

Development Management Sub Committee

Wednesday 8 December 2021

**Application for Planning Permission 20/05800/FUL
At 14 Bath Street, Edinburgh, EH15 1EY
Demolition of auditorium and retention and partial
restoration of principal external elements of the Art Deco
facade, erection of 21 residential flats with associated car
parking and landscaping.**

Item number

Report number

Wards

B17 - Portobello/Craigmillar

Summary

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would result in the substantial demolition of a listed building. The planning authority is required to have special regard to the preservation of the building, which means there is a strong presumption against granting planning permission unless the applicant sufficiently demonstrates that the advantages of the proposed scheme outweigh that strong presumption.

The assessment concludes that the applicant has not sufficiently demonstrated that the building is incapable of meaningful repair, and has not fully demonstrated that the potential for the building to be re-used as a cinema (or similar compatible community use) has been fully explored. In this regard, the proposal fails to meet the requirements of the Act and the provisions of policy Env 2 Listed Buildings and Demolition and Policy Env 4 Listed Buildings - Alterations and Extensions of the LDP. Because of this, the proposal does not comply with the Edinburgh Local Development Plan. In this regard, it is recommended that planning permission be refused.

SPP and other material considerations do not outweigh this.

Links

[Policies and guidance for this application](#)

SPP, HEPS, LDPP, LDES01, LDES03, LDES04, LDES05, LDES06, LDES07, LEN02, LEN03, LEN04, LEN05, LEN06, LEN12, LEN20, LEN21, LEN22, LHOU01, LHOU03, LHOU05, LTRA02, LHOU06, LTRA02, LTRA03, CRPPOR, NSG, NSGD02, NSLBCA,

Report

Application for Planning Permission 20/05800/FUL At 14 Bath Street, Edinburgh, EH15 1EY Demolition of auditorium and retention and partial restoration of principal external elements of the Art Deco facade, erection of 21 residential flats with associated car parking and landscaping.

Recommendations

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

Background

2.1 Site description

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

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

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

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

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

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

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

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

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

This application site is located within the Portobello Conservation Area.

2.2 Site History

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

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

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

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

Under Consideration - Listed building consent application for demolition of auditorium and retention and partial restoration of principal external elements of the Art Deco facade, erection of 21 residential flats with associated car parking and landscaping. (application reference 20/05799/LBC).

Main report

3.1 Description Of The Proposal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Applicant's statement;
- Scheme design details;
- Design and Access Statement;
- Report of Findings of Intrusive Structural Investigations (16 December 2020) (it is noted that the author's signature endorsing this report was subsequently removed at their request);
- Structural Condition Report (29 March 2021); and
- Peer Review Report of Remedial Proposals (13 May 2021).

3.2 Determining Issues

Due to its proximity to listed buildings and being within a conservation area, the proposed development requires to be assessed against Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"). This report will first consider:

- a) In terms of Section 59 there is a strong presumption against granting planning permission for development which would harm a listed building or its setting. If engaged, the presumption can only be rebutted if the advantages of the scheme in the proposed location are sufficient to outweigh that strong presumption.
- b) In terms of Section 64 there is a strong presumption against granting planning permission for development which would conflict with the objective of preserving

or enhancing the character or appearance of the conservation area. If engaged, the presumption can only be rebutted if the advantages of the scheme in the proposed location are sufficient to outweigh that strong presumption.

If the Development complies with Sections 59 and 64 of the 1997 Heritage Act, this report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act).

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

3.3 Assessment

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

- a) the demolition aspects are justified;
- b) the works have an acceptable impact on the character and appearance of the conservation area;
- c) the new-build elements have an acceptable effect upon the character of the listed building;
- d) the principle of residential use is acceptable;
- e) parking and road safety are acceptable;
- f) impact on the amenity of existing neighbours and proposed residents is acceptable;
- g) provision of affordable housing is acceptable;
- h) archaeology considerations are acceptable;
- i) the proposal meets environmental protection requirements;
- j) waste disposal arrangements are acceptable;
- k) education contributions are acceptable;
- l) the proposal will not have any impacts on flood risk;
- m) other material considerations are considered;
- n) equality and human rights are considered; and
- o) public comments are addressed.

a) the demolition aspects are justified;

The proposal set out in this application relates to the substantial demolition and alteration of a listed building. It is noted that elements of the principal front elevation will be retained, however the extent of demolition of the main auditorium is significant and therefore merits assessment of the application using these parameters. Assessing the

principle of demolition is fundamental to the assessment of the proposals, and takes precedence above other aspects of the proposal at this stage.

The Historic Environment Policy for Scotland (HEPS) outlines how we should undertake our collective duty of care whenever a decision in the planning system will affect the historic environment. There are three key areas which define how the historic environment should be understood, recognised and managed to support participation and positive outcomes, including "Managing Change" under policies HEP2, HEP3 and HEP4.

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

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

The George cinema building is Category C listed which does not automatically require input from Historic Environment Scotland (HES). However, due to the extent of demolition proposed, HES were consulted on historical applications for this building and has also been consulted on this application and the associated listed building consent application (reference 20/05799/LBC). HES was consulted as the proposal constitutes substantial demolition.

