

Item 3.2 - Minutes

Additional Development Management Sub-Committee of the Planning Committee

10.00am, Wednesday 30 January 2019

Present:

Councillors Gardiner (Convener), Child (Vice-Convener), Booth, Dixon, Gordon, Griffiths, McLellan, Mitchell, Mowat, Osler and Staniforth.

1. 106 - 162 Leith Walk, Edinburgh, EH6 5DX

The Chief Planning Officer had identified applications for planning permission and conservation area consent for the demolition of existing buildings and erection of a mixed use development including 53 affordable housing flats, student accommodation (471 bedrooms), hotel with 56 rooms (Class 7), restaurant(s) (Class 3) and space for potential community and live music venue (Class 10 & 11), retail (Class 1), public house (sui generis) or commercial uses (Class 2 & 4) at 106 - 162 Leith Walk, Edinburgh, EH6 5DX (application nos 18/04332/FUL and 18/04349/CON) to be dealt with by means of a hearing.

(a) Report by the Chief Planning Officer

The proposal was for a mixed use development incorporating student housing, hotel use, affordable housing and ground floor units suitable for a variety of uses including a live music venue on a site located in and adjacent to Leith Town Centre. The mix and balance of uses were acceptable and would result in an intensification of development along Leith Walk which would support the vitality and viability of the town centre and bring wider regeneration benefits.

The principle of student housing accorded with policy Hou8 in the Edinburgh Local Development Plan (LDP) and the proportion of the site to be developed for student accommodation was considered to be a justified infringement of the student housing guidance. The relatively limited provision of class 4 business space as part of the overall mix accorded with the Stead's Place/Jane Street Development Brief and was considered to be a justified exception to LDP Policy Emp9 as the proposals met other LDP objectives.

On balance, the proposed design, height and layout, including the loss of a small area of open space, were acceptable and the proposal would preserve the character and appearance of the Leith and Pilrig Conservation Areas. Consideration of the impact of the loss of the existing building along 106-162 Leith walk was assessed under application 18/04349/CON.

Potential impacts on the amenity of future residents in terms of noise and odour could be addressed through conditions without prejudicing nearby employment uses. With the exception of a minor infringement of the daylighting guidance, the proposal would not have a detrimental impact on the amenity of neighbouring properties.

Subject to developer contributions towards the tram and relevant transport infrastructure, there were no objections on transport grounds. The number of cycle spaces did not meet the requirements of the Edinburgh Design Guidance. However, the applicant had submitted supporting information to explain the reasons for the number of cycle parking spaces provided and this on its own would not justify refusal of the application.

A significant number of representations had been received both objecting to and in support of the proposals. The wide range of matters raised in the representations had been considered in the assessment of the application.

Overall, it was considered that the application accorded with the development plan as the minor departures on some matters represented justifiable exceptions to LDP policy. In this instance, the regeneration benefits for the town centre and wider area outweighed concerns regarding student housing and employment space, impact on amenity and the level of cycle parking provided.

The Chief Planning Officer considered that there were no other material considerations which outweighed this conclusion and therefore it was recommended that the Sub-Committee grant planning permission and conservation area consent.

The presentation can be viewed via the link below:

https://edinburgh.public-i.tv/core/portal/webcast_interactive/398792

(b) Leith Harbour and Newhaven Community Council

Jennifer Marlborough gave a presentation on behalf of Leith Harbour and Newhaven Community Council.

Ms Marlborough stated that the mixed style and proportions of the existing building were unique to the section of Leith Walk. The Leith Conservation Area character appraisal emphasised the area's unique architectural character and the concentration of buildings in significant historic and architectural quality, the unifying effect of traditional materials and the multiplicity of land use activity. The appraisal also noted that recent housing developments had attracted people on higher than average incomes, whose lifestyles were in contrast to many local residents. A critical concern for local people and business was about closing the gap, to ensure that the whole community benefitted from increased investment.

