

Development Management Sub Committee

Wednesday 12 January 2022

**Application for Listed Building Consent 20/05799/LBC
at 14 Bath Street, Edinburgh, EH15 1EY.
Demolition of auditorium and retention and partial
restoration of principal external elements of the Art Deco
facade, erection of 20 residential flats with associated car
parking and landscaping.**

Item number

Report number

Wards

B17 - Portobello/Craigmillar

Summary

The application does not demonstrate that the proposals to undertake substantial demolition will not damage the special architectural and historic interest of the listed building. Given this, further assessment of the design of the scheme and its impact on the character of the Conservation Area would be without substantiation. The proposal does not comply with section 14 and 64 of the Planning (Listed Buildings and Conservation Area) (Scotland) Act 1997 and the tests set out by HES policy. There are no material considerations which outweigh this conclusion.

Links

[Policies and guidance for this application](#)

HEPS, HESDEM, LDPP, LEN02, LEN04, LEN05, LEN06, NSG, CRPPOR, NSLBCA,

Report

Application for Listed Building Consent 20/05799/LBC at 14 Bath Street, Edinburgh, EH15 1EY. Demolition of auditorium and retention and partial restoration of principal external elements of the Art Deco facade, erection of 20 residential flats with associated car parking and landscaping.

Recommendations

1.1 It is recommended that this application be Refused for the reasons below.

Background

2.1 Site description

The property is a vacant former cinema, last serving as a bingo hall and is located on Bath Street, the main approach road to Portobello beach from Portobello High Street.

The existing building was designed in 1938 by Thomas Bowhill Gibson and opened in March 1939 but not fully completed until during or slightly after the Second World War. Although intended to look like a solid concrete structure, it is brick-built, with a thin rendered cement skin, standing on a concealed timber frame. The frontage has several added outer layers over the original frontage. The frontage has been stripped of all its original projecting glazed features, and its central tower has been truncated, giving a much lower and flatter form than that originally built. Internally the front section contains the entrance lobby, stairs and projection room, but these areas have been stripped of most original features.

The rear section of the building contains the auditorium area. Externally this section of the building is a simple rendered brick box with a corrugated asbestos roof. Steel uprights (paired C-sections) are visibly expressed as thin "pilasters". Brickwork is only half a brick thick here, despite the building's height, and it is not structurally connected to the steel uprights. Steelwork is corroded through where it connects to ground level. It is noted that the outer render contains layers of asbestos.

Internally, the currently accessible lower auditorium is plain and relatively featureless. The seating has been removed and a false ceiling has been added to the space, and above this it is noted that the original form and ornamentation remains substantially intact. The entire upper balcony retains its original form and structure but is lacking ceiling and has the access to it blocked. It is noted that the original ornamentation where present contains a proportion of asbestos fibre, rather than being pure plaster.

The building is listed category C, dated 12 December 1974 (reference number: 26818).

The front elevation of the building faces onto Bath Street, facing onto one and two storey properties, currently in use for residential/ commercial purposes. No. 17 Bath Street directly opposite the application site is a Category C listed property. On its west side the cinema abuts a substantial five storey Victorian tenement, rising higher than the current cinema building.

Bath Street as a whole is varied in character, with buildings dating from 1810 to contemporary, and with scales varying from one storey to five storeys. There are several listed properties located on the street. The carriageway is narrow, and although a two-way street, parking on each side restricts car movements to a single car travelling in one direction at any given time.

The rear and side gable of the building faces onto Mentone Terrace, which is a residential street characterised by a mix of cottage style and traditional tenemental housing. A row of two and half storeys of cottages-style villas (Nos. 1 to 5 Mentone Avenue) faces onto the south-west (gable) elevation of the building. Nos 1 to 5 Mentone Avenue are category C listed (listed building reference LB26831). To the rear of the site the street is cottage-like in character on its western side, and more tenemental in character on the east and to the north.

The site contains three mature trees along its eastern edge onto Mentone Terrace, but is otherwise hard surfaced.

This application site is located within the Portobello Conservation Area.

2.2 Site History

20 July 2016 - Planning application refused for demolition of existing listed bingo hall, erection of a residential redevelopment comprising 21 flatted dwellings including associated parking / garaging and garden grounds (application reference 16/02052/FUL).

20 July 2016 - Listed building consent refused for demolition of existing listed bingo hall, erection of a residential redevelopment comprising 21 flatted dwellings including associated parking / garaging and garden grounds (application reference 16/02052/LBC).

18 October 2018 - Planning application refused and appeal dismissed for the retention of principal facade of former cinema building (including partial restoration of missing elements) and the erection of a residential building comprising 20 flatted dwellings including garages, car parking and associated landscaping (application reference 16/06447/FUL).

18 October 2018 - Listed building consent refused and appeal dismissed for the retention of principal facade of former cinema building (including partial restoration of missing elements) and the erection of a residential building comprising 20 flatted dwellings including garages, car parking and associated landscaping (application reference 16/06449/LBC).

Under Consideration - demolition of auditorium and retention and partial restoration of principal external elements of the Art Deco facade, erection of 21 residential flats with associated car parking and landscaping. (application reference 20/05800/FUL).

