

Development Management Sub Committee

Wednesday 18 August 2021

Application for Planning Permission 21/02326/FUL at land adjacent to, 194 Fountainbridge, Edinburgh. Proposed use for the North East commercial unit, lower ground floor of Block A. Current planning consent allows for class 1, class 2, class 3, class 4, and/or ancillary residential use e.g., storage. Application is seeking permission for a class 11 (gym) use for this unit.

Item number

Report number

Wards

B09 - Fountainbridge/Craiglockhart

Summary

The use is compatible with the policies in the Edinburgh Local Development Plan. The use of the commercial unit as a Class 11 - Gymnasium will provide an appropriate use and form part of a package of amenities for future occupiers of this built-to-rent scheme. Appropriate mitigation and on-site management will ensure that a satisfactory residential environment for future occupiers is maintained. There are no material considerations that outweigh this conclusion.

Links

[Policies and guidance for this application](#)

Report

Application for Planning Permission 21/02326/FUL at land adjacent to, 194 Fountainbridge, Edinburgh Proposed use for the North East commercial unit, lower ground floor of Block A. Current planning consent allows for class 1, class 2, class 3, class 4, and/or ancillary residential use e.g., storage. Application is seeking permission for a class 11 (gym) use for this unit.

Recommendations

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

Background

2.1 Site description

The proposal relates to a ground floor commercial unit within a nine-storey residential build-to-rent block currently under construction and nearing completion. The site is within the Fountainbridge area and south of the Western Approach Road.

2.2 Site History

13 December 2016 - Planning Permission in principle granted for mixed use development including residential, Class 1 (Retail), Class 2 (Financial, Professional and other services), Class 3 (Food and Drink), Class 4 (Business), and/or Hotel/Class 7; Detailed matters included for the siting + maximum height of building blocks, points of vehicular access and egress, location of pedestrian routes, all detailed matters for the North block (Building A1), new public square and pavilion building - as amended. (Reference 15/02892/PPP)

Main report

3.1 Description of the Proposal

Use as Class 11 Gymnasium at ground floor level of flatted block.

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.

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 principle of the proposal is acceptable in this location;
- b) the proposal will result in an unreasonable loss of neighbouring amenity and
- c) any comments have been addressed.

a) Principle of Development

Policy Ret 8 Entertainment and Leisure Developments - Other Locations of the Edinburgh Local Development Plan supports entertainment and leisure proposals within the city centre that are accessible by a choice of transport modes and compatible with the surrounding uses.

The application site is within the city centre as defined in the LDP. It is within the Fountainbridge CC3 proposal in the LDP. Within the city centre an appropriate mix of uses that enhance its character, attractiveness and vitality of the city centre are supported. The use of the ground floor unit as a gymnasium will maintain an active frontage to the street and form part of a package of amenities for future residents of this build-to-rent scheme. The proposal is consistent with the requirements of the CC3 Fountainbridge development principles. Accordingly, the use of the ground floor as a Class 11 Gymnasium is acceptable subject to compliance with other relevant policies in the LDP.

b) Residential Amenity

Policy Des 5 Development Design - Amenity supports development that will maintain acceptable levels of amenity for future occupiers in relation to noise.

Environmental protection has been consulted and advised they object to the application based on the impact on noise for future residents from the gymnasium. Gymnasiums have the potential to create noise through users, machine noise and vibration using free weights. The noises are difficult to mitigate and control using conditions. As there are residential properties directly above the gym, the proposal has potential to affect their residential amenity.

The applicant has employed an acoustician to advise on measures that will impede sound travelling to the apartments above with acoustic treatments to the floors, walls and ceilings. The scheme is built-to-rent and the whole building controlled through a single owner with 24-hour management on site. Accordingly, they will be able to resolve any amenity issues and it is within their interest to maintain a satisfactory residential environment for future occupiers.