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

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

The supporting information provided by the applicant focuses on meeting the requirements of the second test i.e. that the building is incapable of repair. The proposals have also been assessed against the other three HESP tests noted above, but are not found to meet the requirements of these tests. Further details of this assessment are provided in the listed building report (20/05799/LBC).

The applicant has provided three structural reports as supporting information to demonstrate that the building is incapable of repair. The reports are noted as follows;

- The Report of Findings of Intrusive Structural Investigations (Will Rudd Davidson, 16 December 2020). It is noted that the author's signature endorsing this report was subsequently removed at the author's request, however as the report findings are cross-referenced in the G3 Peer Review report, it has been necessary to review this report as part of the assessment process.
- Structural Condition Report (Will Rudd Davidson, 29 March 2021)
- Peer Review Report of Remedial Proposals (G3 Consulting Engineers 13 May 2021)

The structural reports provided by Will Rudd Davidson (WRD) describe structural deficiencies within the building. The key concerns are noted as follows;

Corrosion of steel columns;

A lack of ties between masonry wall and columns;

Concerns with the current concrete load bearing capacity; and

Presence of asbestos in the roof and internal/external finishes.

The reports do not identify any significant issues with the structural integrity of the building in the short to medium term, but identify a range of areas and potential problems of bringing the building back into use. Neither WRD report provides specific advice on what would be involved in that process although recommendations are made which set out the need for further monitoring and assessments.

The Peer Review report submitted subsequently by the applicant provides a third party engineer's review of the two reports above. This report looks at the structural condition reports and considers that while neither are specific in what bringing the building back into use may involve, "sufficient information exists to make a reasonable estimate of the type of upgrading that may be necessary".

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

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

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

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

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

In summary, both the responses from HES and the Council's Building Standards service state that the supporting structural information provided by the applicant does not fully enough substantiate the case for demolition. Therefore a level of doubt remains in relation to the building's potential for meaningful repair to be undertaken.

The legislative framework and policy guidance around listed buildings take a baseline position whereby the principles of conservation and retention of listed buildings where possible must be considered from the forefront. In this instance, given that a level of doubt remains from the technical advice gathered, it is not considered that the evidence provided by the applicant robustly demonstrates that the provisions of the second HESP test have been met.

The listed building report of handling provides an assessment of the proposal against the four tests set out within HEPS for justification of demolition of a listed building, and considers consultation responses from HES and the Council's Building Standards team.

In summary, HES's response concludes that the supporting information provided does not prove that the auditorium is incapable of meaningful repair. It identifies that key issues of uncertainty remain around the extent to which the auditorium's steel columns and brickwork can be retained, and whether or not the building is capable of meaningful repair.

The response from the Council's Building Standards service recognises the challenges that reuse of the building might bring and takes a cautionary approach in assessing the safety of the existing building. However, it also queries some of the assumptions made in the applicants supporting structural reports, around the need for building warrants to be required to deliver structural repairs to the building for future use. The advice given from the Council's structural engineers therefore identifies a level of doubt around the assumptions made in the applicant's supporting information.

In considering the proposed development in relation to policy Env 2 Listed Buildings - Demolition, the advice provided by HES in particular states that reasonable doubt remains over the capability of the building to be repaired and brought back into use. HES's advice also identifies a shortfall in information provided by the applicant in relation to the potential re-use of the building as cinema (or compatible use) and recommends that further exploration of this be demonstrated by the applicant in order to better quantify the possible future re-use of the building in this regard.

To conclude, it is recognised that intervention is certainly required to facilitate reuse of the building. However, despite the volume of information provided by the applicant to justify demolition of the scheme, the advice from external and internal consultees is that a level of doubt remains over whether or not the auditorium is capable of meaningful repair. Whilst this level of doubt remains, it would not be appropriate to accept the principle of demolition, and therefore this is not deemed acceptable without the provision of further evidence. The application does not meet the requirements of Policy Env 2 Listed Buildings - Demolition in this regard.

b) the works have an acceptable impact on the character and appearance of the conservation area;

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

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

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

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

given that the predominant change would be to the less visually important rear part of the building.

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

c) the new-build elements have an acceptable effect upon the character of the listed building;

Policy Env 4 Listed Buildings - Alterations and Extensions provides criteria for the assessment of changes proposed to the design and appearance of listed buildings, with a view to ensuring that the special architectural or historical interest of a building is protected. The policy states that there is a need for a thorough structural condition report demonstrating that the proposals are necessary of justified.

Policies Des 1 to Des 7 set out criteria across a range of parameters for achieving good quality design.

It is noted that in the previous planning application for the site, an identical design was presented for assessment (application reference 16/06447/FUL and 16/06449/LBC). At that stage, the report of handling accepted the design of the scheme as presented, noting that the new build elements to the rear will complement the design and that the works to the retained front elevation are largely restorative.

The reason for refusal on the decision notice for the previous planning application sets outs that the application does not comply with LDP policies Env 2 (Listed Buildings - Demolition) and Env 4 (Listed Buildings - Alterations and Extensions) as it is not demonstrated that the building is incapable of repair. It does not make reference to the proposed design of the scheme.

