

Development Management Sub-Committee Report

Wednesday 17 April 2024

**Application for Planning Permission
18-24 John's Lane, Edinburgh, EH6 7EU**

Proposal: Proposed change of use and alterations to existing derelict warehouse to form student housing development.

**Item – Committee Decision
Application Number – 23/06794/FUL
Ward – B13 - Leith**

Reasons for Referral to Committee

The application is referred to the Development Management Sub-Committee as Leith Links Community Council requested to be consulted on the application as a statutory consultee and they have objected to the application. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

Recommendation

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

Summary

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard must be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In this regard, 'preserving', in relation to a building, means preserving 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.

The extent of the alterations to the building, although radical, are justified as they will secure the long-term future of the listed building and will preserve the character and appearance of the conservation area. On balance, the works are acceptable and are in accordance with the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposed use of the building is acceptable in land use terms. The site is not within a reasonable walking distance of any of the further/higher education institution. However, given that there is a reasonable, frequent bus services to city centre university campuses and given that cycle journey times to further/higher education institutions is reasonable, the walking journey time is not a significant infringement to LDP Policy Hou 8 Part a).

The proposals are compatible with policy priorities that include sustainability in terms of transport and materials use, climate change mitigation and adaptation, and reuse of vacant and derelict buildings.

Subject to recommended conditions and an appropriate legal agreement for a contribution towards the Tram and healthcare, the proposals are acceptable and comply with National Planning Framework 4 and the aims of the Edinburgh Local Development Plan, as well as the Council's non-statutory Edinburgh Design Guidance. There are no detrimental impacts on equalities or human rights. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The property is a derelict two storey and attic former warehouse, dating from the Georgian era, located on a narrow back lane. The property has been derelict for some four decades. Sections of the building are supported by scaffold and the roof has been removed for safety reasons. There is considerable plant growth at roof level. Parts of the building visibly lean over the lane. Many windows are bricked up, especially on the west side. The building was listed category C on 5 March 1991 (LB reference: 27530).

The site lies between Constitution Street to the west and John's Place to the east. The lane access to the site is off Queen Charlotte Street to the north. There are a mix of uses within the area, including residential and commercial. The area comprises mainly traditional buildings, with some modern infill buildings. Building heights range from single-storey up to four-storey tenements. The site is within the Leith Links part of Leith Conservation Area. Leith Links Park is located nearby to the west of the site.

The structure, which is in a ruinous condition, has been on the Buildings at Risk Register since 2012.

Description of the Proposal

The proposal is for:

- (1) Alterations, including: (i) dismantling of the facade fronting Johns Lane and a portion of the rear central gable fronting the rear courtyard; (ii) rebuilding of the central gable element and the end sections of the St Johns Lane facade and the rebuilding of the apex of the central gable element of the rear courtyard elevation, all using the salvaged original stonework to match the architectural design, fenestration pattern and elevations approved under planning permissions 19/05184/FUL and listed building consent 19/01855/LBC); (iii) The erection of sections of replacement external walls on the St John's Lane facade, which sections are set back from the existing original building line. These new walls will be of insulated cavity wall construction and clad externally with bronze coloured metal cladding. These new walls will rise above the original wallhead in the form of elongated box dormers within the reinstated pitched and slated roof. Above the box dormers will be rooflights incorporated into the roof slope; (iv) The installation cement cladding boards within the existing openings on the courtyard elevation; and. (v) the erection of an access ramp and a boundary wall and railings.
- (2) Change of use of building from a warehouse to student accommodation comprising 6 cluster flats and 2 studio flats, providing a total of 38 student bedrooms.

The ground floor of the restored building contains recycling and cycle stores both accessed via external doors.

Since the application was validated, the proposal has been altered as follows:

- The front (John's Lane) fenestration has been altered.
- The box dormers on the John's Lane elevation have been reduced in size and the external cladding colour has been changed from a bronze colour to grey.

Supporting documents

- Design and Access, planning and conservation statement
- Daylight Study
- Flood Risk Assessment
- Photographs of existing building

These documents are available to view on the Planning and Building Standards Online Service.

Relevant Site History

22/04965/LBC
18, 19, 20, 21, 22, 23 & 24 John's Lane
Edinburgh
EH6 7EU

Dismantle the facade fronting Johns Lane and a portion of the rear central gable fronting the rear courtyard and rebuild this using the salvaged original stonework to match the architectural design, fenestration pattern and elevations approved under consents 19/05184/FUL and 19/01855/LBC). The replacement wall will be an insulated cavity wall.

Granted

23 February 2023

22/04967/CON

18, 19, 20, 21, 22, 23 & 24 John's Lane

Edinburgh

EH6 7EU

Substantial demolition in a conservation area.

