

Development Management Sub Committee

Wednesday 16 June 2021

**Application for Planning Permission 21/01323/FUL
at 1 India Buildings, Victoria Street, Edinburgh.
Construction of a metal balustrade and introduction of
planters to the flat roof at level 7 to create a roof
garden/sanctuary.**

Item number

Report number

Wards

B11 - City Centre

Summary

The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves the setting of the adjacent listed buildings and preserves the character and appearance of the conservation area.

The proposals comply with the adopted Local Development Plan and non-statutory guidelines and will have no adverse effect on the Outstanding Universal Value of the World Heritage Site. The development will have no detrimental impact on residential amenity there are no material considerations that outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LEN03, LEN06, LEN01, LDES05, NSG, NSLBCA, CRPOLD, HES, HEPS, HESSET,

Report

Application for Planning Permission 21/01323/FUL at 1 India Buildings, Victoria Street, Edinburgh. Construction of a metal balustrade and introduction of planters to the flat roof at level 7 to create a roof garden/sanctuary.

Recommendations

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

Background

2.1 Site description

The application relates to a hotel currently under construction as part of a mixed use development comprising a hotel, bar, restaurant, cafe, retail and commercial uses on a site bounded by Victoria Street to the north, a gap site to the south, George IV Bridge to the east and tenements and commercial units to the west.

The site includes 1 India Buildings, a category A listed, four-storey Scots Baronial/Jacobean style former office block (listed on 14 December 1970, reference: 29868) and the category B listed former Cowgatehead Church (listed on 29 March, reference: 47859) and is within the Old and New Towns of Edinburgh World Heritage Site. The Central Library, which is category A listed (listed on 4 December 1970, reference: 27587) lies to the immediate east of the site.

The surrounding area is predominantly mixed-use in character with many hotels and hostels in the vicinity and there are some residences above and below commercial uses.

This application site is located within the Old Town Conservation Area.

2.2 Site History

22 January 2016 - planning permission granted for development comprising hotel, bar, restaurant, café, retail and commercial uses and alterations to India Buildings, 11 -15 Victoria Street and Cowgatehead Church (application number 15/04445/FUL).

Main report

3.1 Description of the Proposal

The application is to create a roof garden/sanctuary for use by hotel guests and restaurant patrons on the existing roof of the hotel under construction.

The roof terrace will be surfaced in porous paving slabs over a deck structure and enclosed by a 1.1-metre-high, bronze-coloured steel balustrade set back one metre from the front building line.

Planters and seating/tables will be installed within the terrace area and access will be via a door at the end of the guest corridor. This door was approved as part of the planning permission currently being implemented on this site (reference 15/04445/FUL).

Supporting Documents

- Narrative Document (including key views); and
- Noise Impact Assessment.

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

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 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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, the Committee needs to consider whether:

- a) the proposals preserve the setting of the listed buildings;
- b) the proposals preserve or enhance the character or appearance of the conservation area;
- c) the proposals harm the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site;
- d) the proposals are detrimental to residential amenity;
- e) any impacts on equalities or human rights are acceptable and
- f) public comments have been addressed.

a) Setting of Listed Buildings

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:-

"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Historic Environment Scotland's document 'Managing Change in the Historic Environment - Setting' states.

"Setting' is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced."

LDP Policy Env 3 states that development within the curtilage or affecting the setting of a listed building will only be permitted if not detrimental to the appearance or character of the building or its setting.

The immediate setting of the adjacent listed buildings comprises the current development on site and the proposed roof terrace does not include any additional storey or substantial structures. The proposed sanctuary area will be confined to the central section of the roof of the new hotel, so will not be in close proximity to the Central Library.

Whilst the proposed balustrade and planters will be visible from certain key viewpoints, including from George IV Bridge and Greyfriars Kirkyard, these are relatively low-lying structures that will have no significant impact on these views in terms of preserving the setting of the listed buildings. The simple style and bronze finish of the steel balustrade will be in keeping with the materials and contemporary style of the new hotel and the simple style of historic railings in the area.

The proposed development is confined to the roof of the new hotel under construction and will add no significant height or structures to this roof that could prejudice the future development of the Central Library.

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposals preserve the setting of the listed building, in compliance with LDP Policy Env 3.

b) Character and Appearance of Conservation Area

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 which 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."

LDP Policy Env 6 permits development within a conservation area which preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal.

The essential character of the conservation area is summarised in the Old Town Conservation Area Character Appraisal as follows:

- *" the survival of the little altered medieval 'herringbone' street pattern of narrow closes, wynds and courts leading off the spine formed by the Royal Mile;*
- *important early public buildings such as the Canongate Tolbooth and St Giles Cathedral;*
- *the quality and massing of stonework; and*
- *the density and height of its picturesque multi-storey buildings."*

The proposed rooftop installations, due to their relative low height over a restricted area will have no significant impact on important views of the Old Town's historic public buildings, in particular the Central Library. No other characteristic features of the conservation area will be affected by the proposed development.

Whilst greenery is not a common feature on rooftops within the Old Town, a limited and discreet area of planting at this level is acceptable and will be in keeping with the small, gardens that are found in inconspicuous locations within the conservation area.

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposals preserve the character and appearance of the conservation area, in compliance with LDP Policy Env 6.

c) Outstanding Universal Value of World Heritage Site

The Outstanding Universal Value (OUV) of the Old and New Towns of Edinburgh World Heritage Site is defined as the remarkable juxtaposition of two clearly articulated urban planning phenomena: the contrast between the organic medieval Old Town and the planned Georgian New Town which provides a clarity of urban structure unrivalled in Europe.