The grounds of appeal for that application focuses on the principle of demolition of the building in response to the reasons for refusal. The reporter's decision for the previous application neither directly supports or criticise the proposed design of the new building elements of the scheme or the proposed amendments to the retained front elevation. It recognises that these works are a factor in the decision making process. With regards to the proposed alterations to the building frontage, the reporter notes that "the works to the frontage is a secondary matter in light of my other conclusions on demolition".

It is noted that the consultation response from HES questions the level of design intervention proposed for the retained front elevation, and recommends that a simpler design approach may be more in keeping with the original architectural character of the building.

The assessment undertaken in section 3.3(a) above concludes that a lack of clarity remains in relation to the proposals meeting the requirements of policy Env 4 with regards to the structural condition of the building.

The removal of the auditorium will have an impact on the character of the building, however as the auditorium has a functional character externally, its replacement with the proposed scheme would have an acceptable impact in this regard. However, the interior of the auditorium is an important feature of the building. Without justification for demolition as set out in section 3.3a) above, the removal of this element and the replacement with flats is considered to have an adverse impact on the building's character. Taking the assessment of 3.3a) into account, the proposal fails to comply with Env 4.

d) the principle of residential use is acceptable;

The site lies within the urban area of the adopted Edinburgh Local Development Plan where policy Hou 1 Housing Development states that priority will be given to the delivery of the housing land supply and relevant infrastructure providing proposals are compatible with other policies in the plan. It is in a sustainable location. The principle of housing in this location is therefore acceptable providing other policy criteria can be met.

e) Road safety and Parking

Policies Tra 2 and Tra 3 provide guidance on the provision of vehicle and cycle parking respectively. The application has been assessed by Transport who has objected to the application on the basis of;

- The volume of car parking provided on site exceeds maximum guidance set out in Edinburgh Urban Design Guidance and there is a lack of justification provided for car parking numbers. 21 spaces are proposed. The Edinburgh Design Guidance permits a maximum of 20 spaces (1 space per unit). It is recommended that the applicant significantly reduces provision to a maximum of 10 spaces (inclusive of EV charging and accessible spaces);
- The proposal is required to provide EV charging points as per Edinburgh Design Guidance (one in every six spaces);
- The proposal is required to provide accessible car parking spaces as per Edinburgh Design Guidance (8% of total capacity).
- The proposals show changes to adopted footway on Bath Street, including provision for bin stores, This is not supported by Transport;
- The applicant has not demonstrated that they have made reasonable adjustments in terms of accessibility in relation to the front stepped access.

These matters have not been pursued with the applicant at this stage as precedence has been given to the assessment of the principle of demolition of the building. It is recognised that there may be scope to address these matters within the development site through further dialogue with the applicant. Should planning permission be granted, a condition should be applied to secure details of revised access arrangement prior to the commencement of development.

f) impact on future residents and neighbouring amenity is acceptable;

LDP Policy Des 5 (Development Design - Amenity) states that planning permission will be granted where it is demonstrated that the amenity of existing neighbouring development is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

Sunlight and daylight

The applicant has not provided any supporting information for the application in relation to sunlight or daylight assessment for existing neighbouring or proposed properties. Given that section 3.3(a) of the report above state that the application does not meet the policy requirements in relation to the principle of demolition of the listed building, provision of this information has not been pursued in this case.

It is likely there could be impacts to properties on Mentone Terrace. This is due to the building being higher than the existing building at the southern end of the street. Committee should be aware that if it decides to grant planning permission, these impacts have not been assessed. If the Committee considers that the case for partial demolition has been met, it is recommended that the application is continued to enable additional information on daylight and sunlight impacts to be sought.

Privacy

The Edinburgh Design Guidance provides advice for assessing the impact of new development on the privacy of existing and future residents. The retention of the front elevation of the existing building means that the new accommodation will occupy the same principle building line as the rest of the street. Whilst the building use will change from venue to residential use, it is accepted that an equivalent pattern of residential uses and privacy distances on either side of the Bath Street is already present, therefore the proposed views to the front of the properties would be acceptable in this instance.

In relation to Mentone Avenue, the proposed block will have side windows facing onto existing dwelling houses. These will be positioned between 15.7m and 18.2m from the existing properties. Where the distance is shortest, the fenestration pattern on the north elevation of the replacement building has been designed to minimise overlooking of these existing properties. Windows along the rest of the north elevation, and on the rear (west) elevation are positioned a reasonable distance from the existing properties and their impact on the existing properties' privacy is considered to be minimal. Overall, it is evident that the proposal has been designed to minimise the impact on existing privacy and is considered to be acceptable in this regard.

Proposed accommodation

Policy Hou 2 states that the Council will seek the provision of a range of house types and sizes where practical to meet the differing needs of the city. The Edinburgh Design Guidance sets out standards for proposed accommodation unit sizes. All of the proposed apartments meet the minimum space standards required and are acceptable in this regard.

The Council's design guidance also sets out advice on the provision of family housing within developments of twelve or more units, recommending that 20% of all units in such developments have a minimum of three bedrooms. The development comprises a mix of three one bedroom flats, twelve two-bedroom flats and three three-bedroom flats. The provision of three-bedroom flats equates to 15% of the total provision (20 units). This is a slight shortfall in the recommended provision, but in this instance is considered to be acceptable, given the relatively modest scale of development. It is noted that two of the three bedroom apartments are at ground floor with main door access to garden ground which is welcomed.

