

James Robertson Architect (Mavisbank).
7B Mavisbank Grange
Edinburgh
United Kingdom
EH20 9SZ

Ms Jenny Smith.
Mission Hall
37 Burns Street
Edinburgh
EH6 8DS

Decision date: 1 June 2020

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Part change of use to form artists residence within existing studio building.
At 37 Burns Street Edinburgh EH6 8DS

Application No: 20/01176/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 9 March 2020, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

Reasons:-

1. The proposal is contrary to the Local Development Plan Policy Hou 5 in respect of Conversion to Housing, as future occupiers will have limited amenity in terms of noise due to the proximity of a class 5 use
2. The proposal is contrary to the Local Development Plan Policy Des 5 in respect of Development Design - Amenity, as future occupiers will have limited amenity in terms of noise.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01-03, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal is not acceptable as it does not comply with policies of the Local Development Plan. The proposal does not provide an acceptable living environment for future occupiers. There are no material considerations that outweigh this decision.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Amelia Christie directly on 0131 529 3920.

D R Leech

**Chief Planning Officer
PLACE
The City of Edinburgh Council**

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

**Application for Planning Permission 20/01176/FUL
At 37 Burns Street, Edinburgh, EH6 8DS
Part change of use to form artists residence within existing
studio building.**

Item	Local Delegated Decision
Application number	20/01176/FUL
Wards	B13 - Leith

Summary

The proposal is not acceptable as it does not comply with policies of the Local Development Plan. The proposal does not provide an acceptable living environment for future occupiers. There are no material considerations that outweigh this decision.

Links

<u>Policies and guidance for this application</u>	LHOU05, LDES12, LEN06, NSBUS, NSHOU, NSGD02, LDES05,
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Report of handling

Recommendations

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

Background

2.1 Site description

The application site is a two storey artist's studio. The building is situated on Burns Street with the surrounding area comprising of mainly residential flats and a handful of garages.

The building is not listed.

This application site is located within the Leith Conservation Area.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description Of The Proposal

The application is for a part change of use from artist studio to an artist's residence. The building currently contains an office, studio rooms, a kitchen and a shower room.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Do the proposals comply with the development plan?

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

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

3.3 Assessment

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

- a) the proposal is acceptable in principle;
- b) the proposals affect the character and appearance of the conservation area;
- c) the proposal will impact on neighbouring amenity;
- d) there is a sufficient level of amenity for future occupiers; and
- e) any representations received have been addressed.

a) Principle

Policy Hou 5 of the LDP states that planning permission will be granted for the change of use of existing buildings in non-residential use to housing, provided that a satisfactory residential environment can be achieved; housing would be compatible with nearby uses; appropriate open space, amenity and car and cycle parking standards are met; and the change of use is acceptable having regards to other policies in the plan.

The Edinburgh Design Guidance requires a minimum floorspace standard of 52 square metres for a one-bed property. The proposal meets these requirements. Whilst the proposal does not include outdoor space, the application site is within close proximity to Leith Links. This meets the criteria relating to open space as set out in the Edinburgh Design Guidance.

Transport raised no objections to the proposal.

The area surrounding the application site is predominantly residential. The application site itself is directly adjacent to a motor repair garage. There are no planning restrictions on how the garage currently operates now or in the future. Due to the close proximity of the motor repair garage, the future occupiers could experience acute noise levels which would not provide a satisfactory residential environment. Additionally, the motor repair garage also has the capacity to generate noise levels that far exceed the current levels.

The proposal does not provide a sufficient residential environment for future occupiers and, therefore, does not comply with Policy Hou 5.

b) Conservation Area

The proposal does not involve any alteration to the exterior. The change of use would not be detrimental to the Leith conservation area.

c) Neighbouring Amenity

As the building is existing, the proposal will not impact on neighbouring amenity in terms of loss of privacy, daylight, overshadowing or noise. The proposal complies with policy Des 12 .

d) Amenity of Future Occupiers

Policy Des 5 (Development Design - Amenity) sets out criteria for assessing amenity.

Policy Des 5 states that permission will be granted for development where it is demonstrated that future occupiers have acceptable levels of amenity. As the

application site shares a wall with the motor repair garage it would be difficult to contain any noise transfer. Exceedence of current noise levels would be beyond the control of the planning authority. Therefore, it cannot be demonstrated that future occupiers would have acceptable amenity levels in relation to noise.

The amount of internal floor space is suitable The close proximity to open space meets requirements set out in the Edinburgh Design Guidance. The proposal would meet the criteria regarding daylight, sunlight and privacy.

The proposal does not provide acceptable levels of amenity in relation to noise and, therefore, does not comply with Policy Des 5.

d) Public Comment

No representations were received.

Conclusion

The proposal is not acceptable as it does not comply with policies Hou 5 and Des 5 of the Local Development Plan. The proposal does not provide an acceptable living environment for future occupiers.

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

3.4 Conditions/reasons/informatives

Reasons:-

1. The proposal is contrary to the Local Development Plan Policy Hou 5 in respect of Conversion to Housing, as future occupiers will have limited amenity in terms of noise due to the proximity of a class 5 use
2. The proposal is contrary to the Local Development Plan Policy Des 5 in respect of Development Design - Amenity, as future occupiers will have limited amenity in terms of noise.

Risk, Policy, compliance and governance impact

4.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

5.1 The equalities impact has been assessed as follows:

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

Consultation and engagement

6.1 Pre-Application Process

Pre-application discussions took place on this application.

6.2 Publicity summary of representations and Community Council comments

No representations have been received.