The proposed external alterations will have no detrimental impact on the character or appearance of the medieval Old Town, nor its relationship with the Georgian New Town in terms of having an adverse effect on key views that contribute to the OUV of the World Heritage Site.

The development will therefore cause no harm to the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site, in compliance with Edinburgh Local Development Plan Policy Env 1.

d) Residential Amenity

LDP Policy Des 5 seeks to ensure that the amenity of neighbouring residents is not adversely affected by development.

The proposed rooftop garden/sanctuary is to provide hotel guests and restaurant users with a relaxing outdoor space with no amplified music, capturing views over the Old Town. The terrace will provide seating for approximately 15-20 people with potentially another ten standing. No bar or server is proposed, although guests will be able to order food and drink to be consumed on the terrace. The only noise source will be guests' voices.

The nearest residential properties to the proposed terrace are approximately 30 metres away at 4 Cowgatehead and approximately 40 metres away in Anderson's Close. These residences are already subjected to noise levels and disturbance from road traffic as well as the numerous bars, restaurants and hotels along Cowgate and Grassmarket and associated people on the streets at all hours.

The Noise Impact Assessment compared predicted noise levels from the roof terrace with existing noise levels in the vicinity generated by traffic, commercial and pedestrian activity. The results suggested that any noise generated by users of the roof garden would be significantly lower than the existing noise levels in the area.

No separate lighting is proposed for the roof terrace in this application.

The noise from the roof garden is therefore unlikely to have any detrimental impact on the amenity of nearby residential properties.

e) Equalities and Human Rights

This application was assessed in terms of equalities and human rights and no impacts were identified.

f) Public Comments

Material Objections

Old Town Community Council

- addition of an extra storey to the building - assessed in section 3.3 a)
- overlooking of the Central Library and Greyfriars Kirkyard - assessed in section 3.3 a)
- bronze detailing is out of keeping locally and within the World Heritage Site - assessed in section 3.3 b)
- noise and disruption in an area where a few residents still live - assessed in section 3.3 d)

Other Material Objections

- adverse effect on protected views from Greyfriars Kirkyard to Old Town - assessed in section 3.3 a)
- prejudice future development of Central Library - assessed in section 3.3 a)
- detrimental impact on authenticity and integrity of World Heritage Site - assessed in section 3.3 c)
- light pollution - assessed in section 3.3 d)

Support Comments

- will offer unique perspective of World Heritage Site
- not detrimental to the privacy or amenity of local residents
- will assist economic recovery and attract visitors to Edinburgh

Non-Material Objections

- detrimental to health and safety
- road safety
- anti-social behaviour
- consumption of alcohol

Conclusion

The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves the setting of the adjacent listed buildings and preserves the character and appearance of the conservation area.

The proposals comply with the adopted Local Development Plan and non-statutory guidelines and will have no adverse effect on the Outstanding Universal Value of the World Heritage Site. The development will have no detrimental impact on residential amenity there are no material considerations that outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Informatives

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

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

Equalities impact

6.1 The equalities impact has been assessed as follows:

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

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 26 March 2021. A total of 22 representations were received: 16 objections, including from the Old Town Community Council and Cockburn Association and six comments in support.

Background reading/external references

- To view details of the application, go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development
Plan Provision**

The site is within the City Centre as defined in the Edinburgh Local Development Plan (LDP).

Date registered

15 March 2021

Drawing numbers/Scheme

01 - 06,

Scheme 1

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Clare Macdonald, Senior Planning Officer

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

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

LDP Policy Env 1 (World Heritage Site) protects the quality of the World Heritage Site and its setting.

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

Relevant Non-Statutory Guidelines

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

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community

Relevant Government Guidance on Historic Environment.

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

Managing Change in the Historic Environment: Setting sets out Government guidance on the principles that apply to developments affecting the setting of historic assets or places.

Appendix 1

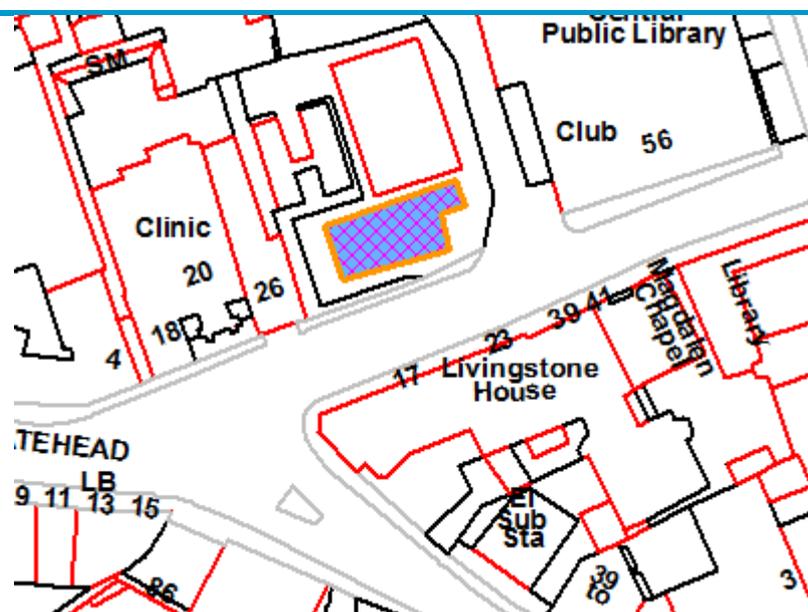
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Consultations

Historic Environment Scotland

We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.

Location Plan



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