The Community Council's grounds for objecting to the application were: Local Development Plan Policy Hou 2 (Housing Mix), as the proposed development did not address the range of housing needs in the area; Hou 8 (Student Accommodation), parts

B and C, as the number proposed would lead to excessive concentration and would be detrimental to the established character; Des 1 (Design Quality and Context) as the development would not contribute towards a sense of place and would be damaging to the character; Env 4 (Listed Buildings – Alterations and Extensions) and 5 (Conservation Areas – Demolition of Buildings) as the demolition and replacement of the existing building would not enhance or preserve the special character of the area as the design and material were inappropriate. Reference was also made to the City of Edinburgh Council Planning Information Bulletin issued in March 18, which stated that any development over 0.23 hectares would need to include 50% affordable housing provision on-site.

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https://edinburgh.public-i.tv/core/portal/webcast_interactive/398792

(c) Leith Central Community Council

Nick Gardiner and Julian Siann gave a presentation on behalf of Leith Central Community Council.

They stated the Local Development Plan policies that they believed the proposed development contravened:

- Des 1 (Design Quality and Context) as the proposed building was too tall at seven storeys – the Urban Design Panel suggested retail at ground level with three residential storeys above. Features of inappropriate design included a 40 metre run of glazing units on the ground floor, windows on the face of the development which were too small in comparison to other buildings in the area, and the lack of real sandstone on the front façade.
- Des 3 (Development Design – Incorporating and Enhancing Existing and Potential Features) – the present low-level building contributed to the overall character of the area and had not been incorporated into the design.
- Des 4 (Development Design – Impact on Setting) – the height and form of the proposed development were out of proportion to the streetscape and would have an adverse impact on the local area.
- Des 5 (Development Design – Amenity) in relation to reduced daylight – 23 existing windows would have their daylighting cut by below the Vertical Sky Component (VSC) standard of 27%.
- Des 6 (Sustainable Buildings) – the student residences did not make use of low or zero carbon generating technologies.
- Des 11 (Tall Buildings – Skyline and Key Views) – the building would be significantly taller than the surroundings.

They stated that Leith Walk was a diverse area, with an already significant student population and which had already seen many businesses forced to close, and encouraged members to reject the application.

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(d) Leith Links Community Council

Sally Millar gave a presentation on behalf of Leith Links Community Council.

Ms Millar indicated that the community supported the other local community councils in opposing the application. As underlined by Historic Environment Scotland, there was a presumption for the retention of buildings in a conservation area – the existing building was in reasonable condition and should be retained in accordance with Local Development Plan Policy Env 5 (Conservation Areas – Demolition of Buildings). Ms Millar argued that there had been little reasonable effort made by the developer to retain the building and no real justification for the demolition had been provided. Unlike the top of Leith Walk, this area had never been densely tenemented, it was a light and open area with mixed styles of buildings with space around them. The existing building was an important part of the streetscape and played a huge role in keeping the street spacious and open. The loss of the building would therefore adversely affect the character of the area. Ms Miller argued that the following Local Development Plan Policies had not been met:

- Policy Env 22 (Pollution and Air, Water and Soil Quality) as the shape and size of the development would prevent the dispersal of air pollution from vehicles and cause deterioration of air quality.
- Policy Tra 2 (Private Car Parking) as the developer had underestimated the amount of parking required and there was not enough on-street parking in the area to cater for the number of vehicles.
- Policy Tra 3 (Private Cycle Parking) as only one-third of the recommended cycle parking was proposed.
- Policy Hou 3 (Private Green Space in Housing Development) as the development provided less than a third of that recommended by Edinburgh's Planning Policy.
- Policy Hou 4 (Housing Density) as the proposal was too dense, to the point of threatening the local amenity.

Ms Miller stated that the new development would contribute nothing of value to the local community.

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(e) Cockburn Association

Terry Levinthal gave a presentation on behalf of the Cockburn Association.