A lift is provided within the building providing access to all floors. Disabled access has not been provided via the main entrance to the building, and the existing steps are part of the listed form. There is an opportunity to provide an access ramp along the west side of the property. Should the Council be minded to grant permission, this should be considered as a condition to the consent.

Open space provision

Policy Hou 3 Private Green Space in Housing Development states that planning permission will be granted for development which makes adequate provision for green space to meet the needs of future residents. For flatted or mixed housing/ flatted developments where communal provision is necessary, such as this one, this will be based on a standard to 10 square metres per flat. A minimum of 20% of total site area should be usable green space. The proposed development provides approximately 24% green space at ground level, as well as additional private open space through balconies at upper floors. This provision is acceptable.

g) Affordable housing

Policy Hou 6 requires the provision of 25% affordable housing on sites which propose development of twelve dwellings or more. For proposals of 20 or more units, this provision would normally be on site. The applicant has not provided an affordable housing statement to identify how affordable housing would be provided in this case.

Should the Council be minded to grant permission, there will be a requirement for the applicant to provide information setting out a proposed strategy for approval of an affordable housing contribution in order to meet the provisions of policy Hou 6. A legal agreement would be required to secure this.

h) Archaeology

The city archaeologist has identified the site as one of historic significance in terms of buried archaeology and the surviving listed former Cinema. The loss of the auditorium of the building is considered to have a significant adverse impact as it would lead to the loss of a main architectural element of a locally significant building, however this is lessened by the proposal's intentions to retain the principle façade of the building. On balance the proposal is considered to be broadly acceptable in archaeological terms.

Should the council grant permission, the applicant will be required to undertake an archaeological historic building survey as detailed in the archaeologist's consultee response in order to provide a permanent record of the building.

i) Environmental Protection

Environmental Protection has not provided a response to the consultation request for this application, however as it is known that the site is contaminated with asbestos, a site investigation report would be required to be submitted by the applicant for assessment by the Council prior to the commencement of new build development on site should the Council be minded to grant permission. This matter was raised in the assessment of the previous application (16/06447/FUL) and could be delivered via condition attached to the consent.

j) Waste disposal arrangements

It is noted that the proposed bin store area is located on a prominent corner on the junction of Bath Street and Mentone Avenue. Waste planning has reviewed the application and have advised that the applicant is required to provide further information in relation to the proposed waste arrangements in order to meet current guidance. Should the council wish to grant permission, the applicant will be required to provide information to the satisfaction of the council's waste planning team in this regard. The relocation of the proposed bin store location to a less prominent area within the site would also be welcomed.

k) Education provision

The site falls within sub-area P-1 of the Portobello Education Contribution Zone as identified in the Council's Action Programme. Communities and Families has advised that there is no requirement for contributions to be made towards education infrastructure actions in this part of the zone, therefore no contribution towards education infrastructure is required.

l) Flooding

There is no known flood risk on the site.

m) Other Material Considerations

SPP Sustainable Development

Due to the development plan being over 5 years old the Scottish Planning Policy presumption in favour of sustainable development is a significant material consideration. To determine whether the proposals are sustainable development they require to be assessed against the sustainability principles set out in Scottish Planning Policy.

The proposals are not considered to be sustainable development as they fail to accord with the sustainability principles of:

- protecting, enhancing and promoting access to cultural heritage including the historic environment as the proposal would result in the substantial demolition of the historic asset and it has not been demonstrated that the building is not capable of meaningful repair.

n) Equalities and human rights

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

o) Public Comments

175 comments have been received in response to the application. 126 are objections, 48 are comments of support and one neutral comment was received.

Comments are noted as follows;

Material objection comments;

- Object to substantial demolition of listed building and resulting loss of interior features of the building - addressed in section 3.3(a);
- Object to impact of development on character of Portobello Conservation Area - addressed in section 3.3(d);
- Lack of justification for demolition of listed building - addressed in section 3.3(a);
- Objection to principle of residential development in a former community use building - addressed in section 3.3(b);
- Objection on design grounds including changes to principle elevation, overdevelopment, proposed height, massing and architectural appearance of new build elements - addressed in section 3.3(d);
- Impact on existing residential amenity - addressed in section 3.3(f);
- Transport concerns - impact on traffic movement, pedestrian movement and parking provision in local area, lack of cycle parking provision - addressed in section 3.3(e);
- Lack of green space provided within proposed layout - addressed in section 3.3(f);
- Feasibility of alternative uses have not been reasonably tested - addressed in section 3.3(a);
- Loss of trees on site - addressed in section 3.3(d);
- Lack of daylighting assessment provided by applicant - addressed in section 3.3(f);
- Layout concerns including location of bin store - addressed in section 3.3(g);
- Impact of development on local services - addressed in section 3.3(g);
- No affordable housing provision - addressed in section 3.3(g); and
- Lack of information regarding disabled access to the building - addressed in section 3.3(f).

Non-material objection comments;

- Impacts of development on satellite signal to existing properties;
- Construction impacts of development; and
- Impact of views from adjacent properties.

Neutral comments;

- The proposed development should include swift bricks.