Granted

28 February 2023

23/06796/LBC

18-24 John's Lane

Edinburgh

EH6 7EU

Proposed alterations and change of use of existing derelict warehouse to form student housing development.

23/06797/CON

18-24 John's Lane

Edinburgh

EH6 7EU

Substantial demolition in a conservation area.

Permission is not required.

7 March 2024

Other Relevant Site History

None.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Archaeology Services

Environmental Protection

Transportation

Leith Link Community Council

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 18 December 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 5 January 2024

Site Notices Date(s): 28 December 2023

Number of Contributors: 13

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- equalities and human rights.
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) **The proposals harm the listed building or its setting.**

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment Guidance on the Principles of Listed Building Consent
- Managing Change in the Historic Environment Guidance on Conservation Areas
- Managing Change in the Historic Environment: Use and Adaptation of Listed Buildings
- Managing Change in the Historic Environment: Roofs

Managing Change in the Historic Environment: Use and Adaptation of Listed Buildings states "proposals that keep buildings in use, or bring them back into use, should be supported as long as they do least possible harm". In addition, the guidance accepts that alterations, even if they are extensive, will be better than losing the building entirely.

The property has been derelict for several decades, is now ruinous, and is on the Buildings at Risk Register. Several past approvals (see History) have failed to materialise, and the building condition is critical. The degree of intervention granted in previous consents reflects the alterations required to bring the building back into use. This includes the taking down and rebuilding using the stone down takings of the John's Lane elevation of the building, replicating the positions and forms of the existing openings; and the erection of a number of large box wall head dormers on both the front (John's Lane) and rear elevations of the building.

HES Managing Change guidance on roofs states that the addition of new features such as dormers or rooflights to principal or prominent roof slopes should generally be avoided. Notwithstanding, in the previous application it was decided that the addition of dormers is necessitated by the scale of work required to the building as a whole. As the building was not originally designed with dormers, the use of a number of separate lead-clad dormers was seen as a more honest intervention than cladding the dormers in slate. The form would be a clear-cut modern alteration. Whilst the existing roof character is lost, this loss is outweighed by the overall improvement to the building and the new use, which would secure the long-term survival of the listed building. The very long period of vacancy means that a more radical solution is justifiable.

In granting the previous applications the planning authority accepted that the John's Lane elevation is structurally unsound and the taking down and rebuilding is necessary in order for the building to be brought back into use. The current proposal for the rebuilding in faced stonework of the gable element and end sections of John's Lane elevation and the apex of the gable element of the courtyard elevation, is acceptable.

The previously consented scheme included the reconstruction of the John's Lane elevation like-for-like in natural stonework. The current proposal is to erect a replacement facade either side of the reconstructed gable element but recessed back from the existing facade position and using modern construction and materials. This intervention does not seek to replicate the existing, but instead, is assertively different to the existing. The finishing colour of the new external walls up to wallhead height, contrasts with the finishing colour of the wallhead dormers above, thus ensuring that the original wallhead height of the building is still visually discernible. The recessing of the front facade facilitates the formation of a ramp access into the building and the erection of a low boundary wall. The proposals, although significant interventions, will secure the long-term survival of the listed building. The very long period of vacancy means that a more radical solution is justifiable in this instance.

The building has no windows at present and historically appears to have had timber shutters rather than glazed openings. There is therefore no objection to the style of window proposed. A condition is added to clarify that windows should be of timber construction.

The proposed infilling of openings on the courtyard elevation of the building is acceptable in principle. However, their infilling with cement boarded panels could result in problems of accelerated decay where the boards meet the masonry and water takes the path of least resistance through the permeable masonry over the impermeable material. Therefore, if planning permission is granted, in the interest of safeguarding the fabric of the listed building it should be made a condition of a grant of planning permission that the openings be infilled with a different and vapour permeable material(s) that permits a degree of moisture movement, that is technically compatible with the stonework of the building.

The interior of the building is of no architectural or historic merit and its subdivision has no adverse impact upon character.

Overall, the proposed alterations to the building, although radical, are justified because they will bring about the beneficial reuse of the building, which is in a very poor condition.

Conclusion in relation to the listed building

Subject to the recommended conditions, the proposals do not conflict with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

b) The proposals harm the character or appearance of the conservation area.

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Leith Conservation Area Character Appraisal recognises that Leith now has a mix of old and new buildings, including many warehouse conversions. Warehouse buildings are an important part of the area's character.

The derelict building has the potential to make a positive contribution to the conservation area if brought back to a new use. Continued dereliction risks total loss as the building continues to deteriorate.

The proposed scheme will retain some of the essential stone elements and the industrial background to the building will remain visible. The location is both visually isolated and on a cul-de-sac. For this reason, the impact of the proposals on the appearance of the conservation area is contained. The proposals will preserve the character and appearance of Leith Conservation Area.

Conclusion in relation to the conservation area

The proposals do not conflict with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan.

