

## Full Planning Application

at

37-39 Cowgate

Edinburgh

EH1 1JR

---

### Development Quality Sub-Committee of the Planning Committee

6 March 2002

**Proposal:** (37-39 Cowgate) Convert existing building into an apart-hotel incorporating 30 units and 34m2 of offices  
**Applicant:** J+M Cameron Properties Ltd.  
**Reference No:** 01/01314/FUL

#### 1 Purpose of report

To recommend that the application be **GRANTED** subject to;

#### Conditions

1. The development hereby permitted shall be commenced no later than five years from the date of this consent.
2. Before any part of the development is brought into use, cycle parking shall be provided within the site to meet the standard required by City of Edinburgh Council policy; the type and siting of such parking shall be approved in writing by the Head of Planning & Strategy before work commences on site, and no alteration to the approved cycle parking provision shall be made without the further written approval of the Head of Planning & Strategy.
3. i) Prior to the commencement of construction works on site:
  - a) A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Head of Planning, either that the level of

risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and

b) Where necessary, a detailed schedule of any required remedial and /or protective measures, including their programming, must be submitted to and approved in writing by the Head of Planning.

ii) Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the satisfaction of the Head of Planning.

4. Residential units which have living apartments exposed to noise from the sub-station above NR20 with the windows open to provide adequate ventilation shall not be occupied until the sub-station has been eliminated from the supply system, or other steps have been taken to reduce the noise levels to a satisfactory level, and this information has been confirmed in writing to, and approved by, the Head of Planning and Strategy.

#### **Reasons**

1. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.
2. In order to safeguard the interests of road safety.
3. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.
4. In order to protect the amenity of the occupiers of the development.

## **2 Main report**

### **Site description**

This application relates to a three-storey and attic Scottish 17th century style tenement at the junction of Cowgate and Candlemaker Row. The property is listed category C (S) (HB number 90052) and is within the Old Town Conservation Area and World Heritage Site.

### **Site history**

12 November 1999 - application to change the use from health service building to hotel withdrawn.

30 March 2001 - application to change the use of the building to 30 flats and offices withdrawn.

22 March 2002 - listed building consent granted for external and internal works associated with change of use application for apart hotel.

### **Development**

This is an application to change the use of the building from blood transfusion clinic to an apart-hotel incorporating 30 units and 34m<sup>2</sup> of offices.

Internally, at ground floor level it is proposed to sub-divide the existing plan in order to create 9 apartments with the office accommodation being located at the west end of the property. At first floor level, it is proposed to create 10 apartments and at second floor level a further 10 apartments will be created. At third floor level it is proposed to create 1 apartment. All apartments will have a bedroom, living area, shower room and kitchen.

Externally, it is proposed to install three escape rooflights, form a window from an existing door on the north elevation and replace two windows with a door and fanlight on the south elevation. Some existing ground floor windows are currently blocked and it is proposed to restore the existing window configuration on opening up.

It is also proposed to demolish existing outhouses within the curtilage and erect refuse and bike stores, a paved courtyard, landscaping and parking for three cars.

### **Consultations**

#### **Transport**

No objection subject to:

1. The bellmouth entrance be replaced with a drop kerb footway crossing
2. No more than one car parking space to be allocated to the office development

3. A cycle rack to be provided at the front of the office building
4. Servicing of the development be carried out within its own curtilage

### **Environmental and Consumer Services**

Discussions have been on going between Environmental and Consumer Services, the applicant and City Development regarding the effect of the adjacent electrical sub-station on noise levels within the proposed development. Environmental and Consumer Services were of the opinion that the applicants wrongly assessed noise from the electrical sub-station using noise exposure categories. Following a meeting with Scottish Power on 23 August 2001, the applicants agreed to fit a high performance acoustic door to the sub-station to try and cut down on the noise emanating from the sub-station. Following the fitting of this door, Environmental Services re-visited the site to assess the noise levels and are of the opinion that the noise problem has not been fully addressed.

### **Representations**

The application was advertised on 6 April 2001.

No letters of representation have been received.

### **Policy**

The site is within the Mixed Activities Zone of the Central Edinburgh Local Plan.

#### Relevant Policies:

Policy L7 (HOTEL DEVELOPMENT) sets out criteria for assessing new hotel developments.

Policy CD4 (CONSERVATION AREAS) requires that developments in a conservation area retain all features which contribute to the area's character and appearance.

Policy CD5 (CONSERVATION AREAS - REDEVELOPMENT) sets out the criteria against which new development in conservation areas will be assessed, and seeks to preserve or enhance their character and appearance.

## **3 Conclusions and Recommendations**

The determining issues are:

- Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against the granting of permission.
- Do the proposals preserve the building or its setting or any features of special architectural or historic interest which it possesses? If they do not, there is a presumption against the granting of permission. For the purposes of this issue, "preserve", in relation to a 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?