Mr Levinthal indicated that he would focus on the statutory and legal issues relating to conservation areas. The area had historically been a low density part of Leith. Members were referred to Section 26 of the Tenement Scotland Act 2004 for statutory meaning in relation to tenements. Section 64 of the Planning (Listed Buildings and Conservation

Areas) (Scotland) Act stated there was a general duty in the discharge of planning functions and was therefore equal in the Sub-Committee's duty in discharging the development plan under section 25 of the main act. The application of Section 64 had been subject to several legal tests and was defined in case law – the concept of preserving or enhancing would be achieved either by the positive contribution to preservation or by development which left character or appearance unharmed (known as the “do no harm” principle). Both the Council and Historic Environment Scotland had stated that the existing buildings contributed positively to the conservation area. Mr Levinthal noted that the existing buildings were included when the conservation area was extended in 1998, with the intention that the character would be preserved and enhanced. Local Development Plan Policy Env 5 (Conservation Areas – Demolition of Buildings) stated that proposals for the demolition of an unlisted building within a conservation area but which was considered to make a positive contribution to the character of the area would only be permitted “in exceptional circumstances” – Mr Levinthal argued that no effort had been made to demonstrate this, and that the development proposals presented no public benefits over and above those already contained within the building and that additional benefits could be accrued with development behind the existing site.

Mr Levinthal encouraged the Sub-Committee to refuse consent based on its statutory duty to preserve a conservation area.

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(f) Leith Depot

Julie Carty gave a presentation on behalf of Leith Depot, one of the businesses affected by the proposed development. Leith Depot was a small, independent business that had successfully developed into a cultural asset and community hub. Ms Carty stated that the developer, since buying the building, had removed local businesses, which brought diversity, employment and innovation to the local area, and had made no genuine attempt to retain the building. The applicant had also ignored calls to keep the units open while the Council was making its decision on the application. The current proposals would result in a significant reduction in local commercial businesses – the proposed development would contain only six new mixed use units, while the existing building had over 20 on the first floor and 18 on the ground floor. Ms Carthy argued that the Save Leith Walk Campaign had genuinely engaged public opinion, which favoured a development at the rear of the site – more than 12,000 people had signed a petition, and more than 4,000 had objected online. The building, she argued, was economically viable, structurally sound, and made a positive contribution to both the conservation area and the community. The proposed development at the site was the wrong type of development and was inappropriate for this part of Leith Walk.

Ms Carthy encouraged members to reject the application, as it was neither respectful for local businesses, community opinion or the designation of a conservation area.

The presentation can be viewed via the link below:

(g) Save Leith Walk

Clara Boeker and Pierre Forissier gave a presentation on behalf of Save Leith Walk. They stated that they had good reasons to save the building and clear ideas about how the area behind it could be developed, a view they said was shared by the Leith community councils, local councillors, MPs and MSPs, thousands who had signed the petition to stop the demolition, sent in letters of objection, and hundreds who had attended public meetings and consultation events. Opposition to the demolition was particularly strong among local residents, business owners and the people who used Leith Walk on a regular basis. The Save Leith Walk Campaign had led an open consultation for over 8 months, holding weekly street stalls, public meetings and canvassed opinion. They argued that the proposed demolition and development did not meet 19 Scottish Government and City of Edinburgh Council planning policies. They reminded members of the comments made by Historic Environment Scotland in relation to the presumption of retention of the building, the Cockburn Association in relation to the enhancement or preservation of the area, comments by the City of Edinburgh Council's Economic Development department regarding the negative economic impact of the new development, the Council's planning report, which highlighted that the development would infringe student housing regulations, and the Edinburgh Urban Design Panel's recommendation that no building on this site should be more than four storeys tall, compared the development's proposed seven storeys. The presenters argued that the Stead's Place Development Brief was outdated and no longer fit for purpose, as the economic landscape of Leith and Edinburgh had changed dramatically. The building had undergone a transformation in the last 10 years, which was now a thriving community hub. They noted that the structural report from 2018 had stated that the building was in a sound structural condition.