Main report

3.1 Description of the Proposal

The proposal is for the substantial demolition of the listed building and redevelopment to form a residential building. Demolition will remove the entire rear auditorium. The principle elevation to Bath Street, including the continuous west and east wings will be retained and partly restored, with the addition of some new architectural detailing. The redevelopment will create a new rear form, which will combine with the retained frontage section to create a residential development to include 20 flats. A new lift enclosure will be formed on the principle front elevation.

The proposed accommodation will include three one bedroom flats, 14 two-bedroom flats and three three-bedroom flats. The three flats at ground floor level will be accessed via individual main doors. Nine of the flats on floors one to five will have private outdoor terraces or balconies.

To the rear of retained principle elevation, the auditorium will be replaced by a six-storey building. This will occupy a smaller footprint than the existing building and will have a cubist architectural style. The building form will step up, meaning that the fifth floor is located to the rear of the building. The fourth storey will also be set back from the form of the original building frontage in part, with private terraces provided overlooking Bath Street.

Six garages will be provided adjoining the rear of the building, adjacent to the proposed parking area.

The outer skin of rendered wooden boards that were added to the front elevation of the building will be removed. This will be replaced with a stable insulated metal cladding system, which will be smooth rendered in an ivory colour to match the existing finish. The frontage will be largely restored to its original profile, with the reinstatement of lost glazed features and the central art-deco style feature pinnacle, which was previously removed.

Additional glazing will be added to the front elevation, some in a style to match the reinstated glazing on the central pinnacle, and some in an alternative style. The glazing pattern on the fourth floor's front elevation will be distinct from the rest of the frontage, comprising floor to ceiling glazing. Further architectural detailing will be added at the fifth floor level in the form of blue ceramic wall tiles on a rainscreen cladding system.

A glazed lift enclosure will be added to the front elevation. This will be finished with a dark grey powder coated aluminium double glazed window system with a fenestration pattern in the style of the original illuminated advertising tower that previously formed part of the buildings principal elevation but has since been removed.

A glazed period style fan canopy will be added to the front elevation to replace the current utilitarian canopy, which was a later addition to the original building. Art deco style porches will also be added to the main door apartments on the front elevation.

Windows and doors will be double glazed and have a dark grey powdered aluminium finish. Rainwater goods will be coloured dark grey. Balconies and terraces will have frameless clear glass finish with bronze handrails.

A lift will be included within the building to provide access to all floors and a level entrance for disabled access will be provided on the south gable elevation.

Open space is provided around the front and side elevations of the building. No details of the proposed landscaping strategy have been provided.

Vehicular access into the site will be taken via an improved access point on Mentone Avenue. This will require the removal of one tree.

Land to the rear of the building is identified for car parking. 21 car parking spaces are provided within the design. This includes six parking spaces in garages. No dedicated cycle parking has been provided within the scheme.

A bin store area is provided to the front of the building, on the corner of Bath Street and Mentone Avenue.

The entrance steps to the main lobby of the building on Bath Street will be retained and a new boundary wall will be provided around the perimeter of the site.

The following documents have been provided in support of the application;

- Applicant's statement
- Scheme design details
- Design and Access Statement
- Report of Findings of Intrusive Structural Investigations (16 December 2020)
- Structural Condition Report (29 March 2021)
- Peer Review Report of Remedial Proposals (13 May 2021).

3.2 Determining Issues

The proposed development requires first to be assessed against Sections 14 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) In terms of Section 14, 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.

- b) In terms of Section 64 there is a strong presumption against granting consent for development which would conflict with the objective of preserving or enhancing the character or appearance of the conservation area. If engaged, the presumption can only be rebutted if the advantages of the scheme in the proposed location are sufficient to outweigh that strong presumption.

The Council, in the exercise of its functions (including determination of planning) applications, is required to give due regard to the public sector equality duty under Section 149 of the Equality Act 2010.

In determining applications for Listed Building consent in a conservation area, it is principally the HES Policy and guidance that the proposals should be assessed against. The Development Plan is not a statutory test. However, the policies of the Local Development Plan (LDP) inform the assessment of the proposals and are a material consideration.

Having due regard to HES Policy and guidance, do the proposals:

- (a) harm a listed building or its setting?
- (b) conflict with the objective of preserving or enhancing the character or appearance of the conservation area?

If the proposals do comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty & development plan policies) for not approving them?

If the proposals do not comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty & development plan policies) for approving them?

3.3 Assessment

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

- a) the proposals will impact on the character of the listed building;
- b) the proposals will preserve or enhance the conservation area;
- c) the proposals raise any equalities or human rights issues and
- d) any comments raised have been addressed.

a) Character of Listed Building;

With regards to national legislation and policy, the Planning (Listed Buildings and Conservation Areas) (Scotland) 1997 Act requires that special regard be given to preserving listed buildings and their settings. There is a strong presumption in favour of retaining listed buildings and applications to demolish these should be refused unless their loss has been fully considered and justified.

Scottish Planning Policy states that listed buildings should be protected from demolition or other work that would adversely affect it or its setting.

HES

Historic Environment Scotland's (HES) document Historic Environment Policy for Scotland (HEPS) outlines the key policy considerations for making decisions about works that affect listed buildings as follows;

- HEP2: Decisions affecting the historic environment should ensure that its understanding and enjoyment as well as its benefits are secured for present and future generations and

- HEP4: Changes to specific assets and their context should be managed in a way that protects the historic environment. Opportunities for enhancement should be identified where appropriate. If detrimental impact on the historic environment is unavoidable, it should be minimised. Steps should be taken to demonstrate that alternatives have been explored, and mitigation should be put in place.

