 3.3(b);
- The commercial use is inappropriate in this area - addressed in section 3.3(a);
- The use of a public pavement for private use - addressed in section 3.3(e) of the assessment; and
- Neighbour notification not carried out correctly - addressed in section 3.3(f) of the assessment.

Portobello Amenity Society has objected to the proposals on the following grounds:

- Impact on pedestrian safety - addressed in section 3.3(e) of the assessment; and
- The use of a public pavement for private use - addressed in section 3.3(e) of the assessment.

Non-Material Considerations

- Alterations to the building will have structural impacts - not relevant to planning applications. This would be addressed through the building warrant process;
- Title Deeds require approval from other owners - not relevant to planning process. This would be a civil matter;
- Impact on property values - not relevant to planning process. This is a private matter;
- Increase in fire risk - not relevant to planning applications. This would be addressed through the building warrant process;
- Only residential use should be allowed - not relevant to the planning application. It is the use applied for in the application that must be assessed; and
- Impact on drainage - not relevant to planning applications. This would be addressed through the building warrant process.

Conclusion

In conclusion, the proposal complies with the development plan and the relevant non-statutory guidelines. The proposal will preserve the character and appearance of the Portobello Conservation Area and the character and setting of the listed building, and would not prejudice residential amenity or road safety. 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. New slim profile double glazed units to have a maximum cavity of 6mm.

Reasons:-

1. In order to safeguard the character of the statutorily listed building.

Informatives

It should be noted that:

1. No works to start until the Stopping Up order has been made (signed).
2. The applicant must contribute the sum of £2,000 to progress a suitable Stopping Up order under Section 207 of the Town and Country Planning (Scotland) Act 1997 necessary for the development.

3. A minimum clear width of 2m must be maintained for the remainder of the footway for the convenience and safety of pedestrians.
4.
 - I. The applicant should note that even with planning permission they still require a Stopping Up Order to be promoted to proceed with the proposed footway works;
 - II. The applicant should note that following the Stopping Up order being made the responsibility of maintenance of the area falls to the landowner. This includes any services;
 - III. It should be noted that the section of footway involved is adopted for maintenance purposes by the Council as "Public Road" as defined in the Roads (Scotland) Act 1984. The ownership of the land underneath is therefore irrelevant.
 - IV. The applicant should satisfy themselves that they have the necessary rights and authorities to carry out the works on the area of land that is proposed to be stopped up, as the Council may not be the landowner;
 - V. Transport does not consider the impact of this proposed development to have a negative effect in terms of road safety;
 - VI. It is considered that the size and nature of the proposed change of use will have a negligible effect on traffic generation in this area.
5. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
6. 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.
7. 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.

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

The application was advertised on the 21 January 2019 and 27 letters of representation were received, all objecting to the application. These included comments from the Portobello Amenity Society.

A full assessment of the representations can be found in the main report in the Assessment section.

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

Edinburgh Local Development Plan - Urban Area
The site is also located within the Portobello
Conservation Area.

Date registered

9 January 2019

Drawing numbers/Scheme

01-06,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

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

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

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

LDP Policy Emp 1 (Office Development) identifies locations and circumstances in which office development will be permitted.

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

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 Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

Other Relevant policy guidance

The Portobello Conservation Area Character Appraisal emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high quality architecture, and the predominant use of traditional building materials.

Appendix 1

Application for Planning Permission 18/10118/FUL At 1 Bath Street, Edinburgh, Change of use from storage to Class 2 office and excavate pavement to provide basement lightwell with balustrade and stair.

Consultations

Roads Authority Response

No objections to the application subject to the following being included as conditions or informatives as appropriate:

- 1. No works to start until the Stopping Up order has been made (signed);*
- 2. Contribute the sum of £2,000 to progress a suitable Stopping Up order under Section 207 of the Town and Country Planning (Scotland) Act 1997 necessary for the development;*
- 3. A minimum clear width of 2m must be maintained for the remainder of the footway for the convenience and safety of pedestrians;*

Note

- I. The applicant should note that even with planning permission they still require a Stopping Up Order to be promoted to proceed with the proposed footway works;*
- II. The applicant should note that following the Stopping Up order being made the responsibility of maintenance of the area falls to the landowner. This includes any services;*
- III. It should be noted that the section of footway involved is adopted for maintenance purposes by the Council as "Public Road" as defined in the Roads (Scotland) Act 1984. The ownership of the land underneath is therefore irrelevant.*
- IV. The applicant should satisfy themselves that they have the necessary rights and authorities to carry out the works on the area of land that is proposed to be stopped up, as the Council may not be the landowner;*
- V. Transport does not consider the impact of this proposed development to have a negative effect in terms of road safety;*
- VI. It is considered that the size and nature of the proposed change of use will have a negligible effect on traffic generation in this area.*

Environmental Protection Response

*TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
18/10118/FUL | Change of use from storage to Class 2 office and excavate pavement to
provide basement lightwell with balustrade and stair. 1 Bath Street Edinburgh*

The application site is in the basement level of a two and a half-storey period property. The basement level is currently used as storage and the upper floors above are used as residential accommodation. The property adjoins a two-storey building to the south with a bakers / café on the ground floor and what is presumed to be residential accommodation on the first floor. The property is positioned just off Portobello High Street and consequently the area is a mixture of commercial premises and residential accommodation.

Offices do not generally impact on neighbouring residential amenity, other than noise from air conditioning / heating / ventilation plant etc. Information provided with the application indicate that it is likely to be heated by a gas fired, combi boiler, central heating system that will be installed. Such systems are routinely installed in domestic situations and very rarely generate noise complaints.

In conclusion, Environmental Protection has no objections to this application.

Waste Services

I have been asked to consider this application on behalf of the Waste Management Service.

*TOWN AND COUNTRY PLANNING SCOTLAND ACT 1997
CHANGE OF USE FROM STORAGE TO CLASS 2 OFFICE AND EXCAVATE
PAVEMENT TO PROVIDE BASEMENT LIGHTWELL WITH BALUSTRADE AND
STAIR. AT 1 BATH STREET, EDINBURGH,*

Waste and Fleet Services would not be expect to be the service provider for the collection of waste as this appears not to be a residential development.

Although we would not be involved with the collection of the waste from this development It is imperative that adequate provision is made for the storage of their waste off street, and that cognisance is taken of the need to provide adequate space for the storage of segregated waste streams in line with the Waste (Scotland) Regulations which require the source separation of dry recyclable materials, glass, food, etc. Adequate provision should also be made for the effective segregation of these materials within the building not just at the point of collection.

Adequate access must also be provided/considered to allow uplift of waste safely from the collection point taking into consideration the traffic flows at this location.

Location Plan



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