## Assessment

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

- a) Whether the proposed use is acceptable in this location.
- b) Whether the proposals have an adverse impact on the building or its setting.
- c) Whether the proposals have an adverse impact on the character or appearance of the conservation area.
- d) Whether the proposals are detrimental to residential amenity or road safety.

a) In terms of land use there is no distinction to be drawn between a hotel and an apart-hotel, the essential difference lying in the nature of the occupancy. There is broad policy support for the principle of hotel development of this scale in this location, as well as the proposed ancillary office use.

However, there is concern that the amenity of the occupiers of the development would be adversely affected by the noise emanating from the nearby electrical sub-station. The applicants took steps to try and reduce the noise emanating from the sub-station by installing an acoustic door within the sub-station. However, following further visits to the site, the Environmental and Consumer Services Department were of the opinion that the noise problem had still not been solved. As a result, it remains of the opinion that noise levels from the sub-station would result in unacceptably low levels of amenity for the occupiers of the proposed development.

b) The proposed alterations to the exterior of the building are of a minor nature and will not have a significant impact on the building. The proposed hard and soft landscaping works, together with the demolitions and proposed refuse and bike stores, will enhance the existing setting of the building.

c) The character of the New Town Conservation Area is described in the Central Edinburgh Local Plan as follows:

"A planned urban concept of European significance, the New Town has an overriding character of Georgian formality. The First New Town, built to James Craig's 1767 plan, has experienced significant redevelopment, while the Second, Third and Fourth New Towns, which were laid out on estates to the north, east and west retain most of their original buildings. Stone built terrace houses and tenements, built to the highest standards, overlook communal private gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area therefore lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves. Many of the New Town's buildings are listed category 'A' of national importance and the area contains some of the city's finest interiors."

The alterations to the building are of a minor nature and will not impact on the character or appearance of the conservation area. The existing curtilage of the building is in poor condition and the landscaping works and new build will enhance the character and appearance of the conservation area.

d) There will be no detriment to road safety. However, conditions would be required to ensure appropriate use of the car parking spaces. The proposed use will not have a detrimental impact on the amenity of surrounding uses.

In conclusion, whilst the use is broadly acceptable in principle and the alterations will have no adverse impact on either the building or its setting, or the character or appearance of the conservation area, the potential disturbance to users of the hotel would be unacceptable.

There are no material planning considerations which outweigh this conclusion.

It is recommended that the Committee refuses this application, for the reasons stated.

#### **FURTHER ASSESSMENT**

The application was recommended for refusal on 6 March 2002 but continued at the applicant's request. The Committee asked the agent to address the noise at source to the satisfaction of Environmental and Consumer Services.

Since that time, the applicants have been attempting to solve the noise issue. On 25 February, a letter was received from the applicant stating that Scottish Power are re-designing their existing network and propose to eliminate the sub-station from their normal requirements. It is proposed that the sub-station would only remain in the system as an emergency back up. Scottish Power have stated that in the event of an emergency, the maximum time in use to facilitate repairs would be seven days. It has been indicated that Scottish Power expect the system will be altered in around one year.

Environmental and Consumer Services were re-consulted on this latest proposal from the applicants and the following response was received:

In a previous memo to City Development, this Department expressed concerns about the potential for noise and disturbance from the adjacent electrical sub-station to affect the proposed development.

It is now understood that this sub-station is due to be eliminated from the supply system within the next year and that, following a re-design of the system, this electrical sub-station would only be used as an emergency back-up supply. These proposals would satisfy this Department's concerns.

Should the Committee therefore be minded to grant planning permission for the apart-hotel then this Department would recommend the following conditions be attached to any consent:

1. 1.The development shall not be occupied until such time as the sub-station has been removed from the supply system/decommissioned.
2. All living apartment windows with a view to the Cowgate shall be fitted with acoustic double-glazing.
3. Condition on site contamination SI03C.

Following further discussions with Environmental and Consumer Services, it has recommended a revised wording for the condition to control occupancy:

"Residential units within the development which have living apartments which are exposed to noise from the electricity sub-station above NR20 with the windows open sufficiently for adequate ventilation should not be occupied until such time as the sub-station is removed or other measures taken to protect the living apartments to the satisfaction of the Head of Planning." (received on 8 April 2003).

Following the above response from Environmental and Consumer Services further complications arose and further discussions took place involving that department, the applicants, Scottish Power, their solicitors and the Council's solicitors.

The applicants, through their solicitors, stated that they would be happy to enter into a Section 75 agreement confirming that they would not be able to use certain rooms within the development until such time as the noise levels are reduced accordingly. In response to this, Environmental and Consumer Services stated that they would support such a proposal as it was in line with their previously stated position regarding the way in which the development could proceed without compromising environmental noise standards. The Council's solicitors, however, suggested that restrictions on the number of rooms that could initially be occupied would be better covered by condition.

It is therefore considered that a condition based on the suggested wording by Environmental and Consumer Services on 8 April 2003 will adequately restrict the number of rooms that can be occupied until such time as the noise levels from the sub-station are brought within acceptable limits.