The Historic Environment document "Managing Change in the Historic Environment: Demolition of Listed Buildings" sets out four tests for the justification of a listed building. It states that only one of the four tests requires to be met in order to justify demolition. The four test requirements are;

- i) the building is not of special interest; or
- ii) the building is incapable of repair; or
- iii) the demolition of the building is essential to delivering significant benefits to economic growth to the wider community; or
- iv) the repair of the building is not economically viable and that it has been marketed at
- v) a price reflecting its location and condition to potential restoring purchasers for a reasonable period.

Local Development Plan

With regards to the LDP, policy Env 2 permits proposals for the total or substantial demolition of a listed building only where;

- The condition of the building and cost of repairing and maintaining it in relation to its importance and to the value of its continued use;
- The adequacy of efforts to retain the building in, or adapt it to, a use that will safeguard its future, including its marketing at a price reflecting its location and condition to potential restoring purchasers for a reasonable period; and
- The merits of alternative proposals for the site and whether the public benefits to be derived from allowing demolition outweigh the loss.

Assessment of the case for substantial demolition of the listed building

The HES statutory tests provide the key framework for assessing the case for demolition. An applicant is required to demonstrate that the proposed development meets the criteria of one of the four tests in order to justify demolition. The proposals have been assessed against the four tests as follows;

HESP test 1 - Special interest of the building

The George cinema building is described in its listing description as a prominent Art Deco style building within the locality, designed by a prominent cinema architect (T Bowhill Gibson), one of Edinburgh's leading cinema designers. Its notable characteristics relate to the principal (south east) elevation, including rounded and grooved original corbels flanking (echoing rounded tower bases framing the entrance area and a central tower detail (now reduced in height) and original interior features including detailing in the vestibule area, signage and some features in the main auditorium, including circular niches and strip plasterwork to walls.

The Portobello Conservation Area Character Assessment specifically identifies the George cinema building as an iconic landmark within the Portobello area. The building is widely known within the community and is an existing landmark. The volume of public comments made in relation to the proposed development highlight the substantial public interest that the building has locally. The proposed development will have a substantive and significant impact on the existing character of the building through its substantial demolition, including loss of the auditorium and interior features and alterations to the retained principal façade. The applicant has not sought to demonstrate that the building is not special enough or of little historical relevance to justify demolition. Based on the above, the proposal does not meet the provisions of the first HEPS test to justify its demolition.

HESP test 2: The building is incapable of repair.

This area of assessment relates to the current structural soundness of the auditorium building and the scope of works that would be required to reinstate this part of the building for future use as a cinema or as another compatible use. The supporting information provided by the applicant focuses on meeting the requirements of this test, and the applicant has undertaken three structural assessment reports, which seek to provide clarification in this regard. These reports provide the following information.

The Report of Findings of Intrusive Structural Investigations (Will Rudd Davidson, 16 December 2020)). It is noted that the author's signature endorsing this report was subsequently removed at the author's request, however as the report findings are cross-referenced in the G3 Peer Review report, it has been necessary to review this report as part of the assessment process. The provides advice as follows;

- The existing steel column are defective due to corrosion and will require cut/ replacement or rebuilding works to address this matter;
- The concrete in situ in the building is deficient in terms of strength and load bearing and will require enhancement to reach required safety standards;
- The required works will result in a loss of building fabric that his currently protected under the listing.
- The works required to address the above matters will be complex and costly. Costing information is provided in relation to the potential scope of works required to repair the existing building.

Structural Condition Report (Will Rudd Davidson, 29 March 2021) provides advice as follows;

- The report does not identify any significant issues with the structural integrity of the building in the short to medium term.
- The existing steel columns in the auditorium are found to have deteriorated through corrosion - these could be remediated with appropriate measures;
- Structural integrity of the building is reduced by a lack of ties between masonry wall and columns - this could be addressed through introduction of wall ties;
- The concrete in the building is deficient in terms of strength - further studies are recommended to assess if further strengthening is required;

- There is a requirement for the roof covering to be replaced due to presence of asbestos. A further study is recommended to determine the details of this matter.
- Further works are also recommended in relation to potential need for asbestos removal in internal/ external finishes.

Both of the above reports identify a range of areas and potential problems of bringing the building back into use, but neither report provides specific advice on what is involved (although recommendations are made which set out the need for further monitoring and assessments). The applicant has therefore subsequently submitted a Peer Review Report of Remedial Proposals (G3 Consulting Engineers 13 May 2021) providing a third party engineer's review of the two reports above. This report looks at the structural condition reports and considers that while neither are specific in what bringing the building back into use may involve, "sufficient information exists to make a reasonable estimate of the type of upgrading that may be necessary".

The Peer Review Report makes a number of assumptions in order to determine the potential scope of works required to carry out modifications and additions to the building in order to facilitate reuse. The report assumes that the works to the fabric of the building would be considered as repair, and therefore would not require a building warrant.

It is noted that a further structural report undertaken by Dave Narro Associates (Consulting Structural and Civil Engineers) has been submitted by a third party objecting to the application. This advises that the building is in a reasonable structural condition, and that further investigation is required to confirm the full extent of the deterioration of the building. In this regard, it questions the conclusions and recommendations presented in the applicant's reports on the basis that they have not been proved. The findings of this report have also been taken into consideration as a material consideration in the determination of the application.