National Planning Framework 4 (NPF 4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF 4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) have equivalent and alternative policies within NPF 4. The relevant policies to be considered are:

- NPF 4 Sustainable Places policies 1, 2, 3, 7, 9, 13
- NPF 4 Liveable Places policies 14, 15, 16, 18, 20, 21, 22, 23
- LDP Delivering the Strategy policy Del 1.
- LDP Design Principles for New Development policies Des 1, Des 3, Des 4, Des 5, Des 6, Des 7 and Des 8
- LDP Caring for the Environment Policies Env 9, Env 12 and Env 16
- LDP Employment and Economic Development policy Emp 9.
- LDP Housing and Community Facilities policies Hou 1, Hou 8 and Hou 10.
- LDP Transport Policies Tra 2, Tra 3 and Tra 4.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF 4 Policy 7.

The 'Edinburgh Design Guidance' is a material consideration that is relevant in the consideration of several LPD housing, design, shopping and leisure and transport policies.

The Council's Non-Statutory Student Housing Guidance is a material consideration and expands on the interpretation and requirements of LDP policy Hou 8.

Principle of land use

The site must be assessed against all relevant policies within the LDP including policies Hou 1 (Housing Development) and Hou 8 (Student Accommodation). The site's former use for employment means policy Emp 9 (Employment Sites and Premises) must also be considered.

Within the urban area, LDP Policy Hou 1 part d) gives priority to the delivery of housing land supply and the relevant infrastructure on suitable sites in the urban area provided proposals are compatible with other policies in the plan. The site is not included in the LDP housing land supply study, and previous appeal decisions have made clear there is no obligation to consider all potential development sites in the urban area for windfall housing land supply before being considered for other uses. The proposal for residential student flats at this site complies in principle with the requirements of Hou 1 (subject to other policy considerations, notably policy Hou 8).

LDP Policy Hou 8 has two requirements for assessing student accommodation. Part a) specifies that proposals must be in a suitable location in relation to university and college facilities, and be well connected by means of walking, cycling or public transport. Part b) states that development must not lead to an excessive concentration of student accommodation or transient population in the locality to an extent that would adversely affect the area and its established residential amenity or character.

Location

The site is not adjacent to a university or college campus. The closest university campus is at Holyrood, located some 1.9 miles to the south west, which is approximately 40 minutes walking distance, which is not a reasonable walking distance. It is located within an acceptable walking distance of several bus stops with some direct services to institutions. City centre university campuses can be reached by bus in 20 minutes via frequent services. The nearest tram stop is a 4-minute walk from the proposal site. City centre campuses are approximately a 37-minute journey including walking time. Cycle times appear reasonable to a number of the campuses however do not factor in gradient of the cycle or stopping for crossings. The Tram extension to Newhaven has a stop in close proximity to the site on Constitution Street.

Scottish Government Transport Assessment Guidance, June 2012 states that journey times of up to 20-30 mins are appropriate for walking and 30-40 mins for cycling and a 30 minute door to door travel time (including the walk, wait, journey time, and walk to the destination) is an appropriate choice of time-band by public transport for most types of development.

The site is not within a reasonable walking distance of any of the further/higher education institution. However, given that the city centre university campuses can be reached by bus in 20 minutes via frequent services, and given that cycle times to a number of campuses are reasonable, the walking journey time is not a significant infringement to LDP Policy Hou 8 Part a).

Concentration of student population

When considering the second criteria of policy Hou 8, the LDP does not define an excessive concentration of student accommodation. Therefore, it is necessary to refer to non-statutory supplementary guidance for student housing, published in 2016, which provides more detailed guidelines for student accommodation developments.

Within the supporting text of the guidance reference is made to a 50% figure as the level at which a student population in the locality would be considered excessive. In assessing the degree of concentration of student accommodation in an area, the supporting text of Policy Hou 8 requires the Council to consider the nature of the locality in terms of mix of land use and housing types, and the existing and proposed number of students in the locality.

In respect of LDP Policy Hou 8, no definition of what is an 'excessive concentration of student accommodation' is included. There is no indication of what extent might be considered the 'locality' for a given development.

Recent decisions made by the Council with regards to purpose-built student accommodation applications have utilised two main statistical methods for determining the concentration of students within a defined locality.

The first is the 'worst case scenario' method which is an agreed method by the DPEA Reporter in the decision on an appeal for PBSA at 7-10 Lower Gilmore Place (reference PPA-230-2323). This method involves identifying a locality and using the relevant data zones based on 2011 Census data for each of the data zones within the defined locality, as a baseline figure. These figures are then expanded upon by including the number of student beds approved within the defined study area, by identifying all approved and pending consideration student accommodation applications post 2011. The 'worst case' nature of this approach is demonstrated by the exclusion of any residential developments that had either been approved or were pending consideration post 2011, thereby increasing the resident population by students only (which is clearly unrealistic).