The presenters stated that the local community had lots of ideas about what could be developed behind the site. A recent community planning workshop, involving local businesses, volunteer organisations, community councils, politicians, architects and town planners, had focused on alternative visions for development, and highlighted the need for affordable and social housing for people of all ages, improved community and green spaces, and support for small locally owned businesses and voluntary organisations. They argued that there was space for 200 homes in the area of land behind the existing building, comprising affordable/social housing and student accommodation.

The presenters asked members to reject the proposals.

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(h) Leith Ward Councillors

Councillors Adam McVey and Gordon Munro addressed the Sub-Committee as the members for Leith Ward.

Councillor McVey stated that he felt that, while the majority of people in Leith wanted to see the site developed, they did not want the building demolished or for the development to progress as set out in the application. He made reference to Local Development Plan Policies Hou 8 (Student Accommodation) and Des 1 (Design Quality and Context), which he did not believe had been met by the applicants. He indicated that he shared concerns about the number of cycle parking spaces and also shared the view of Historic Environment Scotland and the Cockburn Association in terms of the location of the building within the conservation area. On the economic analysis, Councillor McVey argued that the situation had changed since this was carried out, with businesses moving into the building and creating an anchor of the community. The community required a residential-led development, and this was also backed up by the Council's planning policy.

Councillor Munro asked members to reject the applications on planning policy grounds. He referred to the Edinburgh Urban Design Panel's meeting with developers on 28 March 2018, at which they encouraged the development of the heritage historical analysis for the site, particularly in respect of the existing two-storey red sandstone buildings and the contribution they make to the character of the conservation area, noting the buildings' "impressive animation to Leith Walk" and their contribution to the Leith community. The Panel had advised that this analysis could inform a design for the site, particularly the Leith Walk frontage. Councillor Munro noted that Historic Environment Scotland did not consider that the information provided justified the demolition of the buildings, as there was no structural or actual impediment to reusing the building besides financial considerations. He referred members to Local Development Plan Policies Env 5 (Conservation Areas – Demolition of Buildings), Env 6 (Conservation Areas – Development), Des 1 (Design Quality and Context), Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features), Des 4 (Development Design – Impact on Setting), Des 5 (Development Design – Amenity), Ret 1 (Town Centres First), Ret 3 (Town Centres), Hou 8 (Student Accommodation), Tra 2 (Private Car Parking), Tra 3 (Private Cycle Parking) and Tra 9 (Cycle and Footpath Network) as grounds for rejection. Councillor Munro encouraged members to reject the applications.

The presentation can be viewed via the link below:

https://edinburgh.public-i.tv/core/portal/webcast_interactive/398792

(i) Leith Walk Ward Councillors

Councillors Amy McNeese-Mechan, Susan Rae and Lewis Ritchie addressed the Sub-Committee as the members for Leith Walk Ward.

Councillor Ritchie stated that the application was one of only a few local planning applications that had gathered so much interest or received so many objections. He argued that objections were rooted in planning policy. The design, he argued, was incongruous due to its height, scale and massing, and served as an example of overdevelopment. The overabundance of materials was an attempt to break up the dominance of the façade, but the final design felt muddled and confused. Leith Walk was

in desperate need of more affordable housing. This development did not meet the policy of providing a 50/50 split between student and general housing. Councillor Ritchie encouraged the Sub-Committee to reject the applications.

Councillor Rae stated that the proposed demolition of the existing buildings had shocked the community, as it was an integral part of the Leith Walk, and had galvanised the community to carry out the biggest volunteer-run consultation and educational exercise ever mounted in Leith, over the course of just under a year. They held public meetings which were broadcast live, ran street stalls, organised petitions and fundraising events. Currently, only 2% of the housing in the ward was council housing, and 9% was student housing. This development would raise that to 12%. Councillor Rae encouraged members to reject the applications.