Advice has been sought from HES (including their structural engineer), CEC Structures and CEC Building Standards in the assessment of the structural reports submitted in relation to this application with regards to the structural integrity of the building, and the extent of measures that could be required to reinstate the building for future use.

HES has recognised in their response that intervention (potentially of a significant scale) will be required in order to facilitate reuse of the building. They have also advised that for a building to be incapable of meaningful repair, it is expected that the repair and remedial works would be so extensive - requiring the replacement of all, or a substantial amount, or original fabric - that the significance of the listed building would be damaged. It is their view that in this case some uncertainty remains over the extent of repair works, and the quantity of fabric removal required to bring the auditorium back into use. On this basis, they have objected to the application.

Furthermore, HES has recommended that due to the assumptions made within the Peer Review Report and in the context of their presumption towards retaining listed buildings, the applicant should consider in more detail a scheme for re-using the building as a cinema (or compatible use). This option should be considered in more detail in order to be able to better quantify the extent of new additional and alterations and the implications that this will have on the structure of the auditorium.

The Peer Review report submitted by the applicant assumes that the works required to be undertaken to address problems with the fabric of the building would be considered as repair and would therefore not require a building warrant. Structures and Building Standards have reviewed this report and the other supporting information provided by the applicant and third parties and are of the view that whilst some repairs may be allowed to the existing building without the need to apply for a building warrant, it is likely that new structural work will also be needed which will require a building warrant that demonstrates compliance with the relevant Building Regulations. The advice given from Structures and Building Standards therefore identifies a level of doubt around the assumptions made in the Peer Review Report which challenge its robustness.

In summary, both the responses from HES and the Council's Structures and Building Standards team state that the supporting structural information provided by the applicant does not fully enough substantiate the case for demolition. Therefore some doubt remains in relation to the building's potential for meaningful repair to be undertaken. The legislative framework and policy guidance around listed buildings take a baseline position whereby the principles of conservation and retention of listed buildings where possible must be considered from the forefront. In this instance, given that a level of doubt remains from the technical advice gathered, it is not considered that the evidence provided by the applicant robustly demonstrates that the provisions of the second HESP test have been met.

HESP test 3: Is demolition of the building essential to delivering economic growth or benefits to the community?

The proposed development will provide 20 residential units. Whilst this would make some contribution in meeting current demand for housing within the city, the scale of housing proposed is not considered to deliver significant economic growth. In terms of community benefit, the building's existing use as a community facility would outweigh the contribution it would make as a residential site. The impact of loss of this community asset has not been fully explored by the applicant in their submission and based on the information presented, demolition could not be justified on these grounds. The proposal is therefore not considered to meet the requirements of this test.

HESP test 4: the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.

The applicant has provided information within their submission setting out their approach to marketing the building. This focused on businesses within the gaming industry for a period of two years prior to 2014, and was then placed on the open market between 2014 and 2016. A small number of parties wishing to operate the venue as a theatre/ cinema/ arts centre were noted to have initiated enquiries at that stage, none of whom pursued the enquiry further. The site was then subject to the previous applications for residential development.

Through the course of this application, representations have been lodged from a third party organisation with interest in operating the building for community purposes. This demonstrates a current interest in the purchase of the building from parties who would intend to refurbish it.

There is therefore a level of doubt regarding application's ability to meet Test 4 as set out above, and the proposal is not considered to meet the requirements of this test at this time.

LDP

In considering the proposed development in relation to policy Env 2 Listed Buildings - Demolition, the advice provided by HES in particular states that reasonable doubt remains over the capability of the building to be repaired and brought back into use. HES's advice also identifies a shortfall in information provided by the applicant in relation to the potential re-use of the building as cinema (or compatible use) and recommends that further exploration of this be demonstrated by the applicant in order to better quantify the possible future re-use of the building. It is not considered that the proposals meet the requirements of policy Env 2 in this regard.

Summary

The application has been considered in the context of statutory tests for the demolition of listed buildings as set out by HES and the provisions of the LDP. The main area of uncertainty remains the extent of works required to address structural problems, and thereafter the extent to which the applicant has demonstrated that the building is incapable of meaningful repair.

Despite the volume of supporting information provided, doubt remains in the responses of both HES and the Council's Structures and Building Standards officers. In their view, the applicant has not effectively explained how the proposals would meet the statutory tests set out by HES, and therefore uncertainty remains. The Council has a statutory responsibility to protect listed buildings, and in this instance, the shortfall of conclusive evidence from the applicant and lack of support from key consultees does not provide sufficient reassurance to demonstrate that demolition of the building can be justified. The proposal is therefore unacceptable in this regard.

b) the proposals will preserve or enhance the conservation area;

Policy Env 6 presumes against development that does not preserve or enhance the special character and appearance of the Conservation Area and or that this inconsistent with the conservation area character appraisal.

The Portobello Conservation Area Character Appraisal (CACA) specifically mentions the George cinema building, noting that "between the wars, when Portobello was in its heyday, a number of buildings were constructed in the modern style. The former cinema in Bath Street remains." It is recognised that the building acts as a local landmark within Bath Street and the wider Portobello townscape.

Bath Street is identified in the CACA as a having a mix of detached houses and tenements, with a range of building heights and a mix of uses interspersed with residential properties. The art deco style George cinema sits within this context, and whilst it is a landmark within the street, it is not specifically representative of the built form of the wider street, which is predominantly Georgian/ Victorian in character.