Background reading / external references

- To view details of the application go to
- [Planning and Building Standards online services](#)

Statutory Development

Plan Provision

Date registered 9 March 2020

Drawing numbers/Scheme 01-03,
Scheme 1

David R. Leslie
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Amelia Christie, Trainee Planner
E-mail: amelia.christie@edinburgh.gov.uk

Links - Policies

Relevant Policies:

LDP Policy Hou 5 (Conversion to Housing) sets out the criteria for change of use of existing buildings to housing.

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

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

Non-statutory guidelines 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

Non-statutory guidelines 'GUIDANCE FOR HOUSEHOLDERS' provides guidance for proposals to alter or extend houses or flats.

Non-Statutory guidelines Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the

Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

Appendix 1

Consultations

Roads Authority
No objections to the application.

Environmental Protection
Awaiting response.

END

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100265551-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	James Robertson Architect		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	James	Building Name:	
Last Name: *	Robertson	Building Number:	7b
Telephone Number: *		Address 1 (Street): *	Mavisbank Grange
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH20 9SZ
Email Address: *			

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Ms"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Mission Hall"/>
First Name: *	<input type="text" value="Jenny"/>	Building Number:	<input type="text" value="37"/>
Last Name: *	<input type="text" value="Smith"/>	Address 1 (Street): *	<input type="text" value="Burns Street"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="██████████"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH6 8DS"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="██"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="37 BURNS STREET"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH6 8DS"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="675698"/>	Easting	<input type="text" value="327417"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Part change of use to form artists residence within existing studio building

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please refer statement submitted within 'supporting documents' section.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

37 Burns St. Email Correspondence with Planning Officer. 37 Burns St. Mission Hall. Notice of Review. Supporting Statement. Dwg 2009-01 As Existing Dwg 2009-02 As Proposed Dwg 2009-03 Site Location Plan Planning Submission Letter Report of Handling

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

20/01176/FUL

What date was the application submitted to the planning authority? *

06/03/2020

What date was the decision issued by the planning authority? *

01/06/2020

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr James Robertson

Declaration Date: 22/06/2020

Proposal Details

Proposal Name	100265551
Proposal Description	Appeal against planning refusal
Address	37 BURNS STREET, EDINBURGH, EH6 8DS
Local Authority	City of Edinburgh Council
Application Online Reference	100265551-001

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
37 Burns St Report of Handling	Attached	A4
37 Burns St Mission Hall Notice of Review Supporting Statement	Attached	A4
37 Burns St Email Correspondence with Planning Officer	Attached	A4
2009-01 As Existing	Attached	A1
2009-02 As Proposed	Attached	A1
2009-03 Site Location Plan	Attached	A4
2009-Planning Submission Letter	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0

From: james robertson [REDACTED]
Subject: Re: 20/01176/FUL 37 Burns Street
Date: 20 May 2020 at 20:16:10 BST
To: Amelia Christie <[REDACTED]>
Cc: Jenny Smith [REDACTED]

Dear Amelia,

Could you please provide me with your colleague and your managers contact details.

Whilst you have responded to my correspondence you have not answered my questions which I feel would have helped to move this application towards a positive outcome. There has been very little, if any, dialogue on pertinent issues raised by myself and the applicant. Please note that once able we would be very happy to provide a noise impact assessment.

Again, please advise what benefit there is to the applicant in withdrawing the application? My point being that I believe you are acting wholly outwith your authority in recommending any course of action to the applicant, or myself, in respect of this matter.

Regards

James

—
james robertson architect
7b mavisbank grange
edinburgh eh20 9sz
hello [REDACTED]

On 20 May 2020, at 15:40, Amelia Christie <[REDACTED]>
wrote:

Dear James

After discussing this with my colleague, it is not possible to approve the application due to the garage being adjacent to the application site. It cannot be demonstrated that future occupiers will have acceptable levels of amenity, as noted in my previous email. Applications can be recommended to be withdrawn if the application cannot be supported by case officers.

This is the decision unless you wish to withdraw your application.

Kind Regards

Amelia

Amelia Christie | Trainee Planner | Spatial Policy Team | Place | The City of Edinburgh Council |
Waverley Court, Level G:3, 4 East Market Street, Edinburgh, EH8 8BG | Tel. 0131 529 3920

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From: james robertson <[REDACTED]>
Sent: 13 May 2020 20:04
To: Amelia Christie [REDACTED]
Cc: Jenny Smith [REDACTED]
Subject: Re: 20/01176/FUL 37 Burns Street

Dear Amelia,

Are you aware of the current noise levels from the garage or is this important decision being made without relative knowledge? The applicant has previously noted that she hears hardly any noise from the garage. The owner is a sole proprietor dealing with cars/small vans.

The garage is located within a predominantly residential area. Please note the blocks of flats directly opposite the garage on the same street and the houses backing on to the garage. Are you aware of any noise complaints made to environmental health, or any other department, in respect of this garage?

Would it not be prudent, before advising on an application which will affect the applicants life, that any issues are investigated thoroughly to ensure that the decision you make is the correct one. A noise impact assessment has not been submitted due to the fact that this is a quiet, mainly residential street, and no noise issues have been found to be present which may, to my mind, adversely affect the amenity of the proposed residence. What MIGHT happen could be cited for almost any development proposal. This should not prevent development.

Could you please advise why you suggest withdrawing the application. I wish to understand the benefits of this route to the applicant.