A condition is recommended to secure acoustic mitigation measures. A further condition is recommended to restrict the use to gymnasium and not the wider uses possible under Class 11 of the Town and Country Planning Use Classes (Scotland) Order 1997. Accordingly, subject to appropriate mitigation and on-site management, a satisfactory residential environment will be maintained in accordance with policy Des 5.

c) Public comment

No comments received

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

3.4 Conditions/reasons/informatives

Conditions :-

1. Notwithstanding the provisions of the Town and Country Planning Use Classes (Scotland) Order 1997, the property shall be used solely as a gymnasium and for no other purpose.
2. Details of appropriate noise mitigation of the gymnasium are to be submitted and approved by the planning authority. The approved mitigation measures are to be implemented prior to the operation of the unit as a gymnasium.

Reasons: -

1. In order to safeguard the amenity of neighbouring residents and other occupiers.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.

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

No representations have been received.

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 for development is within the Fountainbridge City Centre Proposal and is in the defined City Centre of the Edinburgh Local Development Plan.

Date registered

29 April 2021

Drawing numbers/Scheme

01 - 02,

Scheme 1

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

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Links - Policies

Appendix 1

**Application for Planning Permission 21/02326/FUL
At Land Adjacent To , 194 Fountainbridge, Edinburgh
Proposed use for the North East commercial unit, lower
ground floor of Block A. Current planning consent allows
for class 1, class 2, class 3, class 4, and/or ancillary
residential use e.g. storage. Application is seeking
permission for a class 11 (gym) use for this unit.**

Consultations

Environmental Protection Response

I refer to the above and would advise that Environmental Protection has concerns relating to the application and does not support the application.

The application proposes a Class 11 gymnasium premises below and adjacent to residential properties. The residential properties are directly above, structurally attached and immediately adjacent to the proposed gymnasium.

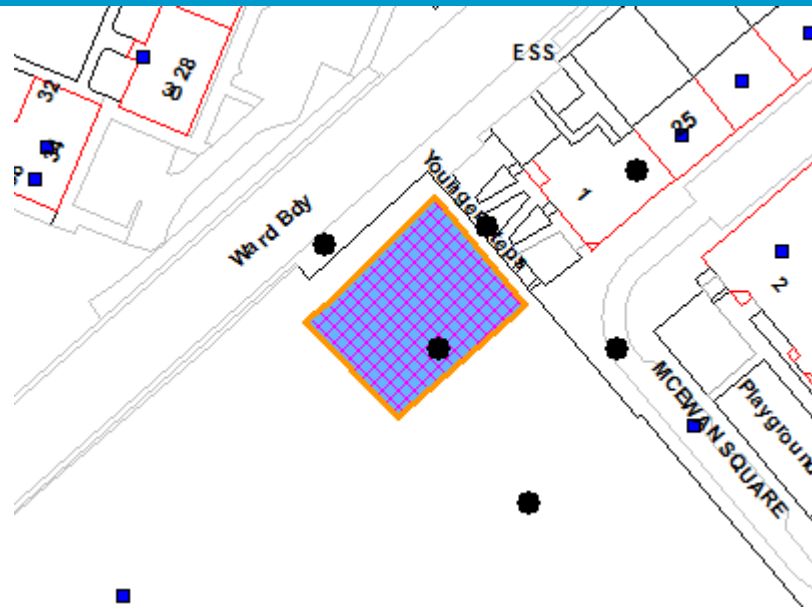
Gymnasiums by their very nature cause significant noise (e.g. from loud, bass heavy, music, amplified shouting during fitness classes or the tonal drone of an exercise bike) and vibration (e.g. from the use of free weights, weight machines or movement of patrons). Such noise and vibration issues are extremely difficult to mitigate when the building is so close to or structurally attached to residential properties. Noise can travel up through the floor from the gym to the residential property or via the noise escaping from the gym to the outside then entering the residential properties through windows or facades.

Environmental Protection is concerned that the Council will receive complaints relating to the gym activities and indeed have done on a number of occasions in the past from other gyms which are not as close as the two parties will be in this situation.

In addition, the application is seeking to site a Class 11 premises directly below residential properties. Class 11 can include a discotheque, dance hall and concert hall which are all extremely incompatible within residential buildings. Should the gymnasium be granted, the premises will not require any further planning permission should it decide to change operations into one of these other incompatible uses.

Environmental Protection is concerned that should a Class 11 gymnasium be sited in this position it is likely to impact upon the residential amenity of the structurally attached residential properties. Environmental Protection therefore recommends that the application be refused.

Location Plan



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