The key contribution that the existing building makes to its immediate context comes from the art deco features of its principal elevation. Externally, the rear auditorium is a simple box structure, and it is recognised that this makes little contribution to the special character of the conservation area. The proposed development of the building seek to retain the character of the front elevation, whilst replacing the rear auditorium with an alternative design approach in the form of residential flats. The impact that this change would make to the character of the conservation area is not considered to be harmful, given that the predominant change would be to the less visually important rear part of the building.

In this regard, the proposed development would allow the important characteristics of the building to be retained on its principle front elevation, which would allow it to continue to contribute as a landmark feature within the wider townscape. It would therefore not have a significantly detrimental impact on the overall character and appearance of Portobello Conservation Area. This approach is considered to be appropriate and acceptable in terms of meeting the provisions of policy Env 6.

c) Equalities and human rights

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

d) any comments raised have been addressed.

The proposal received 94 comments. Of these, 38 were supporting comments and 55 were objections. One neutral comment was received.

Material objection

- Loss of listed building of architectural and cultural significance - addressed in section 3.3(a) above;
- Loss of landmark building within conservation area - addressed in section 3.3(b) above;
- Opportunity exists for restoration and alternative use of the building - addressed in section 3.3(a) above;
- Applicant has not satisfactorily justified partial demolition of building on grounds of structural non-viability- addressed in section 3.3(a) above;

Non material objection

- Objection to the principle of housing development on the site in place of a community use - this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL.
- Impact of current safety barriers around building on pedestrian movement - not a material consideration in the determination of this application.
- Traffic impacts arising from the development this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL.

- Loss of trees on site this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL.
- The proposal replicates an earlier planning application this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL.
- Impact on neighbouring amenity this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL.
- The current owner has not looked after building condition - this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL.
- Objection on design grounds, specifically the proposed height of the building - this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL.

Material support

- Support for retention of principle façade - addressed in section 3.3(a) of the report; and
- Redevelopment will benefit character of the street - addressed in section 3.3(b) of the report

Non material support

- General support for principle of development - this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL;
- Support for the re-use of the listed building and a brownfield site - this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL;
- Support for proposed design - this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL;
- Reducing the footprint of existing building will benefit the amenity of Mentone Avenue - this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL; and
- Redevelopment will benefit community - - this aspect of the proposal is not part of this listed building application and is addressed in paragraph 3.3 of the report on planning application reference 20/05800/FUL.

Portobello Community Council comments;

Comments submitted include a survey of 266 local residents which provided the following results;

- 14% of respondents strongly support or support the application
- 1% of respondents have a neutral view of the application
- 85% of respondents strongly object or object to the application
- Responses identify interest in the local community for the building to be retained for public use;
- The application has failed to demonstrate a case for the demolition of the listed building;
- The proposed development would be detrimental to local character and amenity; and
- Concerns have been raised regarding the proposed scale, massing, overdevelopment, overshadowing and the impact of traffic and access on the development.

b Conclusion

The application does not demonstrate that the proposals to undertake substantial demolition will not damage the special architectural and historic interest of the listed building. Given this, further assessment of the design of the scheme and its impact on the character of the Conservation Area would be without substantiation. The proposal does not comply with section 14 and 64 of the Planning (Listed Buildings and Conservation Area) (Scotland) Act 1997 and the tests set out by HES policy. There are no material considerations which outweigh this conclusion.

It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons/informatives

Reasons:-

1. The proposal will detract from the special architectural and historic interest of the listed building. It does not comply with section 14 of the Planning (Listed Buildings and Conservation Area) (Scotland) Act 1997 as it has not been sufficiently demonstrated that the structural condition of the building is incapable of meaningful repair or that adequate measures have been undertaken to explore the potential restoration and reuse of the building.

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:

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

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

Public summary of representations and Community Council comments

Neighbour notification was undertaken on 11th May 2021. The application was re-notified on 10th June 2021 following the submission of additional supporting information.

A total of 94 comments were received from members of the public, of which 38 comments were supportive, one comment was neutral and 55 comments were objections.

Comments were also received from Portobello Community Council. Matters raised are addressed in section 3.3 (c).

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 lies within the urban area of the adopted Edinburgh Local Development Plan and is located within Portobello Conservation Area.

Date registered

18 January 2021

Drawing numbers/Scheme

01 - 07,

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Julie Ross, Planning Officer

E-mail: julie.ross@edinburgh.gov.uk

Links - Policies

Relevant Policies:

The Historic Environment Policy for Scotland 2019 outlines Government policy on how we should care for the historic environment when taking planning decisions.

Managing Change in the Historic Environment: Demolition sets out Government guidance on the principles that apply to the demolition of listed buildings.

Relevant policies of the Local Development Plan.

LDP Policy Env 2 (Listed Buildings - Demolition) identifies the circumstances in which the demolition of listed buildings will be permitted.

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 5 (Conservation Areas - Demolition of Buildings) sets out criteria for assessing proposals involving the demolition of buildings within a conservation area.

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

Relevant Non-Statutory Guidelines

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

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

Appendix 1

Application for Listed Building Consent 20/05799/LBC at 14 Bath Street, Edinburgh, EH15 1EY. Demolition of auditorium and retention and partial restoration of principal external elements of the Art Deco facade, erection of 20 residential flats with associated car parking and landscaping.