Regards

James

—

james robertson architect
7b mavisbank grange
edinburgh eh20 9sz

[REDACTED]

On 13 May 2020, at 15:27, Amelia Christie [REDACTED] > wrote:

Dear James

This is not something we could seek to control through conditions as the garage could bring in new equipment or begin a process that may generate high noise levels than at present. Therefore we would have no way of preventing it. You should be able to appeal any decision if you do wish to carry on with the application but it is still suggested that you withdraw the application.

Kind Regards

Amelia

Amelia Christie | Trainee Planner | Spatial Policy Team | Place | The City of Edinburgh Council |
Waverley Court, Level G:3, 4 East Market Street, Edinburgh, EH8 8BG | Tel. 0131 529
3920 [REDACTED]

From: james robertson [REDACTED]

Sent: 13 May 2020 10:08

To: Amelia Christie [REDACTED]

Cc: Jenny Smith [REDACTED]

Subject: Re: 20/01176/FUL 37 Burns Street

May I add that any noise from the garage would be during normal working hours and not whilst the application property is being utilised predominantly as a residence. i.e. during the evening/night.

—

james robertson architect
7b mavisbank grange
edinburgh eh20 9sz

[REDACTED]

On 13 May 2020, at 10:06, james robertson <[REDACTED]> wrote:

Dear Amelia,

Thank you.

In this situation would it not be prudent to measure current noise levels within the application property and then propose, if required, measures to negate the noise?

Regards

James

—

james robertson architect
7b mavisbank grange
edinburgh eh20 9sz

On 13 May 2020, at 09:41, Amelia Christie [REDACTED] wrote:

Dear James

The amenity issue is relating to the noise levels from the motor repair garage. As the application site and the motor repair garage share a wall any future resident would experience an unreasonable level of noise. Although there are residential buildings in the surrounding area the impact on 37 Burns Street would be significantly greater.

I hope this clarifies the issue.

Kind Regards
Amelia

Amelia Christie | Trainee Planner | Spatial Policy Team | Place | The City of Edinburgh Council |
Waverley Court, Level G:3, 4 East Market Street, Edinburgh, EH8 8BG | Tel. 0131 529
3920 [REDACTED]

From: james robertson [REDACTED]
Sent: 12 May 2020 18:52
To: Amelia Christie [REDACTED]
Cc: Jenny Smith [REDACTED]
Subject: Re: 20/01176/FUL 37 Burns Street

Dear Amelia,

To allow the applicant to make an informed decision could you please provide further information on the relevant amenity issues currently preventing a positive decision.

Regards

James

—

james robertson architect
7b mavisbank grange
edinburgh eh20 9sz

[REDACTED]

On 12 May 2020, at 15:09, Amelia Christie [REDACTED] > wrote:

Good Afternoon James

I am emailing about the below application. After reviewing the application I can inform you that this application cannot be supported due to amenity issues. It is recommended that you withdraw the application. Please let me know how you wish to proceed.

Kind Regards
Amelia

From: james robertson [REDACTED]
Sent: 08 April 2020 09:10
To: Amelia Christie [REDACTED]
Cc: Jenny Smith [REDACTED]
Subject: Re: 20/01176/FUL 37 Burns Street

Good Morning Amelia,

Thank you for your email.

I have copied the applicant, Jenny Smith, in to my response to keep her up to date.

We are all in exactly the same boat at the moment so there is no expectation from me for this application to be determined within the normal timescales. I am very grateful for your update and would welcome any requests for information or further updates as and when you are able or there is something to report.

I will respond to the extension request as soon as received and it will not be an issue.

Kind regards

James

—
james robertson architect
7b mavisbank grange
edinburgh eh20 9sz

[REDACTED]

On 8 Apr 2020, at 09:00, Amelia Christie <[REDACTED]> wrote:

Good Morning James

I am emailing regarding application 20/01176/FUL at 37 Burns Street. I am the case officer for this particular application and can now provide an update. You may be aware from the [Planning Blog](#) that we are not able to carry out the necessary publicity (as required by the Town and Country Planning (Scotland) Act 1997) on some applications due to the Covid – 19 restrictions. This has affected site notices, adverts and neighbour notifications.

Unfortunately, the neighbour notification period on this application had not finished by the time restrictions came into place and the application cannot therefore be determined at this time. This may change following the implementation of the Coronavirus Act. Whilst this is disappointing; it is unavoidable in these challenging times. As much work as possible will be carried out on assessing the application (you may be asked for more information to help this process) and the application will be determined as soon as it is practically possible to do so. In the meantime, an extension of time is requested until to cover this delay and you will receive a separate request for this.

Please sign up to the [Planning Blog](#) to ensure you are up-to-date with any planning news.

I hope you understand and are keeping well.

Kind Regards

Amelia

Amelia Christie | Trainee Planner | Spatial Policy Team | Place | The City of Edinburgh Council |
Waverley Court, Level G:3, 4 East Market Street, Edinburgh, EH8 8BG | Tel. 0131 529
3920 [REDACTED]

Notice of Review - Supporting Statement

Planning Application Ref 20/01176/FUL

This notice for review follows an application to Edinburgh Council seeking planning consent for part change of use to form an artist's residence within an existing studio building at 37 Burns Street, EH6 8DS. The property is not listed. The application (20/01176/FUL) was refused by the Council on 1 June 2020.

The reason for the review is as follows.

Report of handling

With reference to the report of handling 3.3 Assessment. In addressing the determining issues Edinburgh Council appear to accept that the proposal meets all relative considerations except, to their mind, 'amenity by future occupiers due to acute noise levels'.