Material support comments;

- Support for principle of re-use of building - addressed in section 3.3(b);
- Support for the provision of housing and its benefits to the local community - addressed in section 3.3(b);
- Support for the retention of principle elevation - addressed in section 3.3(d);
- Support for the proposed design - addressed in section 3.3(d);
- Development will have positive impact on character of Conservation Area - addressed in section 3.3(c).

Community Council comments;

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

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

Conclusion

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would result in the substantial demolition of a listed building. The planning authority is required to have special regard to the preservation of the building, which means there is a strong presumption against granting planning permission unless the applicant sufficiently demonstrates that the advantages of the proposed scheme outweigh that strong presumption.

The assessment concludes that the applicant has not sufficiently demonstrated that the building is incapable of meaningful repair and has not fully demonstrated that the potential for the building to be re-used as a cinema (or similar compatible community use) has been fully explored. In this regard, the proposal fails to meet the requirements of the Act and the provisions of policy Env 2 Listed Buildings and Demolition and policy Env 4 Alterations and Extensions of the LDP. In this regard, it is recommended that planning permission be refused.

SPP and other material considerations do not outweigh this.
It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons/informatives:-

Reason for Refusal:-

1. The proposal does not comply with the provisions of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and is contrary to the Local Development Plan Policy Env 2 in respect of Listed Buildings - Demolition, as it has not been sufficiently demonstrated that the structural condition of the building is incapable of meaningful repair or that adequate measures have been undertaken to explore the potential restoration and reuse of the building.
2. The proposal does not comply with the provisions of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and is contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as it has not been sufficiently demonstrated by a thorough structural condition report that the proposals are necessary or justified.

Financial impact

4.1 The financial impact has been assessed as follows:

The application is subject to a legal agreement for developer contributions.

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

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

Public summary of representations and Community Council comments

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

A total of 175 comments were received from members of the public, of which 48 comments were supportive, one comment was neutral and 126 comments were objections.

Comments were also received from Portobello Community Council. Their response notes that 85% of respondents to a survey strongly object or object to the application, that the application has failed to demonstrate a case for demolition of the listed building, design concerns and concerns over the impact of development on local character, amenity and transport. Matters raised are addressed in section 3.3 (i).

Background reading/external references

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

Statutory Development

Plan Provision

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

Date registered

18 January 2021

Drawing numbers/Scheme

01-07,

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Julie Ross, Planning Officer

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

Links - Policies

Relevant Policies:

Scottish Planning Policy (SPP) - The SPP sets out Scottish Government policy on nationally important land use matters and includes subject specific policies on: economic development, town centres and retailing, housing, rural development, coastal planning, fish farming, historic environment, landscape and natural heritage, open space and physical activity, green belts, transport, renewable energy, flooding and drainage, waste management, minerals, on-shore oil and gas, surface coal mining and communications infrastructure.

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

Relevant policies of the Local Development Plan.

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

LDP Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) supports development where it is demonstrated that existing and potential features have been incorporated into the design.

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

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

LDP Policy Des 6 (Sustainable Buildings) sets criteria for assessing the sustainability of new development.

LDP Policy Des 7 (Layout design) sets criteria for assessing layout design.

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

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 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

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

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

LDP Policy Env 12 (Trees) sets out tree protection requirements for new development.

LDP Policy Env 20 (Open Space in New Development) sets out requirements for the provision of open space in new development.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

LDP Policy Env 22 (Pollution and Air, Water and Soil Quality) sets criteria for assessing the impact of development on air, water and soil quality.

LDP Policy Hou 1 (Housing Development) sets criteria for assessing the principle of housing proposals.

LDP Policy Hou 3 (Private Green Space in Housing Development) sets out the requirements for the provision of private green space in housing development.

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

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Hou 6 (Affordable Housing) requires 25% affordable housing provision in residential development of twelve or more units.

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

The Portobello Conservation Area Character Appraisal emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high quality architecture, and the predominant use of traditional building materials

Relevant Non-Statutory Guidelines

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.

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

Appendix 1

Application for Planning Permission 20/05800/FUL At 14 Bath Street, Edinburgh, EH15 1EY Demolition of auditorium and retention and partial restoration of principal external elements of the Art Deco facade, erection of 21 residential flats with associated car parking and landscaping.

Consultations

HES Response 1 (2nd March 2021)

Our Advice

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

The building

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

Background

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

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

Policy & Guidance

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

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

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

The case for demolition

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

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

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

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

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

Alterations to the frontage

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

Conclusion

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

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

Further Information

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

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

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

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

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

HES response 2 (21st October 2021)

Background

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

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

Our advice

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

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

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

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

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

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

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

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

Conclusion

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

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

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

Further Information

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

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

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

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

CEC Structural Engineer

Comments on Reports from Will Rudd Davidson (WRD) - Peer reviewed by G3 and the counter-report from David Narro Assoc (DNA)

The Building Standards service is primarily concerned with the health, safety and welfare of occupants in and/or around buildings and to ensure that the public are protected from any dangerous or defective buildings. Historic Environment Scotland and the Planning service have other primary concerns related to this project that I cannot provide comment on.

We have been informed that the signature of the WRD report by a CARE Structural Engineer is currently under investigation by ICE and legal opinion is being sought on the matter. Our review is based solely on whether we consider that a building warrant will be required for any of the remedial works that might be required in the reports. We are not questioning the validity, adequacy nor robustness of the amount of investigation that have been carried out by either party top-date.