Consultations

HES Response 1 (2nd March 2021)

Our Advice

The proposal is for the substantial demolition of 14 Bath Street and its subsequent redevelopment to provide 21 residential units. The principal façade and returns would be retained and re-worked, including re-instatement of the central tower feature. The remaining elevations and interior, including the auditorium, would be removed. The extent of removals would mean the substantial loss of the category C listed building. We object to the application because we do not consider the applicant has proved the building cannot be meaningfully repaired as required by policy and guidance on listed buildings.

The building

The former County Cinema, opened in 1939, is an important example of the work of Thomas Bowhill Gibson (1895-1949), a specialist in Cinema architecture of the interwar period. Alterations carried out in the 1950s and 1970s have impacted upon the original external appearance and internal layout, notably the removal of the central tower feature, lowering of adjacent stepped walls and the insertion of a suspended ceiling to the auditorium. Nevertheless, the building remains a good example of a purpose-built Art Deco cinema of the late 1930s. The survival of the original decorative scheme to the auditorium, above the suspended ceiling, is also significant. We consider the building has both architectural and historical merit which is reflected in its listed status. The substantial demolition caused by the removal of the interior and auditorium, particularly its surviving finishes, would represent a significant negative impact on the importance, or special interest, of the listed building, and we cannot support this.

Background

This application mirrors a 2016 application (16/06449/LBC) refused by your Council in 2018 - a decision subsequently upheld at appeal. We initially objected to this earlier application because of the auditorium's importance, and that its loss had not been justified. Once further information was presented, we concluded doubt existed over the

feasibility of repairing and retaining the auditorium and withdrew our objection. We also advised that your Council obtained independent engineering advice to examine the detailed arguments being put forward. The argument for removing the auditorium in this new application appears essentially the same as in 2016 - that it is incapable of repair.

Policy & Guidance

The policy context also remains essentially the same. National policy on listed buildings maintains the presumption for their retention. New national guidance on Demolition of Listed Buildings has been published, although the circumstances in which the loss of a listed building could be considered acceptable has not fundamentally changed. One of these circumstances is that a building is incapable of meaningful repair, which an applicant should be able to demonstrate and justify. The guidance states that:

There are occasions when repairing and reusing a listed building would lead to extensive loss or replacement of fabric, which would have a consequent effect on its special interest. If repairing a building cannot preserve its special interest, it is not capable of meaningful repair.

Instances where meaningful repair might not be possible include where the building has inherent design failures, or where a timber structure has decayed so much that no original material can be saved. It would not be possible to meaningfully repair a building where there is structural damage that cannot be repaired without complete reconstruction - such as serious corrosion of reinforced concrete frames, or extensive damage to the building.

The case for demolition

The argument, once again, to support demolition appears to rest on the auditorium being incapable of meaningful repair. It would have been helpful if this link to national policy and guidance was made explicitly clear in the application's supporting information. We know other objectors to this application have a conflicting view (having their own engineering advisors) and are of the opinion the auditorium is capable of repair and reuse. Your Council has asked us for a view on the structural soundness of the building given the competing and contradictory views being expressed. From the information we have seen, we believe the structure to be in a reasonable condition, however, the current condition does not appear to be the main cause of disagreement. Instead, the issue has more to do with the scope of works that would be required to bring the large internal auditorium space back into cinema use, or indeed any other compatible use.

We have consulted our own structural engineer for advice to inform our position on the engineering report and, in turn, this new application. Our position is that, based on the information we have seen to date, we are not convinced the application presents a full understanding of the existing structure and does not justify intervention and large-scale remedial works to bring the building back into use. We cannot conclude the building is incapable of being repaired and therefore must conclude the case for demolition has not been demonstrated.

The implications for asbestos within the building and the original decoration within the auditorium has equally conflicting opinions. We have not assessed the asbestos report

attached to the application. The presumption should be for the retention of features that contribute to the special interest of a listed building. This is likely to be significantly influenced by the final use of the building - if, ultimately, demolition and residential use is accepted then the loss of the interior decoration would be a consequence. However, if an alternative and compatible use for the auditorium is found, the extent to which historic and decorative features can be retained should be considered as part of an alternative proposal.

We will review our position if further information comes forward. We also do not wish to automatically presume repairing and reusing the building (with retention of the auditorium) would be straightforward. This may have implications that we are not, at this time, fully considering, i.e. would Building Standards require upgrading works that would go beyond a more straight-forward repair and reuse scheme? We would therefore suggest you seek internal advice from your colleagues. We would wish to know if you receive any advice that might cast doubt on the successful repair and reuse of the auditorium, as this would potentially require us to review our position.

Alterations to the frontage

The re-instatement of missing architectural features is generally welcomed, and we recognise the conservation benefits that can potentially be achieved in this case. It is important to stress that re-instatement is not a requirement for owners of listed buildings, nor an approach we have promoted in past discussions on this building. In considering proposals for re-instatement, an important consideration is accuracy. We would advise that any successful scheme is likely to require a restoration of the original appearance of the façade. This would require a new design approach that discouraged additional new openings in the historic facades. We would therefore encourage a more sensitive conservation-based approach to the façade, based on the considerable archive of original drawing and images.