In her email of 13th May 2020 Edinburgh Council Planning Officer (Amelia Christie) noted that the application could not be supported because 'as the application site and motor repair garage share a wall any future resident would experience an unreasonable level of noise'.

The applicant confirms there is very little noise from the garage. This is a quiet predominantly residential street. There are sixteen existing dwellings within 15m distance of the garage. The closest only 12m away and directly in front. The planning officer has been asked if any complaints have been made in respect of noise. No response has been received. There is evidently no current issue with noise from the garage. A noise impact assessment has not been submitted as there was no concern in respect of noise when preparing the application. We are unaware if the planning officer has visited the street when considering the application. Due to current circumstances we would not expect an internal visit however it may be appropriate, when considering applications which affect people's livelihoods, that appropriate knowledge is gained prior to determining such an application.

Within the report of handling, 3.3 d, reference is made to the application site sharing a wall with the motor repair garage. The application building and adjacent motor repair garage only share a wall in the sense that they abut each other. The application property is of masonry cavity wall construction, the external wall to the garage is built up to this with roof structure supported from internal masonry piers. The walls are inherently separate with neither building being dependant on the other. This would, to my mind, be a material consideration when considering noise.

The report of handling, 3.1, makes reference to removal of a conservatory, construction of a single storey extension and a canopy to the front of the building. Alterations to the rear ground floor elevation are also noted. These elements are also referred to within several further sections of the report. The conservatory, extension, canopy and elevation alterations do not form part of this application and are not relevant to this property.

Precedent

There are numerous small garages, just like this one, within a similar proximity to relatively modern residential developments where amenity due to noise would have to be considered. In these instances noise has not prevented development.

Please refer the following local sites for precedent.

16 & 18 Jane Street, Leith.

Two separate residential developments across a narrow street from several car repair garages.



Arthur Street, Leith.

Modern residential developments adjacent a car repair garage.



Couper Street, Leith.

Large New build residential development directly opposite existing car repair garage.



Windsor Street Lane Development

Planning Ref 17/00890/FUL

New build mews houses proposed opposite existing car repair garage. A very similar context, though larger scale garage, to the application at 37 Burns St. A noise impact assessment accompanies the application at Windsor Street Lane. The assessment only refers to current noise levels from the existing car repair and MOT garages within the locality. It does not consider potential noise levels. It is noted within the report that the car repair business is 'spread across the various mews and outbuildings in the Lane'. This is a much bigger commercial operation at Windsor St Lane than the neighbouring car repair garage in Burns St.

The report also references existing residential properties surrounding the Windsor St Lane garage. As per the Burns St context.

The conclusion within the report is to install a double glazed unit OR secondary glazing to the windows of the new development. Consent was granted.



Salamander Place Development

The large residential development at 9-21 Salamander Place, Ref 07/03238/FUL, was granted consent when proposed adjacent, only 12m, from Dalton scrap yard to the North of the development site.



In respect of loss of amenity due to noise the report for Salamander Place notes that the scrap yard operates during normal working hours (08.00 to 16.30 Mon to Fri and 8.00 to 12.00 on Sat) and that the closest rooms affected by the noise are bedrooms. The bedrooms are noted as unlikely to be affected during operational hours of the scrap yard. The proposal to attenuate noise is to keep these windows closed during the day.

This scrap yard operates large plant and moves literally tonnes of material. I do not see from the report at 9-21 Salamander Place where further acute noise levels had to be considered by the applicant. These would surely be louder in a large scrap yard than those which could be created by a small car repair garage. The considerations and proposals within the report at Salamander Place appear to be reasonable and proportionate and ultimately permit development.

Conclusion

The car repair garage adjacent 37 Burns Street operates similar hours to the scrap yard. This does not appear to have been considered in the same manner as at Salamander Place. We believe this should be considered in determining the application.

The application at 37 Burns Street is for 'part change of use'. This does not appear to have been considered. The part change of use is to accommodate an artist in residence within an existing artist studio building. This is not a change of use for the whole building. The building remains, predominantly, an artists studio. The residence aspect will always be inherently linked to the studio. This does not appear to have been considered in determining the application. Edinburgh council has always acknowledged the contribution creative industries make to the vibrancy of the city. It has a sustained track record of supporting and enabling it's creative professionals in what can be a financially challenging profession.