The data zones from the 2011 census area provide a reasonable basis for determining the concentration of students, however as these data zones are tightly drawn, considering them in isolation does not give an accurate reflection of the population demographic within the local area. As such it is normal procedure to use the data zones that fall within an 800m radius, an approximate 10-minute walk from the application site. Using this method considers a wider catchment and provides a more accurate representation of the local population.

When considering this area, the 2011 census shows an overall population of 16,758 and a student population of 1,179, or 7%. Post-2011 however, population estimates become less certain, and so only a maximum concentration of students can reasonably be arrived at. 2021 population estimates show a population of 18,274. The addition of the proposed 38 student bed development, along with other purpose-built student accommodation consented since 2011 would increase the percentage of students to 10%. This is not considered to be excessive. Consequently, the proposed development will not lead to an imbalance of the local community or negatively impact on the character of the local area.

There is a need for all types of homes in Edinburgh, including student accommodation. The proposed use is sustainable in terms of access to local shops, services, and facilities, thus helping to contribute to their viability, and will reduce car dependency.

Overall, the proposed student accommodation would not result in a concentration of student housing which is of detriment to character of the area. The proposal accords with LDP Policy Hou 8-part b).

Student Housing Guidance

The Council's non-statutory student housing guidance (SHG) recognises the value of higher education to the city and sets out the locational and design guidance to be applied for student housing. Part a) accepts student housing in locations within or sharing a boundary with a main university. This clause does not apply to the application site. Part b) states that out with criteria a), student housing will generally be supported on sites with less than 0.25ha of developable area. The site extends to 0.11 hectares and thus falls below criteria b) of the SHG. Criterion c) of the guidance requires sites with a developable area of over 0.25 hectares to include 50% of the gross student accommodation floor area as residential housing. This clause does not apply as the developable site area is below the threshold.

Criterion (d) of the Student Housing Guidance states that student accommodation should comprise a mix of type of accommodation, including cluster units, to meet varying needs of students. The proposal is for 2 studio rooms and 36 beds spaces within 6 cluster flats. All flats will have barrier free access, and some will be designed to be adaptable for wheelchair users. The proposal therefore provides a mix which would meet with this guidance.

Employment land

LDP Policy Emp 9 (Employment Sites and Premises) supports the redevelopment of premises in the urban area for uses other than business provided that the introduction of non-employment uses will not prejudice or inhibit the activities of any nearby employment use and the proposal will contribute to the comprehensive regeneration and improvement of the wider areas.

In this instance, the existing building is a relatively small-scale former warehouse. The warehouse use has long been abandoned. The proposal would introduce a residential development in an area which is mixed use. The proposal would not inhibit surrounding commercial uses. There is no requirement to provide business floorspace due to the small site size. The proposal does not conflict with NPF 4 Policy 26 and LDP policy Emp 9.

The principle of use of the site for student accommodation is acceptable in land use terms with reference to NPF 4 policy 9, as well as LDP objectives set out in policy Emp 9 and the Council's Student Housing Guidance.

Climate mitigation and adaption

NPF 4 Policy 1 (Tackling the climate and nature crisis) gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. The proposed development contributes to the spatial principles of 'Compact Urban Growth' and 'Local Living' through the use of a brownfield site for sustainable, energy-efficient housing within an existing community.

NPF 4 Policy 2 a) (climate mitigation and adaption) supports development proposals that are sited and designed to minimise lifecycle greenhouse gas emissions as far as possible and in 2 b) those that are sited and designed to adapt to current and future risks from climate change.

NPF 4 Policy 9 (Brownfield, vacant and derelict land, and empty buildings) intends to encourage, promote, and facilitate the reuse of brownfield, vacant and derelict land, and empty buildings, and to help reduce the need for greenfield development. Part d) supports development proposals for the reuse of existing buildings, taking into account their suitability for conversion to other uses and emphasises the need to conserve embodied energy, with demolition regarded as the least preferred option.

The building is of traditional construction, and this is likely to preclude a conversion that achieves optimum air tightness. It would not be reasonable to expect a conversion of a traditional building to achieve the same energy performance standard as a well-insulated highly sustainable building of modern construction. Notwithstanding, energy efficiency measures including, but not limited to, energy efficient lighting systems, electric water heaters, air source heat pumps (ASHPs) and solar/photovoltaic energy sources, could be implemented/installed without harm to the character and appearance of the building.

Policy 14 of NPF 4 requires development proposals to improve the quality of an area regardless of scale. The site is within the urban area. It is in close proximity local retail and other services, as well as public transport links. The proposal would bring this site back in to use.