Conclusion

The intervention proposed by this application would be damaging and result in the substantial loss of the listed building. The primary interest of the listed building is in its Art Deco frontage, albeit truncated and altered. However, the auditorium is also of significance, specifically its surviving original interior. Its loss would diminish the historical and architectural merit of the listed building. We do not believe it has been demonstrated that the auditorium is incapable of being meaningfully repaired. We therefore do not consider the substantial demolition of the listed building has been justified.

We would be happy to discuss the contents of this letter with your Council and the applicant if that would be helpful. If you are minded to grant consent, with or without conditions, you are required under the terms of the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015 to notify Scottish Ministers.

Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/.

Technical advice is available through our Technical Conservation website at www.engineshed.org.

As this application involves the demolition of a listed building, if consent is granted there is a separate requirement through section 7 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 (as amended) to allow us the opportunity to carry out recording of the building. To avoid any unnecessary delay in the case of consent being granted, applicants are strongly encouraged to complete and return the Consent Application Referral Form found at www.historicenvironment.scot/aboutus/what-we-do/survey-and-recording/threatened-buildings-survey-programme.

Please contact us if you have any questions about this response.

HES response 2 (21st October 2021)

Background

This is a re-consultation for the removal of the auditorium and alterations at 14 Bath Street (The George), originally the County Cinema. The removal of the auditorium is considered as substantial demolition and is being assessed against policy and guidance on the demolition of listed buildings.

We objected to the application in March because we were not convinced the auditorium is incapable of meaningful repair. We would refer to our original objection letter of 2 March where we outlined the significance of The George, the policy and guidance implications for the proposal to demolish the auditorium, and the reasoning behind our objection.

Our advice

The main area of consideration remains the scope of works that would be required to bring the auditorium space back into a cinema, or another compatible use. We are not convinced the new information supporting this application demonstrates conclusively that the auditorium is incapable of meaningful repair. For a building to be incapable of meaningful repair, we would expect the repair and remedial works to be so extensive - requiring the replacement of all, or a substantial amount, of original fabric - that the significance of the listed building would be damaged.

We consider that some uncertainty remains over the extent of repair works - and the quantity of fabric removal - required to bring the auditorium back into use. We therefore maintain our objection to the application. Two new reports have been submitted - a second Structural Condition Report from the applicant's engineers and a Peer Review

Report (also undertaken on behalf of the applicant). The new reports have not identified any significant issues with the structural integrity of the building in the short to medium term. The conclusions and recommendations within the second Structural Condition Report (compared to the first) have a greater emphasis on retention and repair. We note the recommendations focus on the short to medium term and include provision for further monitoring and assessments. In the overall conclusions, it is recognised that the scope of repairs will need to be reviewed with other aspects of a restoration project.

The Peer Review Report looks at the structural condition reports and considers that while neither are specific in what bringing back into use may involve "sufficient information exists to make a reasonable estimate of the type of upgrading that will be necessary" (page 14). The Report discusses the implications of any requirement to obtain a building warrant for modifications and additions to the building (to facilitate reuse), as well as the need to consider safety measures and avoid the risk of accidental loading and progressive collapse. It is assumed the works to the fabric of the building would be considered as repair and not require a building warrant (although this might depend on use).

Due to the assumptions within the Peer Review Report and the strong presumption of policy and guidance for the retaining listed buildings, our recommendation is that a scheme of reusing the building as a cinema (or again, a compatible use) is considered in more detail to be able to quantify the extent of new additions and alterations and the implication these will have on the structure of the auditorium.

We would not disagree that intervention - potentially significant intervention - would be required into the building fabric to facilitate reuse. This would include works to the roof (replacement of the existing asbestos covering and strengthening of existing purlins), internal concrete floor slabs, the auditorium's steel columns and the brickwork panels.

We would have no issue with the replacement of the existing roof covering and purlins as - together with existing concrete floor slabs - we do not consider these make a substantial contribution to the significance of the listed building. We would therefore advise that when considering a reuse scheme for the auditorium, emphasis is given to looking at the implication for retaining the existing steel columns and brickwork as - due to the surviving internal decorative scheme - these elements make a positive contribution to the significance of the listed building.

We have never presumed that reusing the auditorium would be straightforward, and this remains the case. Since our original objection in March, we have visited The George with your Council, the applicants and their agents to aid assessment of the new supporting information. We have also discussed the application with your Council and have seen the advice provided by your colleagues in Building Standards. The advice from Building Standards would appear to emphasise the challenges a reuse scheme would face. We note the Council would seek a building warrant to ensure structural repairs meet modern standards (The Peer Review Report suggests that structural repairs would be unlikely to require a building warrant) and accommodate accidental loading and avoid the risk of progressive failure. We would expect the views of your Council's Building Standards colleagues are taken in consideration when looking at a scheme of reuse - specifically on the implication for the retention of the existing steel columns and brickwork.

Conclusion

We consider the supporting information currently does not prove the auditorium is incapable of meaningful repair, hence our objection is maintained. Taking into consideration the further information and the importance of the surviving internal decorative scheme to the significance of the listed building, the critical issues appears to be the extent to which the auditorium's steel columns and brickwork can be retained. To substantiate an argument for demolition on the grounds the auditorium is incapable of meaningful repair, we would advise that that a scheme of reuse is considered in more detail - to reduce the amount of assumptions and provide greater certainty on the intervention to the existing steel columns and brickwork. If it can be demonstrated beyond reasonable doubt that all (or a significant amount) of the columns, brickwork and therefore the original interior decoration requires removal, we would withdraw our objection.