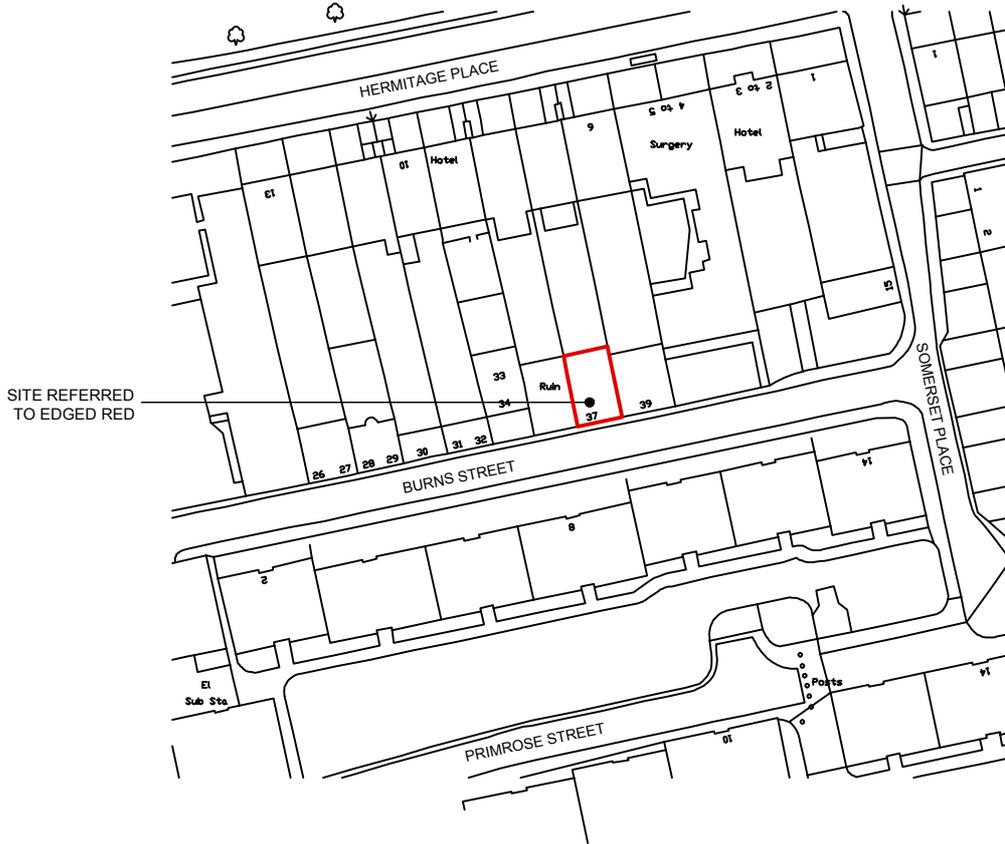
If noise levels are really a concern then, as elsewhere, we propose measures to negate this. In respect of this application current noise levels from the garage are not an issue and do not affect the occupiers amenity.

In light of local precedent, current noise levels from the garage, proximity of existing local residential property to the garage, operating hours of the garage, existing separation from the garage, lack of detail from the Planning Officer in respect of concerning noise levels and only a part change of use the applicant does not believe Edinburgh Council has acted proportionately, fairly or consistently in respect of this application.

dimensions stated are in millimetres unless specifically noted otherwise

do not rely upon sizes scaled directly from printed drawings

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1 Site Location Plan

1:1250



-10M 0M 10M 20M 30M

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project address	Mission Hall, 37 Burns Street, Edinburgh
project title	Part change of use to dwelling and internal alterations
drawing title	Site Location Plan
project no	2009
drawing no	03
date	March 2020
revisions	

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The City of Edinburgh Council
City Development Department
Planning and Strategy
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG

06th March 2020

Dear Sir/Madam

**Re: Proposed Part Change of Use to Artists Studio
Mission Hall, 37 Burns Street, Edinburgh, EH6 8DS.**

We wish to submit a planning application for the above noted property.

The application relates to an existing artist's studio building on Burns St. The applicant wishes to form living accommodation within part of the studio for use as an artist's flat.

The proposal is to form a living/bed space within what is currently an existing studio space. The existing kitchen will be altered to enlarge the facilities. The existing shower and now larger kitchen will be utilised by the resident artist.

It has not been easy placing the proposals under a specific planning heading. The proposals were discussed with a duty planning officer at the planning help desk. We were advised to apply for part change of use and provide information in the form as shown on the following drawings which accompany the application.

- Dwg No. 2009-01 As Existing @A1
- Dwg No. 2009-02 As Proposed @A1
- Dwg No. 2009-03 Site Location Plan @A4

The lodging fee of £401.00 will be made online.

We trust the application is in order and look forward to receiving your acknowledgement that this has been registered in due course.

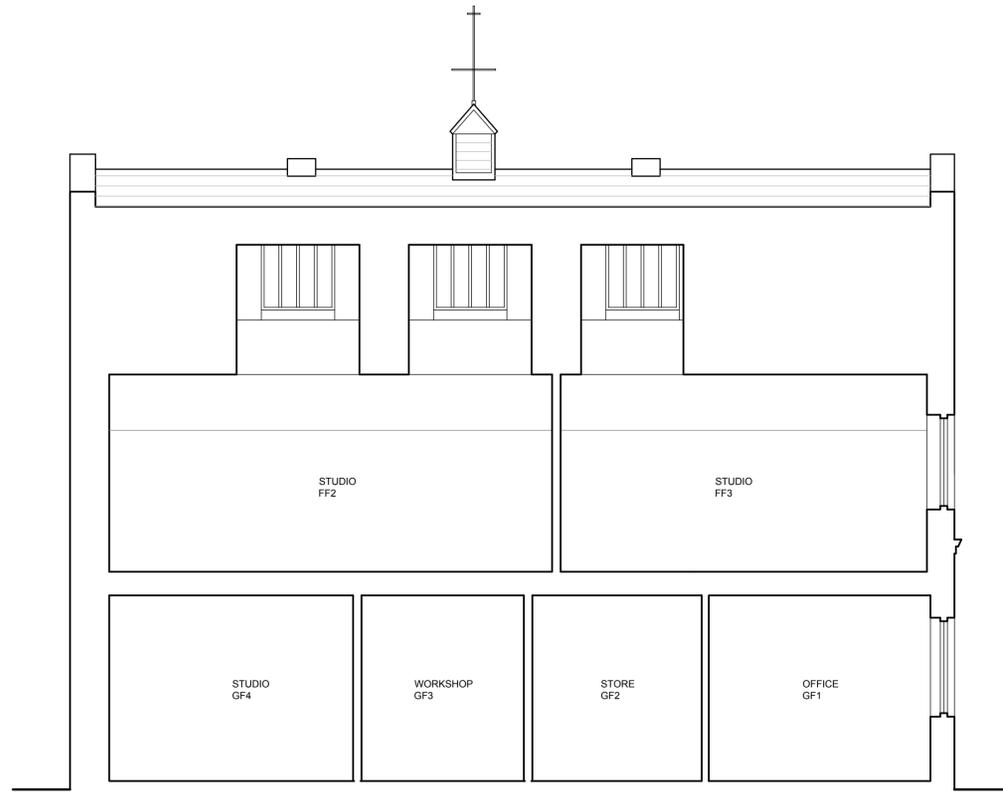
Yours faithfully,

A black rectangular redaction box covering the signature area of the letter.