Councillor McNeese-Mechan raised concerns about the “ghettoization” of the proposals, with accommodation for students and tourists at the front, with a segregated social and affordable housing development at the back. The 53 affordable homes on the new site were not enough. The proposed student accommodation was a high rise block which would separate students from the community and the affordable housing at the back appeared to be an afterthought. There was no demand for a hotel on Leith Walk and no evidence of innovative thinking with regard to social housing models. Edinburgh hotels did not have full occupancy, even in the city centre, so any new hotel on Leith Walk would have empty rooms, in an area which badly needed affordable housing.

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(j) Applicant and Applicant’s Agent

Graeme Bone, Fife Hyland and Paul Doherty (on behalf of Drum) and Michael Halliday (on behalf of Halliday Fraser Munro) were heard in support of the application.

The site was purchased by Drum in 2017 and was long acknowledged to be a development and regeneration opportunity. The approach taken was to ensure that the proposals were in accordance with planning regulations. The existing built environment at the site was tired and obsolete and the accommodation of very poor quality. An initial options appraisal had concluded that it was not economically viable to retain the building at the site. The rents achievable were very low, ranging from £2.50 to £5 per square foot. The development proposals were therefore taken forward, starting with an extensive consultation exercise. The comments and observations expressed during the consultation had informed the proposals. For example, the height of the building was reduced, the ground floor parade would be retained in order to enhance the vibrancy of the section of Leith Walk, existing tenants had been offered the opportunity to return to the development, and the new development would include a live music venue. Some of the public consultation strayed into issues that were wider than the proposed development, for example, private ownership, the Council’s affordable housing policy and gentrification which, while worthy topics, were not relevant to the planning application.

The various elements of the proposed development were summarised: a new retail and business parade, a 56-bedroom student hotel operated by the University of Edinburgh, post-graduate student accommodation, affordable housing to the rear of the site, and a safe, well-lit link from Leith Walk to Pilrig Park. The University of Edinburgh had submitted an operating plan in support of the application. The Leith Walk frontage included a café-bar and a co-working space, which would be open to students, hotel guests and local residents. The demolition of the existing building would preserve the character of the conservation area. The Local Development Plan, the supplementary guidance, the development brief, and the advice from officers and statutory consultees including Historic Environment Scotland were clear that the application complied with the Local Development Plan and was in the public interest. The proposal was a true mixed use solution and fulfilled an aspiration of the Council to regenerate and stimulate economic activity in a neglected part of Leith.

The presentation can be viewed via the link below:

https://edinburgh.public-i.tv/core/portal/webcast_interactive/398792

Decision

- 1) To refuse planning permission, as the proposals were contrary to:
 - Local Development Plan Policy Env 5 in respect of Conservation Areas – Demolition of Buildings as the red sandstone building made a positive contribution to the character and appearance of the conservation area and the design of the proposed replacement building did not outweigh the loss of the existing building
 - Local Development Plan Policy Env 6 Conservation Areas – Development part a) as the proposed development did not preserve or enhance the special character or appearance of the conservation area.
 - Local Development Plan Policy Des 1 Design Quality and Context as the development would have had a detrimental impact on the appearance of the surrounding conservation area.
 - Local Development Plan Policy Des 4 Development Design – Impact on Setting part a) as the height and form of the proposed development would not have a positive impact on its surroundings.
 - Local Development Plan Policy Des 5 Development Design – Amenity part a) because it would have a detrimental impact on the levels of daylight afforded to existing residential properties.
 - Local Development Plan Policy Hou 8 Student Accommodation as the location was not appropriate in terms of access to university and college facilities by walking, cycling or public transport and it would result in an excessive concentration of student accommodation to an extent that would be detrimental to the maintenance of balanced communities or to the established character and residential amenity of the locality.
 - Local Development Plan Policy Tra 3 Private Cycle Parking as the proposed private cycle parking did not accord with the standards set out in the non-statutory Edinburgh Design Guidance.
 - The non-statutory Student Housing Guidance as the new build residential gross

floor area did not represent a minimum of 50% of the total new build housing and student accommodation gross floor area.

