

Development Management Sub Committee

Wednesday 29 August 2018

**Application for Planning Permission 18/02643/FUL
At 58 South Clerk Street, Edinburgh, EH8 9PS
Erection of two external ducts.**

Item number	4.6
Report number	
Wards	B15 - Southside/Newington

Summary

The proposal complies with the policies in the Edinburgh Local Development Plan. The proposed ducts will not have an unacceptable impact on the character of the listed building and it will not be detrimental to the character and appearance of the conservation area. There are no material considerations that would outweigh this conclusion. It is recommended that the application is approved.

Links

Policies and guidance for this application	LDPP, LEN04, LEN06, NSG, NSLBCA, OTH, CRPSSI,
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Report

Application for Planning Permission 18/02643/FUL At 58 South Clerk Street, Edinburgh, EH8 9PS Erection of two external ducts.

Recommendations

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

Background

2.1 Site description

The application site is a ground floor commercial unit, located on the west side of South Clerk Street. The premises form part of a four storey and a basement building with upper residential uses.

The site is located within Nicolson Street/Clerk Street town centre.

Properties 44-74 South Clerk Street are Category C listed (date of listing: 29/04/1977, reference: LB28556).

This application site is located within the Southside Conservation Area.

2.2 Site History

18 August 2017 - Planning permission refused for change of use from Class 2 Beauty Salon to Class 3, Restaurant (application number 17/02140/FUL).

26 March 2018 - Planning permission granted for change of use from Class 2 Beauty Salon to Class 3 Restaurant (application number 17/03933/FUL) subject to condition:

Prior to the commencement of the use on site, the extract flue and ventilation system capable of 30 air changes per hour, as shown on drawing no. 1, shall be implemented and operational.

Main report

3.1 Description Of The Proposal

Proposal

The application seeks to install two external ducts on the rear elevation of the existing property. Each flue will have a diameter of 200mm and will be painted in black to match the existing downpipes. The ducts are to terminate one metre above the existing eaves level.

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 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 proposal will impact on the character of the listed building;
- b) the proposal will impact on the character or appearance of the conservation area;
- c) the proposal will impact on neighbouring amenity;
- d) any impacts of equalities and human rights have been addressed; and
- e) any comments raised in representations have been addressed.

a) Listed Building

Policy Env 4 in the Edinburgh Local Plan 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 building's interest; and any additions would be in keeping with other parts of the building.

The non-statutory guidance 'Listed Buildings and Conservation Areas' states:

Only undamaging and visually unobtrusive positions for such fixtures will be considered acceptable. Fixtures should not lie across, cut into or through any architectural feature or disturb the balance of a symmetrical façade. Fixings into stonework should be kept to a minimum and should be non-ferrous.

The proposed ducts will be located on an inconspicuous elevation to the rear of the building where a number of downpipes were found. Some downpipes were found to project above the eaves level of the existing building and an industrial size ventilation duct was found to the rear of 44-56 South Clerk Street. The diameter of the ducts, painted in black will have the streamlined appearance of downpipes, thus reducing the visual impact of industrial size type ventilations associated with Class 3 restaurant uses. The proposed ducts will not be incongruous to the appearance of the building and it will not have an unacceptable impact on the character of the listed building.

The rear elevation of the building is not visible from public views.

No detail of the proposed method of attachment was provided. A condition, requiring this detail to be provided is required. This is to safeguard the fabric of the listed building.

Policy Env 3 Listed Buildings - Setting in the LDP is not applicable to the assessment of the proposal which relates to development within the curtilage or affecting the setting of a listed building.

The proposal complies with Policy Env 4 of the LDP.

b) Conservation Area

Policy Env 6 in the Edinburgh Local Development Plan requires proposals to preserve or enhance the special character or appearance of the conservation area and is consistent with the relevant character appraisal.

The application site is located within the South Side Conservation Area. The character appraisal states the following:

South Clerk Street/Nicolson Street is the principal route through the area and acts as the main shopping street or "High Street" for the South Side... Building heights vary across the area from two and half to five storeys, with the average height being four stories. As with the rest of the South Side all buildings erected up to the second world war are of stone construction with pitched slated roofs.... There is a continuing variety and diversity of architectural styles throughout this area although the emphasis moves more into Victorian buildings with the Georgian period being evidenced more in the south where the boundaries of the South Side and Blacket Conservation Areas meet.... Despite the variety of architectural styles and periods which are evidenced the area remains generally harmonious in scale, massing and materials...

The proposed ducts will have the appearance of downpipes where they are typically fixed to the rear of buildings. The ducts will not appear as an incongruous addition to the character of the building and will not adversely detract from the character of the conservation area.

There is no right to a private view and the visibility of the duct from within the private rear garden ground will not affect enjoyment of that space.

The proposed ducts on the rear elevation of the existing building will not be visible from public views. Therefore, the impact on the appearance of the conservation area is limited.

The proposal complies with Policy Env 6 of the LDP.

c) Neighbouring Amenity

The proposed ducts will not impact on neighbouring amenity in terms of loss of privacy, sunlight or result in overshadowing.