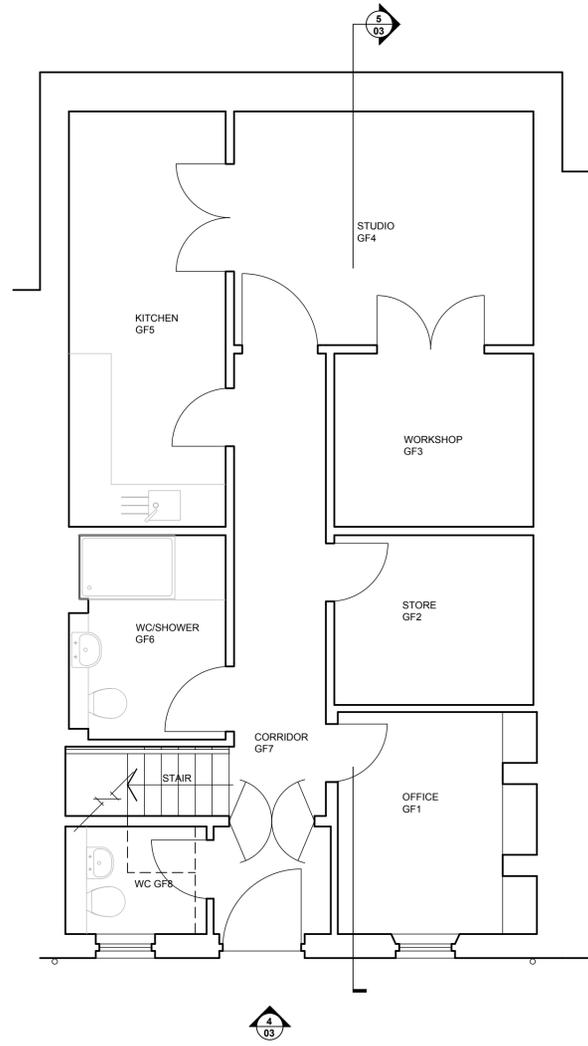
James Robertson



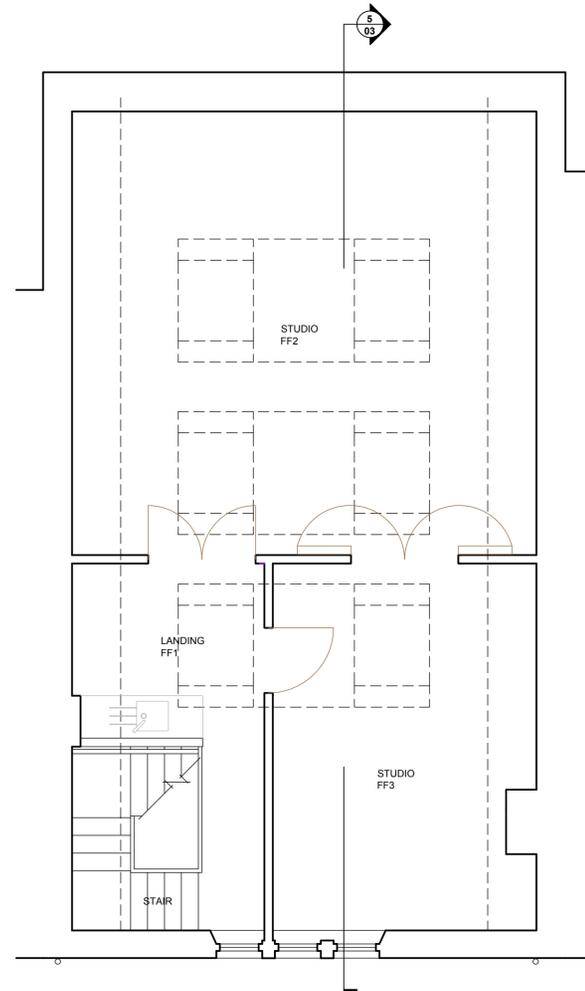
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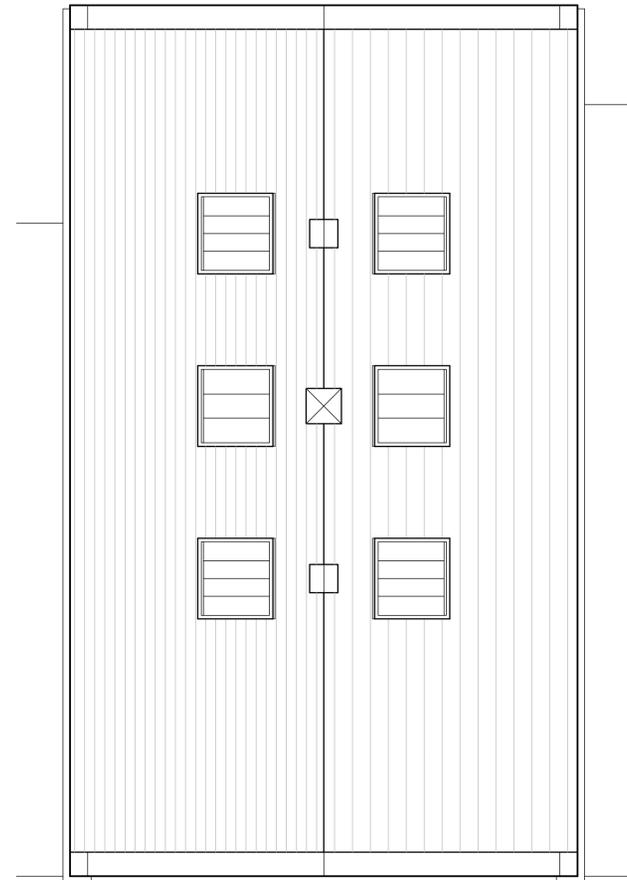
5 Section as Existing
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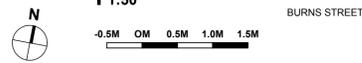
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2 First Floor Plan as Existing