- 2) To refuse Conservation Area Consent, as the proposals were contrary to:
- Historic Environment Policy Statement 2016 as the existing building made a positive contribution to the character and appearance of the conservation area and the design of the proposed replacement building did not outweigh the loss of the existing building.
 - Local Development Plan Policy Env 5 in respect of Conservation Areas – Demolition of Buildings and the non-statutory guidance on Listed Buildings and Conservation Areas as the existing building made a positive contribution to the character and appearance of the conservation area and the design of the proposed replacement building did not outweigh the loss of the existing building.

(Reference – report by the Chief Planning Officer, submitted.)

Appendix

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.		
6.1(a) – 106 - 162 Leith Walk Edinburgh EH6 5DX	Application nos 18/04332/FUL & 18/04349 – Protocol Note	Noted.

[6.1\(b\) – 106 - 162](#)
[Leith Walk](#)
[Edinburgh EH6 5DX](#)

Demolition of existing buildings and erection of a mixed use development including 53 affordable housing flats, student accommodation (471 bedrooms), hotel with 56 rooms (Class 7), restaurant(s) (Class 3) and space for potential community and live music venue (Class 10 & 11), retail (Class 1), public house (sui generis) or commercial uses (Class 2 & 4). Includes associated infrastructure, landscaping and car parking - application no 18/04332/FUL

To **REFUSE** planning permission, as the proposals were contrary to:

- Local Development Plan Policy Env 5 in respect of Conservation Areas – Demolition of Buildings as the red sandstone building made a positive contribution to the character and appearance of the conservation area and the design of the proposed replacement building did not outweigh the loss of the existing building
- Local Development Plan Policy Env 6 Conservation Areas – Development part a) as the proposed development did not preserve or enhance the special character or appearance of the conservation area.
- Local Development Plan Policy Des 1 Design Quality and Context as the development would have had a detrimental impact on the appearance of the surrounding conservation area.
- Local Development Plan Policy Des 4 Development Design – Impact on Setting part a) as the height and form of the proposed development would not have a positive impact on its surroundings.
- Local Development Plan Policy Des 5 Development

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
		<p>Design – Amenity part a) because it would have a detrimental impact on the levels of daylight afforded to existing residential properties.</p> <ul style="list-style-type: none"> • Local Development Plan Policy Hou 8 Student Accommodation as the location was not appropriate in terms of access to university and college facilities by walking, cycling or public transport and it would result in an excessive concentration of student accommodation to an extent that would be detrimental to the maintenance of balanced communities or to the established character and residential amenity of the locality. • Local Development Plan Policy Tra 3 Private Cycle Parking as the proposed private cycle parking did not accord with the standards set out in the non-statutory Edinburgh Design Guidance. • The non-statutory Student Housing Guidance as the new build residential gross floor area did not represent a minimum of 50% of the total new build housing and student accommodation gross floor area.

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
6.1(c) – 106 - 162 Leith Walk Edinburgh EH6 5DX	Complete Demolition in a Conservation Area – application no 18/04349/CON	To REFUSE Conservation Area Consent, as the proposals were contrary to: <ul style="list-style-type: none"> • Historic Environment Policy Statement 2016 as the existing building made a positive contribution to the character and appearance of the conservation area and the design of the proposed replacement building did not outweigh the loss of the existing building. • Local Development Plan Policy Env 5 in respect of Conservation Areas – Demolition of Buildings and the non-statutory guidance on Listed Buildings and Conservation Areas as the existing building made a positive contribution to the character and appearance of the conservation area and the design of the proposed replacement building did not outweigh the loss of the existing building.