The assessment is limited to the materiality of the ducts, not its operational use.

d) Equalities and Human Rights

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

e) Comments

Material

- Contrary to Policy Env 4 and Env 6 in the Edinburgh Local Development Plan - Addressed in Section 3.3 (a).
- Will impact on the character and setting of the listed building and will impact on views to the building - Addressed in Section 3.3 (a).
- Will alter a rear elevation that has not been altered in 150 years - Addressed in Section 3.3 (a).
- Will impact on the character and appearance of the conservation area - Addressed in Section 3.3 (b).
- Contrary to South Side Conservation Character Appraisal - Addressed in Section 3.3 (b).
- Will impact on neighbouring amenity - Addressed in Section 3.3 (c).
- Rear garden of note and of public interest and the introduction of the ducts 1 metre above the eave line will be industrial in appearance will be detrimental - Addressed in Section 3.3 (b).
- No detail of the method of attachment/drilling holes provided - Addressed in Section 3.3 (a).

Non-Material

- Reference to the ventilation arrangement in planning permission 17/03933/FUL - Assessment of the application is restricted to the materiality of the ducts, not its operational use.
- The flue appears to be required for the Class 3 restaurant that is to be opened - Assessment of the application is restricted to the materiality of the ducts, not its operational use.

- No application for Listed Building Submitted for current proposals - Does not preclude assessment of the current proposal.
- Reference to Condition 1 of permission 17/03933/FUL and revised application to vary/modify/delete - Does not preclude assessment of the current proposal.
- Application for Listed Building Consent was not made for works in connection to planning permission 17/03933/FUL - Does not preclude assessment of the current proposal.
- Incorrect address/affixed to three upper flats/ not sole owner/ applicant not served appropriate notice - Form 2 on the Application Form identifies the addresses served with a Notice and this responsibility lies with the applicant. The Council has fulfilled its statutory obligation to advertise the proposal and to notify neighbours. This does not preclude assessment of the proposal.
- Agreement of all owners of upper flats is required - Does not preclude assessment of the current proposal.
- Any granting of permission does not imply rights to carry out works to other people's property - Not relevant to the assessment.
- Contrary to Policy Des 4, Des 5, and Hou 7 in the Edinburgh Local Development Plan - Not applicable to the assessment of the current proposals.
- Kitchen flues carrying hot vapour/ odour immediately adjacent to habitable rooms will have a materially detrimental impact on the living conditions of residents - Assessment of the application is restricted to the materiality of the ducts, not its operational use. Statutory nuisances are covered under a separate regime.
- There is no need for the flue as the restaurant is to be ventilated using the existing internal chimney - Issue of need is subjective and carries no bearing in the assessment.
- Will weaken impact on structure of the building - Not a planning matter.

Conclusion

In conclusion, the proposal complies with the policies in the Edinburgh Local Development Plan. The proposed ducts will not have an unacceptable impact on the character of the listed building and it will not be detrimental to the character and appearance of the conservation area. There are no material considerations that would outweigh this conclusion. It is recommended that the application is approved.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. Prior to installing the external ducts, details of the proposed method of attachment shall be submitted to and approved in writing by the Planning Authority.

Reasons:-

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

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

The application was advertised on 22 June 2018 and the proposal attracted 11 letters of objection.

The comments made are addressed in the Assessment section of the 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

The site is an urban area as designated in the Edinburgh Local Development Plan and the South Side Conservation Area.

Date registered

4 June 2018

Drawing numbers/Scheme

01.,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Laura Marshall, Planning Officer

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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.

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.

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.

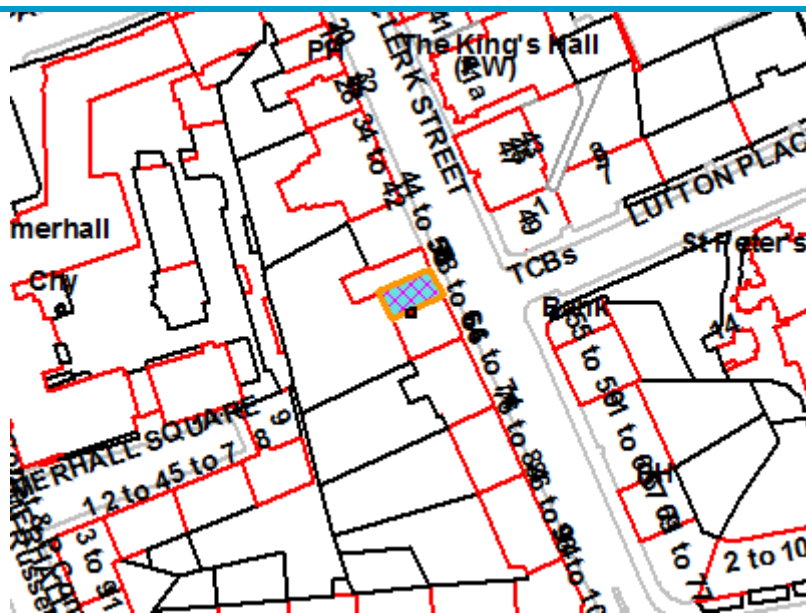
Appendix 1

**Application for Planning Permission 18/02643/FUL
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Consultations

No consultations undertaken.

Location Plan



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