We would be happy to discuss the contents of this letter further with your Council if that would be helpful.

If you are minded to grant consent, with or without conditions, you are required under the terms of the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015 to notify Scottish Ministers.

Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/. Technical advice is available through our Technical Conservation website at www.englished.org.

As this application involves the demolition of a listed building, if consent is granted there is a separate requirement through section 7 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 (as amended) to allow us the opportunity to carry out recording of the building. To avoid any unnecessary delay in the case of consent being granted, applicants are strongly encouraged to complete and return the Consent Application Referral Form found at www.historicenvironment.scot/aboutus/what-we-do/survey-and-recording/threatened-buildings-survey-programme.

Please contact us if you have any questions about this response.

Archaeology

Further to your consultation request I would like to make the following comments and recommendations concerning these linked FUL & LBC applications for the demolition of auditorium and retention and partial restoration of principal external elements of the Art Deco facade, erection of 21 residential flats with associated car parking and landscaping.

This C-listed former bingo hall lies at the centre of the historic settlement of Portobello and at the heart of its conservation area. The building was constructed as the town's cinema in 1938 and reflects the Art Deco style of the period. Originally called the County Cinema the building underwent alterations in 1954 and finally closed as a cinema in 1974, thereafter trading as a bingo-hall. Prior to cinema's construction, historic mapping including John Woods 1824 Plan of the town, shows that site was occupied by a Georgian villa one of the earliest buildings on Bath Street and constructed during the initial phases of development of the street laid out in 1802 for the soon to be constructed public baths.

As such the site has been identified as containing occurring within and area being of archaeological and historic significance both in terms of buried archaeology and the surviving listed former Cinema. Accordingly, this application must be considered under terms of Scottish Government's Our Place in Time (OPIT), Scottish Planning Policy (SPP), PAN 02/2011, Historic Environment Scotland's Policy Statement (HESPS) 2016 and Archaeology Strategy and Edinburgh Local Development Plan (2016) policies ENV2, ENV4, ENV5, ENV8 & ENV9.

Historic Buildings

The development will require the significant loss of the Auditorium of this C-listed Art Deco former cinema. Such an action by its very nature must clearly be considered as having a significant adverse impact as it would lead to the loss of a main architectural element of this locally significant historic building. However, the impact is lessened in part by the aims to retain the important Art Deco facades and by the aim to retain and reuse salvaged architectural details within the scheme.

Therefore, it is considered that this application is broadly acceptable in archaeology terms. However, if permission is granted it is essential that an archaeological historic building survey (level 3: detailed survey, phased plans and elevations, photographic and written survey) of the existing building is undertaken prior to and during demolition, in order to provide a permanent record of this important historic structure. This will build upon the original architect's drawings located within the RTP1 archives in the NMRS held by HES.

Architectural Retention/Conservation

In addition, a conservation plan should be undertaken to identify what significant architectural elements can be retained and how they will be retained within the new building.

Buried Archaeology

The proposed scheme will require extensive groundbreaking works relating to proposed demolitions and construction. Such works may disturb significant archaeological remains not only relating to the town's Georgian development, in particular the pre-1824 Georgian Villa shown Wood's Plan, and also potentially relating to Portobello's pottery industry. It is therefore essential if consent is granted, that a programme of archaeological excavation is undertaken prior to/during development in

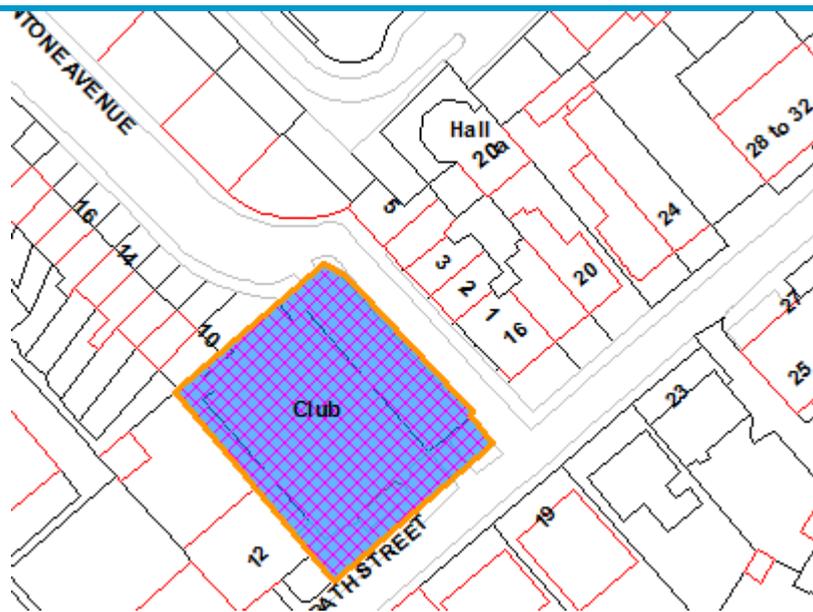
order to fully excavate, record and analysis any significant remains affected by demolition, landscaping & construction.

It is recommended that these programmes of works be secured using the following condition in order not only to fully record this historic building but also any associated buried remains;

'No demolition nor development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, historic building recording reporting and analysis, conservation, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.

Location Plan



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