The proposal is acceptable in land use terms with reference to NPF 4 policies 9, 14 and 16 as well as LDP objectives set out in policies Hou 1, Hou 8, Emp 9 and Council guidance for student accommodation. Further policy considerations are addressed below in relation to other policy themes.

Drainage

NPF 4 Policy Env 22 (Flood risk and water management) states that planning permission will not be granted for development that would:

- a) increase a flood risk or be at risk of flooding itself
- b) impede the flow of flood water or deprive a river system of flood water storage within the areas shown on the Proposals Map as areas of importance for flood management
- c) be prejudicial to existing or planned flood defence systems.

The submitted Flood Risk Assessment (FRA) states that the site is not considered at risk of flooding from any known watercourse. However, based on other developments in Leith, SEPA are recommending floor levels in this area to be set above 6.0m AOD, to mitigate against any risk from the Water of Leith. The floor level of the building is set above 6.0, AOD.

Surface water modelling indicates that it is possible for run-off to enter the site during both 200-year and 200-year plus 35% uplift for climate change scenarios. Based on existing ground levels, run-off from Queen Charlotte Street, located nearby to the north, flows south into the site along John's Lane. Water levels along John's Lane rise until the overspill threshold on Queen Charlotte Street is reached at approximately 5.58m AOD and water resumes flowing east down Queen Charlotte Street. The FRA recommends that the site is designed so that there is an emergency flow pathway through the site in the event of blockage of the site drainage system, or rainfall events in excess of design conditions. The flow pathways (e.g. road network) should route surface water through the site without flooding properties or increasing flood risk to neighbouring properties. The FRA concludes that the risk of flooding can be reduced, but not eliminated, given the potential for events exceeding design conditions and the inherent uncertainty associated with estimating hydrological parameters for any given site.

The development will be required to go through a separate statutory regime in terms of connection to Scottish Water assets, including connecting to sewers.

Biodiversity

NPF 4 Policy 3 (Biodiversity) seeks to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.

LDP policy Env 16 (Species Protection) presumes against development which would have an adverse impact on species protected under European or UK law.

Given the condition of the building it has little or no bat roost potential.

Zero waste

NPF 4 policy 12 aims for the reduction and reuse of materials in construction, with a view to supporting the circular economy. The proposal will include waste management facilities with an integral ground floor refuse store providing bins for future residents for mixed recycling. It is proposed that waste collection would be privately managed. Therefore, there is no requirement for the Council's Waste Services Section to agree with the applicant a Waste Strategy for the proposed development. The proposal does not conflict with LDP Policy Des 5e) (Development Design - Amenity) and NPF 4 policy 12 (zero waste).

Transport

NPF 4 Policy 13 (sustainable transport) requires proposals to demonstrate that the transport requirements generated have been considered in line with sustainable travel and meet a series of criteria (where appropriate).

LDP Policy Tra 2 (Private Car Parking) and Tra 3 (Private Cycle Parking) ensures that private car parking and cycle parking in new developments complies with and does not exceed the parking levels set out in the Edinburgh Design Guidance.

In addition, Policy Tra 4 (Design of Off-Street Car and Cycle Parking) expects the layout and design of parking to comply with Council guidance.

Of relevance to the proposed development are its accessibility by public transport, supporting the use of existing services, supplying safe, secure, and convenient cycle parking.

The Council's Parking Standards allow for a zero-parking approach for student accommodation where justified. No vehicular parking is proposed. This approach complies with the aims of both NPF 4 and the Council's aims to reduce car journeys. The site is located close to a range of sustainable transport options. Walking and cycling connections are provided adjacent to the site with multiple bus stops and a tram stop within a short walking distance of the site. In these particular circumstances zero car parking is acceptable.

The cycle parking provision proposed meets the required 1:1 ratio with 38 spaces provided within a mix of dedicated cycle stores and stands which are situated under cover and accessed via a secure gate at the rear of the site, at ground floor level. The cycle storage is a two-tier system. Given the constrained and historic nature of the building, this is considered acceptable and is a minor infringement to the Edinburgh Street Design Guidance on cycle parking. The applicant states that there will also be the possibility of housing oversized cycles within the secure store. However, this has not been demonstrated in the application. If planning permission were to be granted, a condition should be imposed requiring a mixture of cycle parking, including parking for non-standard cycles.

In the interests of improved security for cycles, the Council's Transportation Authority advise that the access to the cycle store be from within the building rather than directly onto the street as is proposed. It is not a Council planning policy that cycle stores be accessed directly off a street. Therefore, it would not be reasonable for the planning authority to insist that the proposal be amended as suggested by the Transportation Section.

Given the proximity of the site to public transport corridors, car club spaces is not required to make the development acceptable.

The Council's Transportation Authority advises that the applicant should discuss the proposed development with the fire service in relation to the requirements for fire access, in particular the available width of John's Lane and the absence of a turning area. This is independent of planning.