Regulation 5 of the building regulations permits: - Any work associated with the replacement in whole or in part, by material of the same general type, of flooring, lining, cladding, covering or rendering either internally or externally to be exempt from requiring a building warrant. On condition that this work, service, fitting or equipment is to a standard no worse than at present.

The above could therefore allow some repairs to the existing building to be carried out without the need to apply for a building warrant. However, in an instance where it has been identified that new structural works are required, a building warrant will be required for this work. The new work will have to be demonstrated to meet the mandatory standards in Regulations 8 - 12 e.g. DNA report p10 & p11 paragraphs d. introduction of secondary steel', g. the addition of fire-proof boarding' & Section 4.5 replacement of the existing roof coverings' respectively.

Regulation 8 applies to all building work, and requires that materials, fittings and components used in the construction of buildings should be suitable for their purpose, correctly used or applied, and sufficiently durable, taking account of normal maintenance practices, to meet the requirements of these regulations.

The fitness and suitability of a material for use for a specific purpose can be assessed in the following number of ways.

- CE marking under the CPR*
- CE marking under other EU Directives and Regulations*
- British Standards*
- Other national and international technical specifications*
- Independent certification schemes*
- Tests and calculations*
- Past experience*

The latter is defined as: - Past experience, such as in buildings in use may show that materials can perform the function for which they are intended.

Having read the reports from the 4 consultants Harley Haddow (HH), Will Rudd Davidson WRD), David Narro (DN) and G3 (the Peer Review) we have concentrated our structural summary on

- 1. the Peer review report of G3 and*

2. *the opposing report from David Narro (DN)*

as both are basing their conclusions on the structural condition report by WRD.

Both reports agree that there are areas of deterioration in the structure which are of concern and require structural enhancement however, they disagree on scope of work required to restore the structure to safely operate as a cinema.

DN, whilst agreeing that there are concerns on areas of the building, have concluded that the repairs to resolve these are basic. They have however caveated this by stating, that they have presupposed that the depreciation is limited in extent to the exposed areas and highlight that they would require further investigation to confirm the full degree of the deterioration.

They have however emphasized that prior to closure as a cinema (1939-1974), the structure operated perfectly well for 35 years for the purposes for which it was designed and based on this they argue that it is not correct to analyse the structure using current codes of practice.

G3 on the other hand advise that the remediation measures will be substantial. They have reported to undertaking their own calculations on the structure using current codes of practice and concluded

- 1. The main columns supporting the auditorium at their design capacity, even in good condition, they also have insufficient restraint against wind loading due to deficient restraint between existing brick panels and steelwork.*
- 2. The gable columns require to be strengthened or replaced to meet current wind standards*
- 3. The existing purlins are overstressed and require replacement*
- 4. The asbestos roof requires to be replaced.*

They have agreed with DN report regarding insufficient information as they would have preferred to see closer examination of the roof truss at eaves level.

On viewing the reports, it is obvious that the DN report would ensure that the historic integrity of the building is maintained however the measures proposed carries more structural risk than those proposed in the G3 report.

In both reports there are assumptions made as to the unseen condition of the structural members, however from a structural point of view it is wise to assume worst condition and take conclusions on that basis.

That said, the G3 report states that it has undertaken a calculative assessment on the structural members. Using current design codes and assuming members to be in good condition, they have concluded that the members were found to be at the limit of their capacity thus rendering some structural members now to be overstressed due to their lack of section via corrosive deterioration.

In conclusion, the fact that structural enhancement is required and that calculative measures add some doubt to the robustness of the structure, we are not convinced that repairs in accordance with Regulation 5 will be sufficient to ensure that the building is

adequately strengthened to ensure the health and safety of the general public. We would therefore seek a building warrant to ensure that the proposed structural repairs meet current day standards and accommodate accidental loading and avoid the risk of progressive failure in accordance with the Scottish Building Regulations.

Archaeology

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

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

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

Historic Buildings

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

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

Architectural Retention/Conservation

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

Buried Archaeology

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

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

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

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

Affordable Housing

I have been asked to provide the consultation response for this application in regards to the Affordable Housing Policy. In order to do this, can you ask the applicant to submit an 'Affordable Housing Statement' (which will be a public document available on the City of Edinburgh Council's Planning Portal) which sets out how they have addressed/plan to address the following points:

- The applicant should agree with the Council the tenure type and location of the affordable homes prior to the submission of a planning application*
- The applicant is requested to enter into an early dialogue the Council to identify a Registered Social Landlord (RSL) to deliver the affordable housing on site*
- The applicant should make provision for a minimum of 70% of the affordable housing on site to be social rent.*
- The affordable housing should include a variety of house types and sizes which are representative of the provision of homes across the wider site.*
- In the interests of delivering mixed, sustainable communities, the affordable housing policy units will be expected to be identical in appearance to the market housing units, an approach often described as "tenure blind"*

- The affordable homes should be designed and built to the RSL design standards and requirements.
- The applicant will be required to enter into a Section 75 legal agreement to secure the affordable housing element of this proposal.

Communities and Families

The Council has assessed the impact of the growth set out in the LDP through an Education Appraisal (August 2018), taking account of school roll projections. To do this, an assumption has been made as to the amount of new housing development which will come forward ('housing output'). This takes account of new housing sites allocated in the LDP and other land within the urban area.