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3 Roof Plan as Existing
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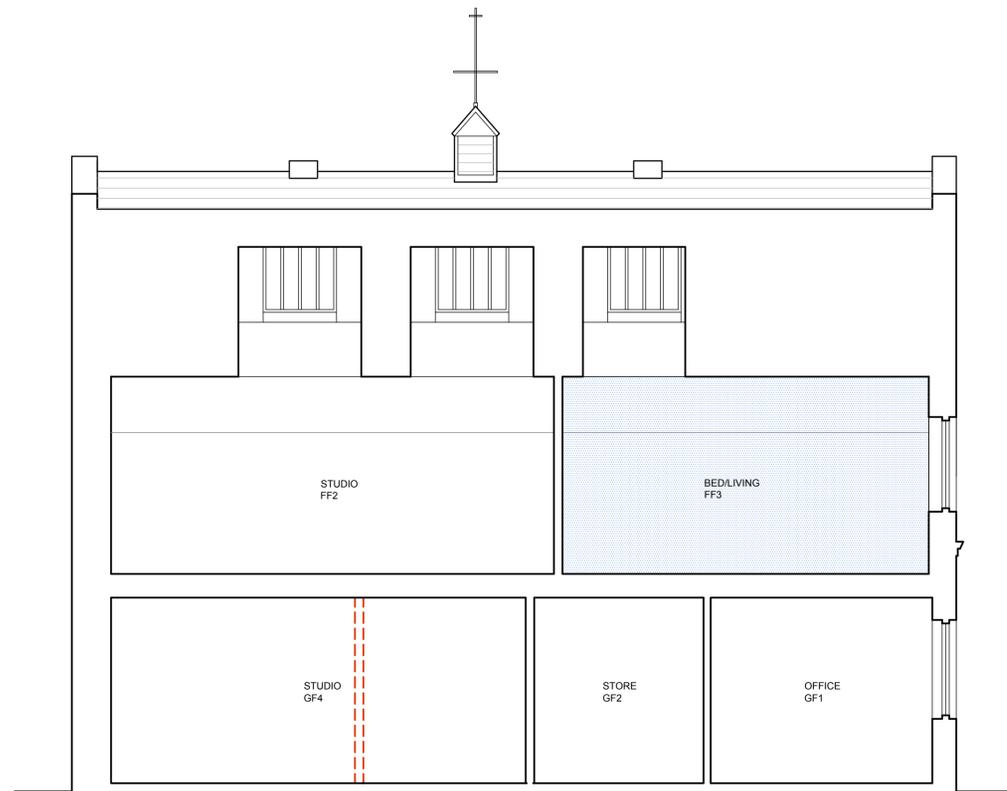


PLANNING

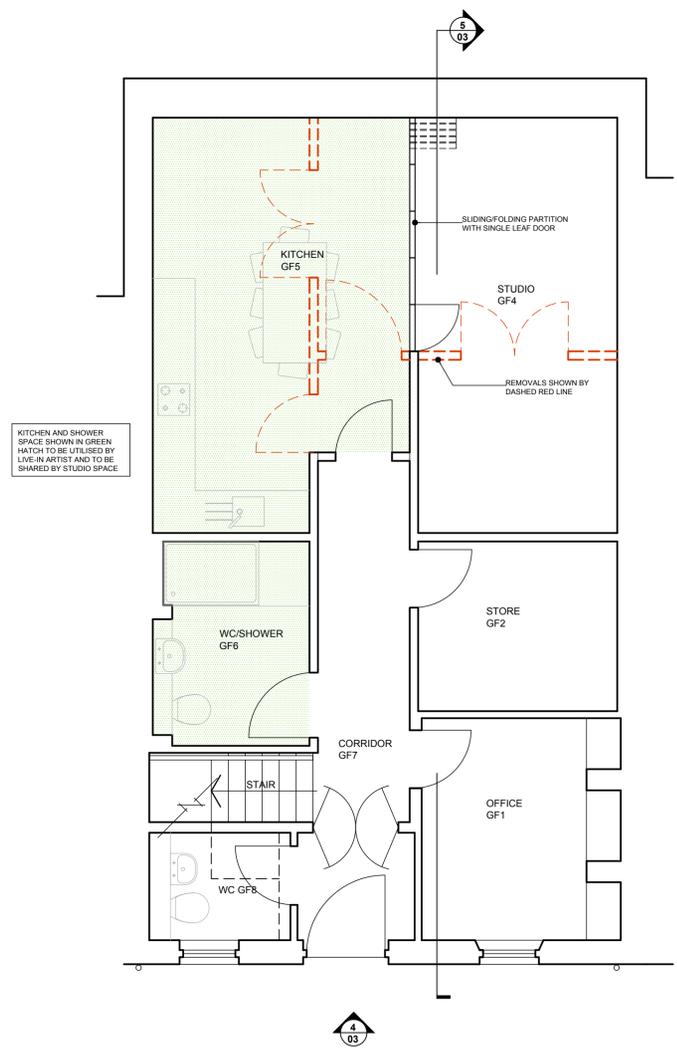
project title	james robertson architect
project address	Mission Hall, 37 Burns Street, Edinburgh
project no	2009
drawing no	01
date	March 2020
revisions	