With regard to the request by Environmental and Consumer Services for double-glazing on windows facing Cowgate, the building is listed and double-glazing would not be permitted under the terms of the non-statutory guideline on window alterations. Secondary glazing would be acceptable.

In conclusion, the proposed use is acceptable in principle and the alterations will have no adverse impact on either the building or its setting, or the character or appearance of the conservation area. There would be no adverse impact on road safety or residential amenity. A condition is required to ensure the amenity of the occupiers of the development is protected.

There are no material planning considerations which outweigh this conclusion.

It is recommended that the Committee approves this application, subject to the conditions stated.

Alan Henderson

**Alan Henderson**  
Head of Planning and Strategy

**Contact/Tel** Martin Easson on 0131 529 3989 (FAX 529 3717)

**Ward affected** 32 -Tollcross

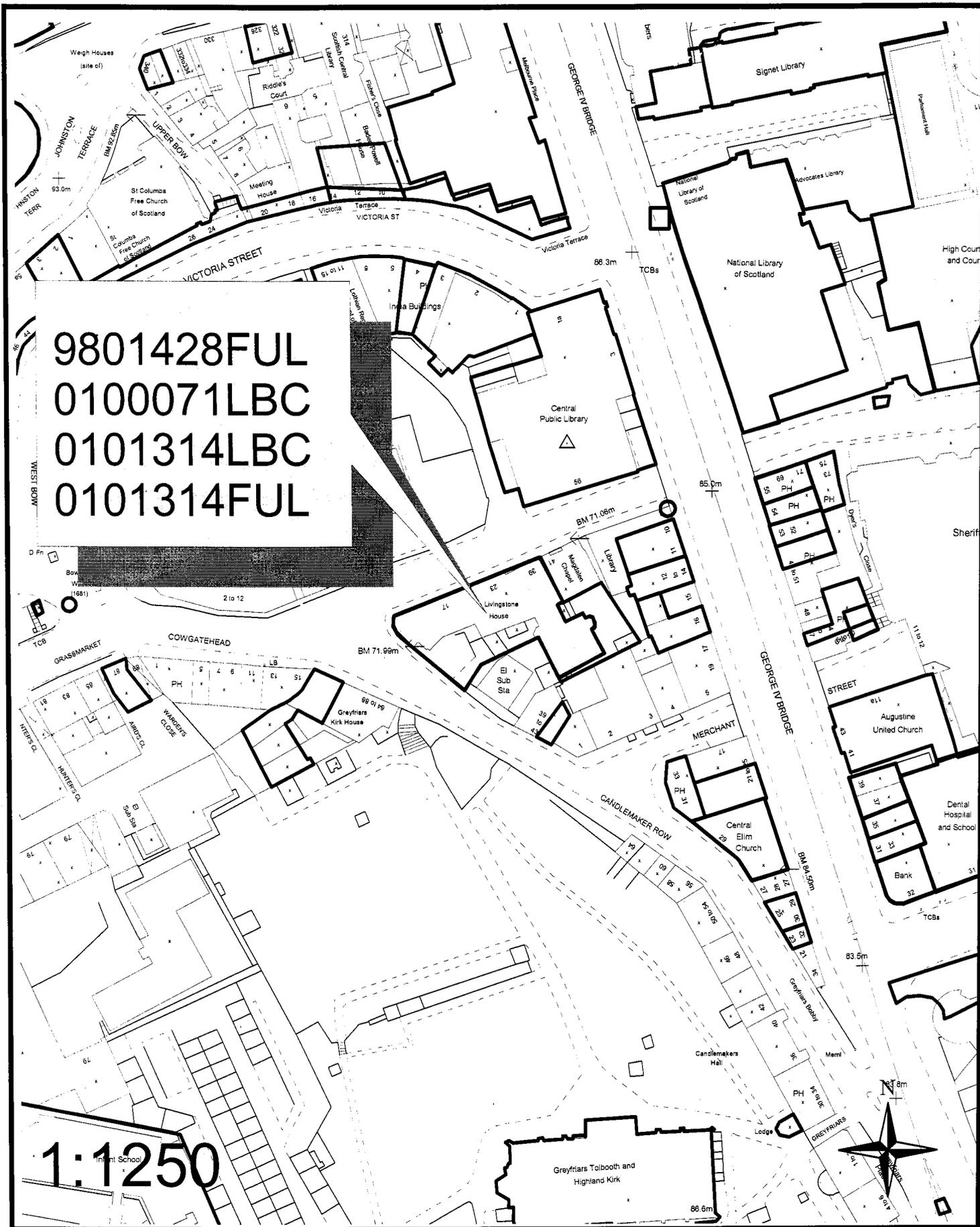
**Local Plan** Central Edinburgh Local Plan

**Statutory Development  
Plan Provision**

**File**

**Date registered** 20 March 2001

**Drawing numbers/  
Scheme** 14830,32-33,9303,9256-61



Reproduced from the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationary Office © Crown Copyright.  
 Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence Number LA 09027L City of Edinburgh Council 1998

# PLANNING APPLICATION

The City Development Department - Planning