In areas where additional infrastructure will be required to accommodate the cumulative number of additional pupils, education infrastructure 'actions' have been identified. The infrastructure requirements and estimated delivery dates are set out in the Council's Action Programme (February 2020).

Residential development is required to contribute towards the cost of delivering these education infrastructure actions to ensure that the cumulative impact of development can be mitigated. In order that the total delivery cost is shared proportionally and fairly between developments, Education Contribution Zones have been identified and 'per house' and 'per flat' contribution rates established. These are set out in the finalised Supplementary Guidance on 'Developer Contributions and Infrastructure Delivery' (August 2018).

Assessment and Contribution Requirements

Assessment based on:
18 Flats (two one bedroom excluded)

This site falls within Sub-Area P-1 of the 'Portobello Education Contribution Zone'.

Using the pupil generation rates set out in the Council's Supplementary Guidance on 'Developer Contributions and Infrastructure Delivery', the development is expected to generate at least one additional primary school pupil but not at least one additional secondary school pupil. The Supplementary Guidance states that if a development is expected to generate at least one primary school pupil but less than one secondary school pupil, only a contribution towards new primary school infrastructure may be required.

There are no education infrastructure actions identified as required to mitigate the cumulative impact of development in this part of the Zone. Although the proposal is expected to generate one additional primary school pupil, additional education infrastructure is not required to mitigate its impact.

Accordingly, no contribution towards education infrastructure is required.

Transport

Response 1 (29 January 2021)

The application should be continued.

Reasons:

- 1. The proposals are considered contrary to LDP Policy Tra 2 - Private car parking for the following reasons:*
 - a. The proposed level of car parking provision appears to exceed the current maximum standards for car parking;*
 - b. No reasoned justification for the proposed level of car parking has been provided;*
 - c. Provision for EV charging;*
 - d. Provision for Accessible car parking;*
- 2. The proposals are considered contrary to LDP Policy Tra 3 - Private Cycle Parking as the proposals do not make any provision for cycle parking;*
- 3. The proposals appear to show significant changes to the adopted footway on Bath Street, including provision for bin stores;*
- 4. The applicant needs to satisfy themselves they have made reasonable adjustments in terms of accessibility, particularly the issue around the stepped access;*

Note

- I. The application has been assessed under the current Parking Standards (Edinburgh Design Guidance - January 2020) these permit the following:*
 - a. A maximum of 20 car parking spaces (1 space per unit). 21 parking spaces are proposed (15 car parking spaces + 6 garages);*
 - b. A minimum of 43 cycle parking spaces (2 spaces per 2/3 room unit, 3 spaces per 4+ room unit). 0 cycle parking is proposed.*
 - c. A minimum of 1 of every 6 car spaces are required to be equipped for electric vehicle (EV) charging, resulting in a requirement for 3 spaces. 0 EV spaces are proposed;*
 - d. A minimum of 8% of the car parking is required to be designated as accessible, resulting in a requirement for 2 accessible spaces. 1 accessible space is proposed;*
- II. The Edinburgh Design Guidance states that any proposed level of car parking requires reasoned justification to ensure that the proposals are contributing to the Council's aims and objectives around private car ownership and use;*
- III. The Applicant should note that the Council is currently proposing a controlled parking zone for the Portobello area with implementation anticipated for early 2023. (as per Strategic Parking Review update - January 2021)*
- IV. High quality, secure and accessible private cycle parking is required as part of this residential development. Cycle parking should be internal within a development with easily accessible distinct cycle stores. Cycle parking should be easy to use, support frame and wheel and any requirement to lift and/or drag a bike into place will not be acceptable. Provision for non-standard bikes and maintenance facilities should also be considered;*
- V. It should be noted that the section of footway involved is adopted for maintenance purposes by the Council as "Public Road" as defined in the Roads (Scotland) Act 1984. The ownership of the land underneath is therefore irrelevant;*

Response 2 (24 November 2021)

The application should be refused

Reasons:

- 1. The proposals are considered contrary to LDP Policy Tra 2 - Private car parking for the following reasons:*
 - a. The proposed level of car parking provision appears to exceed the current maximum standards for car parking;*
 - b. No reasoned justification for the proposed level of car parking has been provided;*
 - c. Provision for EV charging;*
 - d. Provision for Accessible car parking;*
- 2. The proposals are considered contrary to LDP Policy Tra 3 - Private Cycle Parking as the proposals do not make any provision for cycle parking;*
- 3. The proposals appear to show significant changes to the adopted footway on Bath Street, including provision for bin stores;*
- 4. The applicant needs to satisfy themselves they have made reasonable adjustments in terms of accessibility, particularly the issue around the stepped access;*