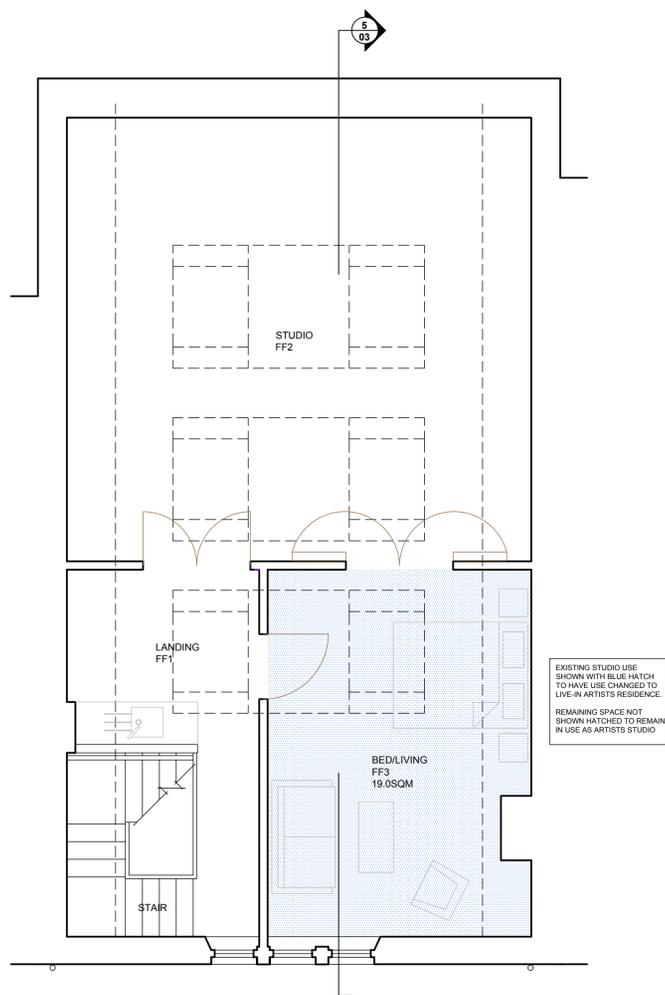
4 Front Elevation as Proposed
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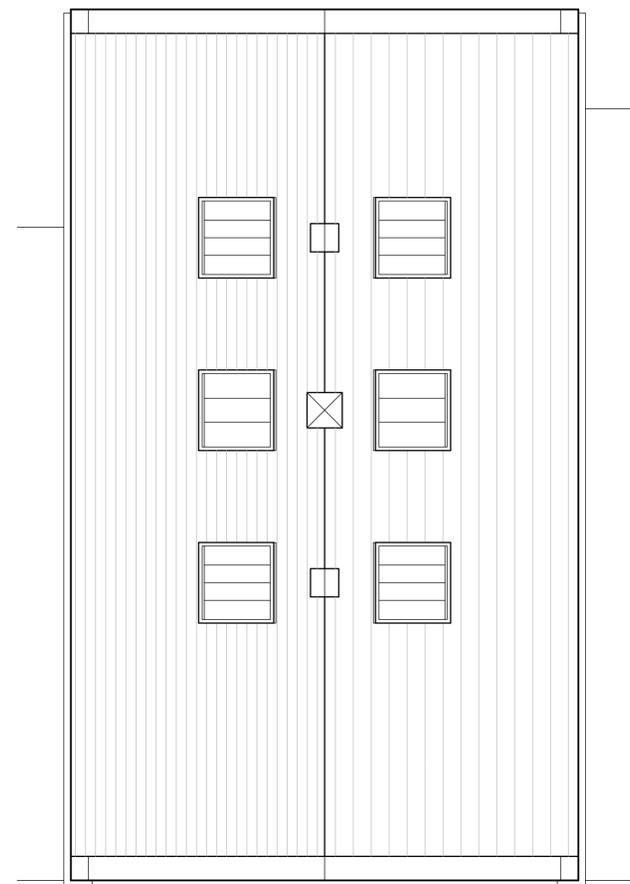
5 Section as Proposed
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1 Ground Floor Plan as Proposed
1:50



2 First Floor Plan as Proposed
1:50



3 Roof Plan as Proposed
1:50

-  DENOTES AREA OF APPLICATION PROPERTY TO BE USED AS RESIDENTIAL BED AND LIVING SPACE. 19.0SQM
-  DENOTES AREA OF APPLICATION PROPERTY TO BE UTILISED BY BOTH STUDIO AND RESIDENCE. KITCHEN AND SHOWER ROOM. 25.0SQM

PLANNING

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BURNS STREET