The proposal accords with LDP policies Tra 2 Private Car Parking and subject to the aforementioned condition it accords with Tra 3 Private Cycle Parking. The transport aspects of the proposal comply with the aims of NPF 4 policy 13, which supports development that promotes and facilitates sustainable travel to prioritise walking, wheeling, cycling and public transport for everyday travel. The proposal allows for reduced car dependency and is also consistent with NPF 4 Policy 15 which supports developments that contribute to local living, including 20-minute neighbourhoods.

Design and liveable places.

Policies 14, 15 and 16 of NPF 4 support development that delivers quality places, spaces and environments that can further contribute to achieving 20-minute neighbourhood principles. The delivery of good quality homes in the right location is also supported. LDP policies Des 1 to Des 8 also sets out requirements for new development in the City and require proposals to be based on an overall design concept which takes influence from positive characteristics of the surrounding area to deliver high quality design.

Design, Quality and Place

In sections a) and b) above, the proposals have been assessed against the impact that they will have on the listed building and its surroundings. It is considered that the proposals, although introducing significant changes to the building, are justified because they will bring about the beneficial reuse of the building, which is in a poor condition. Thereby, in the particular circumstances the proposals do not conflict with LDP policies Des 1, Des 4 and Des 12.

NPF 4 Policy 14b) supports development proposals that are consistent with the six qualities of successful places. The proposed development is in accordance with the principles of being a healthy and connected place and is sustainability and adaptability insofar as it allows for the long-term use of an existing building. Additionally, the proposals are consistent with the principle of being pleasant and distinctive. Therefore, the proposals are in compliance with NPF 4 policies 14a, 14b and 14c.

Liveable Places

The proposals demonstrate a variety of the NPF 4 six qualities for successful places which are outlined in NPF 4 policy 14. For example, the application site is close to local amenities in Leith to allow sustainable living, the proposal facilitates active travel and is very well-located for public transport to other parts of the city without the need to use a car. With reference to safety, the proposal would be managed by the applicant and entrances to and from the site would be overlooked from the public footway and road. It has not been demonstrated in the application that the building could be adaptable in future to accommodate a different use if necessary. With reference to distinctive design, this matter was considered in section a) above.

Amenity of the Proposed Units

In the proposal, other than shared kitchens and living areas of the 6 cluster flats there is no other internal shared amenity spaces. The constrained nature of the site means that there is no land associated with the building and therefore no provision of external amenity space. However, given the relatively small number of student bed spaces proposed, and the fact that the majority of the accommodation is cluster flats, the absence of communal external amenity spaces in the proposal is acceptable. Given the constrained back land nature of the site and the close juxtaposition of the site to Leith Links Park, the previously approved application for conversion to mainstream housing was accepted without any external private or communal amenity space.

Noise

Environmental Protection (EP) has requested further information in relation to noise originating from the development i.e. existing and proposed plant. The application does not include any details of proposed plant. The applicant's agent confirms that each unit will be separately metered and thus there will be no audible external plant noise. If planning permission was granted any plant or equipment subsequently installed on the building would require planning permission.

EP recommends that the site operator installs a robust noise management policy as noise could reverberate around the lane causing impacts upon nearby noise sensitive properties. However, it would not be reasonable for the planning authority to impose such a condition, which would not be enforceable.

There is an automotive repairs and conversions business operating in one of the buildings on the east side of John's Lane. That business does not operate in the evening and therefore is not considered that its operation would give rise to undue noise and disturbance to the future occupants of the proposed student accommodation.

Daylighting and Overshadowing:

A Daylight and Sunlight Assessment accompanies the application. It utilises the Vertical Sky Component (VSC) method to identify whether the building as converted rises above a 25° line drawn in section from the horizontal at the mid-point of existing neighbouring windows. The assessment shows that at its southern end the building does not comply with the 25-degree method. Consequently, there is likely to be an impact on ground floor west facing windows of neighbouring lane buildings on the east side of John's Lane. However, these neighbouring buildings are not in use as residences and therefore are not sensitive to loss of daylight.

In terms of privacy, there are no windows or other glazed openings within the rear (courtyard) elevation of the building and thus no overlooking of the rear elevation windows or rear private gardens of back land properties nearby to the west in Constitution Street. Windows in the John's Lane elevation of the building face west onto windows of lane buildings on the east side of John's Lane. However, given the tight urban form and the fact that these neighbouring buildings are not in residential use, there would be harmful mutual overlooking. The level of privacy that is achievable in this tight urban form is considered acceptable in planning terms.

Air Quality

The site is not located within an Air Quality Management Area (AQMA) or a Low Emissions Zone (LEZ). The proposal includes no car parking spaces and 100% cycle parking provision. The area is well served by public transport options. PV panels and air source heat pumps are proposed. Therefore, the development is likely to have minimal air quality impacts associated with the operational phase of the development.