Note

- I. The application has been assessed under the current Parking Standards (Edinburgh Design Guidance - January 2020) these permit the following:*
 - a. A maximum of 20 car parking spaces (1 space per unit). 21 parking spaces are proposed (15 car parking spaces + 6 garages);*
 - b. A minimum of 43 cycle parking spaces (2 spaces per 2/3 room unit, 3 spaces per 4+ room unit). 0 cycle parking is proposed.*
 - c. A minimum of 1 of every 6 car spaces are required to be equipped for electric vehicle (EV) charging, resulting in a requirement for 3 spaces. 0 EV spaces are proposed;*
 - d. A minimum of 8% of the car parking is required to be designated as accessible, resulting in a requirement for 2 accessible spaces. 1 accessible space is proposed;*
- II. The Edinburgh Design Guidance states that any proposed level of car parking requires reasoned justification to ensure that the proposals are contributing to the Council's aims and objectives around private car use and should take into consideration that the Council is currently proposing a controlled parking zone for the Portobello area (as per Strategic Parking Review update - January 2021). Therefore, the proposed level of car parking is considered to be contrary the Councils Parking Standards and unacceptable. It is recommended that the applicant consider significantly reducing the proposed amount of car parking to somewhere around 10 spaces with the appropriate levels of EV and accessible parking included within this figure.*
- III. High quality, secure and accessible private cycle parking is required as part of this residential development. Cycle parking should be internal within a development with easily accessible distinct cycle stores. Cycle parking should be easy to use, support frame and wheel and any requirement to lift and/or drag a bike into place will not be acceptable. Provision for non-standard bikes and maintenance facilities should also be considered;*
- IV. It should be noted that the section of footway involved is adopted for maintenance purposes by the Council as "Public Road" as defined in the Roads (Scotland) Act 1984. The ownership of the land underneath is therefore irrelevant;*

Portobello Community Council

Portobello Community Council objects to the above applications concerning 14 Bath Street, Portobello. We ran a consultation to gather the views of the community, attracting 266 responses. A large majority was against the change of the site to residential use in principal, and to the specific plans for partial demolition and construction of 21 flats.

Consultation response to Change of Use;

Strongly Support or Support - 14%

Neutral - 5%

Strongly Object or Object - 81%

Consultation response to this Application;

Strongly Support of Support - 14%

Neutral - 1%

Strongly Object or Object - 85%

Whilst there is a very small level of support for residential development, and the façade retention to keep some of the character of the building, there is significant opposition to the development just as with the previous applications for the site. The existing building is held in high regard by people and is of considerable local importance. Whilst the building may not be in the best of conditions, and has been altered over the years, it is still highly valued for its architectural style, its history within the community, and as a functional space.

Many people responding to the proposals have expressed the desire to see the building continue to function in public use, and the possibilities for that must be explored in detail. When it comes to the proposed development concerns have been expressed about the scale, massing, over-development, over-shadowing, and the impact of traffic and access in what is a very congested area.

The Listed status of the building is a recognition of its local importance and that designation should not be set aside without robust examination of the supplied technical report. In short we feel that: the Application has failed to demonstrate a case for the demolition of what is a highly valued local building: that the proposed re-development would be detrimental to local character and amenity: and that local opinion seems decisively in favour of rejecting both applications.

Waste

As this is to be a residential development, waste and cleansing services would be expected to be the service provider for the collection of any domestic and/or recycling waste produced.

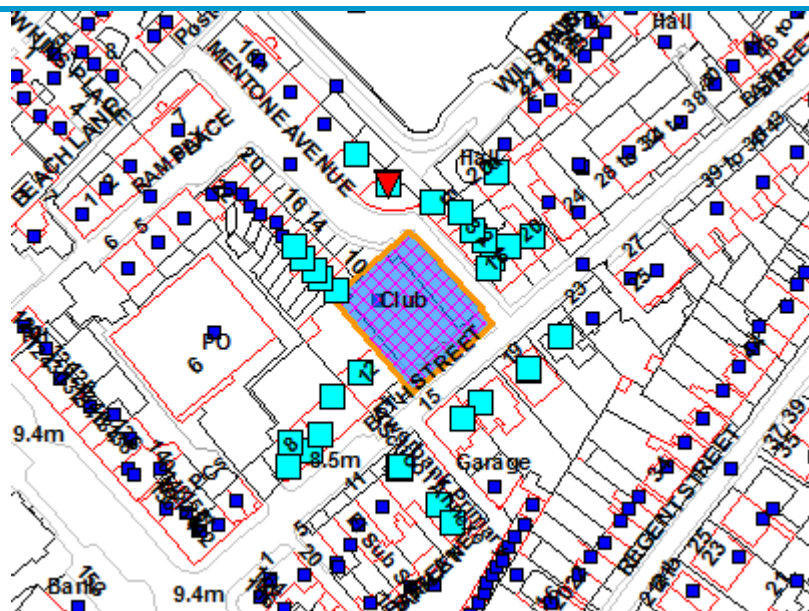
Waste strategy agreed at this stage Y/N N

I have looked at the drawings available in the planning portal file, we would require further input to the points raised below in conjunction with our current instruction for architects and developers guidance, available at <https://www.edinburgh.gov.uk/wasteplanning>, to ensure waste and recycling requirements have been fully considered.

1. Confirmation on the waste strategy for the 21 flat/units (requirement below).
2. Confirmation that all the points raised in our guidance have been adhered to for the proposed bin store.

In view of these factors I would ask that the Architect/developer contact myself directly Trevor.kelly@edinburgh.gov.uk or waste@edinburgh.gov.uk at the earliest point to agree their options so that all aspects of the waste & recycling service are considered.

Location Plan



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