Archaeology

The City Archaeologist recommends controls to mitigate impact on archaeology. These controls can be secured by a condition on a grant of the conterminous application of planning permission.

Developer Contributions

Tram

The application site falls within the Tram Contribution Zone as defined in the Council's finalised guidance on Developer Contributions and Infrastructure Delivery (August 2018). The applicant will be required to contribute the sum of £23,790 (based on 1,121m² student accommodation in Zone 1) to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report. The sum to be indexed as appropriate and the use period to be 10 years from date of payment.

If planning permission were to be granted, a Section 69 or a Section 75 legal agreement is recommended as the suitable method of securing a Tram contribution and ensuring the scheme complies with LDP policy Del 1.

Healthcare

The site is within the Leith Waterfront developer contribution zone as identified in the Council's finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance. The Edinburgh LDP action programme identifies the need for a new medical practice to mitigate the impact of new residential development in Leith Waterfront. Policy Hou 10 Community Facilities of the LDP states that planning permission for housing development will only be granted where there are associated proposals to provide any necessary health and other community facilities. The intension of the policy is to ensure that new housing development goes hand in hand with the Supplementary Guidance. In the case of student contribution, the guidance requires a developer contribution of £150 per student bed space. This equates to £5,700 for the 38 student bed spaces proposed.

The applicant will be required to enter into a Section 69 or Section 75 legal agreement to secure the delivery of this contribution.

Conclusion in relation to the Development Plan

The proposed development broadly complies with the provisions of NPF 4 and the LDP and associated guidance, and there is not considered to be any significant issues of conflict.

There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context

On 5 April 2024, the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the proposed modifications have been fully considered.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No comments have been received in relation to human rights.

Public representations

Thirteen representations were received, which are all objections. A summary of the matters raised is provided below:

material considerations

- No need for student accommodation in the area.
- Emergency vehicle and refuse vehicle access.
- Would result in detrimental increase in density in the area.
- Exacerbate parking congestion.
- Operational noise.
- Rational for demolition of front façade is unsubstantiated.
- Alterations inappropriate to an harmful to the character and appearance of listed building.
- Too far from away universities or college campuses.

non-material considerations

- Obstruct access to neighbouring properties.
- Affordable mainstream family housing should be priority.
- More parks and trees required in the area.
- Building deliberately been allowed to deteriorate.
- Noise and disturbance during periods of construction.
- Unsafe construction methods.

The matters raised are addressed above and/or in the report on the conterminous applications.

Community Council

Leith Links CC requested to be statutory consultee. They were consulted on the application and objected to it. A summary of LLCC's concerns are as follows:

- Discrepancies between application description and application drawings.
- Inaccurate statements made in Design and Access Statement.
- There is extant permissions for conversion of the building to mainstream flats.
- Building is inaccessible by emergency vehicles.
- Insufficient/inadequate waste management.
- Overly dense development.
- Future occupants would not be afforded adequate residential amenity.
- Lack of amenities and facilities within the building.

- Located too far away from universities and colleges.
- Increased concentration of student population in locality.
- The accommodation could be utilised as temporary homeless accommodation in the future.

The matters raised are addressed above and/or in the report on the conterminous application.

Conclusion in relation to other matters considered.

The proposals do not raise any concerns in relation to other material considerations identified.

Overall conclusion

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard must be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In this regard, 'preserving', in relation to a building, means preserving 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.

The proposed alterations to the building, although radical, are justified as they will secure the long-term future of the listed building and will preserve the character and appearance of the conservation area. On balance, the works are acceptable and are in accordance with the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposed use of the building is acceptable in land use terms. The site is not within a reasonable walking distance of any of the further/higher education institution. However, given that there is a reasonable, frequent bus services to city centre university campuses and given that cycle journey times to further/higher education institutions is reasonable, the walking journey time is not a significant infringement to LDP Policy Hou 8 Part a).

The proposals are compatible with policy priorities that include sustainability in terms of transport and materials use, climate change mitigation and adaptation, and reuse of vacant and derelict buildings.

Subject to recommended conditions and an appropriate legal agreement for a contribution towards the Tram and healthcare, the proposals are acceptable and comply with National Planning Framework 4 and the aims of the Edinburgh Local Development Plan, as well as the Council's non-statutory Edinburgh Design Guidance. There are no detrimental impacts on equalities or human rights. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following.

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. No demolition or development shall take place on the site until the developer has secured the implementation of a programme of archaeological work (historic building recording, demolition mitigation, preservation excavation, public engagement, analysis & reporting and publication) in accordance with a written scheme of investigation which has been submitted to and approved in writing by the planning authority.
3. Prior to the commencement of any development works on site:
 - a) A site survey (including intrusive investigation where necessary) must be carried out to establish, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and
 - b) Where necessary, a detailed schedule of any required remedial and/or protective measures, including their programming, must be submitted to, and approved in writing by the planning authority.
 - ii) Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided for the written approval of the planning authority.
4. A detailed specification, including trade names where appropriate, of all the proposed external materials and colours shall be submitted to and approved in writing by the Planning Authority before work is commenced on site. A full-size sample panel(s) of no less than 1.5m x 1.5m of all facade components should be erected at a location agreed with the Planning Authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.
5. The doors and the frames and glazing bars of the windows installed in the building shall be of timber construction and painted a colour to be approved in advance by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

6. Notwithstanding that delineated on application drawings, the bottom racks of the two-tier cycle stands shall be designed to accommodate oversized cycles. A detailed drawing showing this shall be submitted for the prior written approval of the planning authority and the cycle stands installed shall accord with the details so approved.
7. Notwithstanding that specified on application drawings, the existing openings that are to be blocked up shall not be blocked up with cement board cladding, but instead, they shall be blocked up with a vapour permeable material(s) that permits a degree of moisture movement, in accordance with a detailed written specification, and, if considered necessary by the planning authority, a material sample, to be submitted for the prior written approval of the planning authority.

Reasons

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. Reason: to protect the archaeological interest within the site.
3. Reason: to ensure the safety of future residents.
4. Reason: to protect the character and appearance of the listed building and the conservation area.
5. Reason: to protect the character and appearance of the listed building and the conservation area.
6. To ensure the provision of a mix of types of cycle stands, in the interests of the active travel.
7. In the interests of safeguarding the listed building. Given that cement is impermeable it is probable that its use would result in problems of accelerated decay where the boards meet the masonry and water takes the path of least resistance through the permeable masonry over the impermeable material.

Informatives

It should be noted that:

1. Consent shall not be issued until a suitable legal agreement relating to the Tram and healthcare has been concluded and signed. The legal agreement shall include the following:
 - a. Tram - £23,790 (based on 1,121m² student accommodation in Zone 1).
 - b. Healthcare - £5,700.

The legal agreement should be concluded within 6 months of the date of this notice. If not concluded within that 6-month period, a report will be put to committee with a likely recommendation that the application be refused.

2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
4. The applicant should consider developing a Travel Plan including provision of public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport).
5. The applicant should discuss the proposed development with the fire service in relation to the requirements for fire access, in particular the available width of John's Lane and the absence of a turning area.
6. The applicant should consider the implications of the restricted width of John's Lane in relation to construction and other proposed works and the requirements for road occupation permits.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 24 November 2023

Drawing Numbers/Scheme

01, 01B, 01E, 02, 03, 04, 05, 06, 07

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Adam Thomson, Planning Officer
E-mail: adam.thomson@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Archaeology Services

COMMENT: No objection. A condition is recommended.

DATE: 19 December 2023

NAME: Environmental Protection

COMMENT: No objection. Advised that incomplete information submitted to assess the application. A condition is recommended.

DATE: 6 February 2024

NAME: Transportation

COMMENT: No objection. A developer contribution toward the Tram and informatives are recommended.

DATE: 8 February 2024

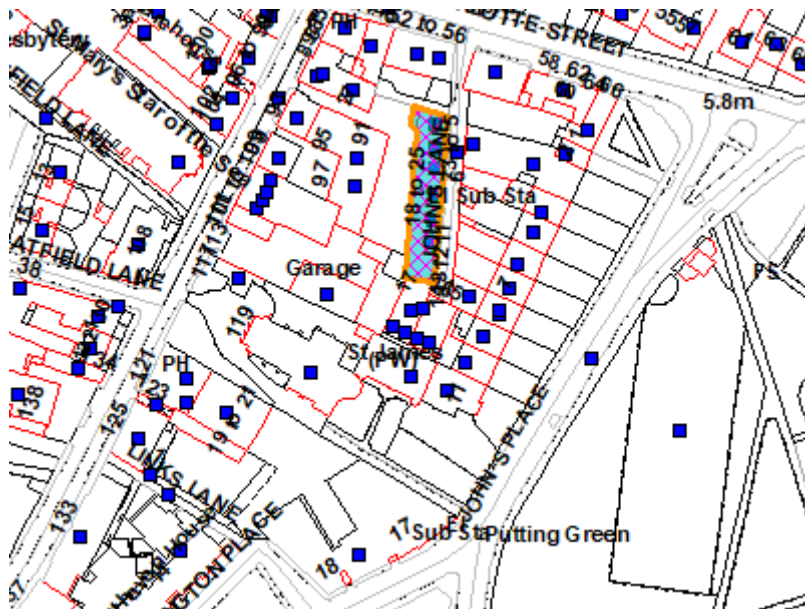
NAME: Leith Link Community Council

COMMENT: Objection.

DATE: 31 January 2024

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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