

# Development Management Sub Committee

Wednesday 26 January 2022

**Application for Conservation Area Consent 19/05187/CON  
at 111 - 115 Constitution Street, Edinburgh, EH6 7AE.  
Substantial demolition in a conservation area.**

Item number

Report number

Wards

B13 - Leith

## Summary

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The demolition of the unlisted buildings preserves the character of the conservation area as they do not make a positive contribution to the area's intrinsic character. The appearance of the conservation area will be enhanced by the demolition of an unattractive series of single storey garages and replacement with flats of good quality.

The proposal complies with the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material considerations which outweigh this conclusion.

## Links

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[Policies and guidance for this application](#)

HES, HEPS, HESCAC, LDPP, LEN05, NSG, CRPLEI,

# Report

## **Application for Conservation Area Consent 19/05187/CON at 111 - 115 Constitution Street, Edinburgh, EH6 7AE. Substantial demolition in a conservation area.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The application site consists of a number of buildings from Constitution Street to John's Lane. John's Lane is a cul-de-sac accessed off Queen Charlotte Street.

Starting at Constitution Street, No.111 is an existing two storey warehouse in stone. It has a gable elevation to the street with no windows and was constructed as a possible stables/coach house between 1849 and 1876. The access beside this leads to a series of garage buildings at the back. This group of buildings dates from the late 19th century. None of the buildings are listed. The buildings are still a working garage.

The John's Lane property is a two storey and attic warehouse, dating from the early 19th century, located on a narrow back lane. The property has been derelict for almost four decades. Sections of the building are supported by scaffold and the roof has been removed for safety reasons. There is considerable plant growth at roof level. Parts of the building visibly lean over the lane. The majority of windows are bricked up, especially on the west side. This building was listed category C on 5 March 1991 (reference: 27530).

The structure has been on the Buildings at Risk Register since 2012. There is evidence that historically the building was at least one storey higher.

The rear is of different design, with blind arches at ground floor. On this side, an extra storey of brick was added in the 1970s to act as a fire wall between properties. The properties that this side attached to were demolished in the 1980s and the large warehouse to the west is now converted to residential use. There is a car park between this warehouse and the rear of the John's Lane warehouse.

On the other side of John's Lane there is a working garage and the backs of properties belonging to John's Place which are in a variety of uses.

To the south of the site is the former St James Episcopalian Church which has been used as a workshop for many years but has a consent to revert back to a place of workshop. The former church officer's house to the front has been converted to housing.

This application site is located within the Leith Conservation Area.

## **2.2 Site History**

1 May 2002 - planning permission granted for change of use from storage warehouse to eight town house dwellings (as amended) (application reference: 99/02181/FUL and 99/02181/LBC)

13 May 2005 - listed building consent granted for alterations to storage warehouse to form eight town house dwellings at John's Lane (application reference: 05/00839/LBC)

28 March 2007 - planning permission and listed building consent granted for re-building and extending of parapet at second floor of John's Lane building (planning reference: 07/00536/FUL and 07/00536/LBC)

17 Jul 2013 - listed building consent for alterations to derelict warehouse linked to proposed residential development of 18 flats (application reference: 13/01713/LBC)

15 October 2015 - listed building consent granted for alterations to John's Lane building (planning reference: 15/03225/LBC)

6 Dec 2016 - planning application withdrawn for proposed residential development of 18 flats (within listed building) and 2 townhouses (application reference: 13/01714/FUL)

26 March 2018 - planning permission for 30 residential units refused for multiple reasons including density (planning reference: 15/03226/FUL)

3 Apr 2019 - planning application withdrawn for proposed redevelopment of existing vehicle repair centre and derelict warehouse buildings to form residential development comprising 49 units and a commercial unit (application reference: 18/10297/FUL)

17 Apr 2019 - listed building consent application withdrawn for alterations linked to the change of use from derelict warehouse to residential (20 units) (application reference: 18/10294/LBC)

2 August 2019 - listed building consent granted for alterations to John's Lane building (application reference: 19/01855/LBC)

30 October 2019 - application for planning permission submitted for 35 new housing units and 1 commercial unit. Awaiting decision (application reference: 19/05184/FUL)

## **Main report**

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### **3.1 Description of the Proposal**

This application is for the demolition of some of the unlisted buildings on the site. These are the garage buildings at the back of the site accessed from Constitution Street and consist of connected late 19th century buildings.

## 3.2 Determining Issues

Section 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in making a decision on the demolition of a building in a conservation area, section 6 to 25 of the same Act shall have effect in relation to buildings in conservation areas as they have effect in relation to listed buildings.

This means that in considering whether to grant conservation area consent for any works, the planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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

In determining applications for conservation area consent, the Development Plan is not a statutory test. However the policies of the Local Development Plan (LDP) inform the assessment of the proposals and are a material consideration

## 3.3 Assessment

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

- a) the demolition affects the building and its setting;
- b) the demolition will adversely affect the character and appearance of the conservation area;
- c) the proposal replacement development is acceptable and
- d) comments raised have been addressed.

### a) The building and its features of significance

Section 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in making a decision on the demolition of a building in a conservation area, certain provisions of the same Act shall have effect in relation to buildings in conservation areas as they have effect in relation to listed buildings.

The single storey garage buildings will be demolished leaving the unlisted former stable building to the front and the listed warehouse in John's Lane. The buildings to be demolished have no features of special architectural interest and any historic interest has been severely diminished by their alterations over the years. Their removal is acceptable under this section of the Act.

### b) Character and appearance of the conservation area

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

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

Historic Environment Scotland's Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (April 2019) outlines criteria to assess the acceptability of the demolition of unlisted buildings within conservation area, including:

- the importance of the building to the character or appearance of any part of the conservation area, and of proposals for the future of the cleared site;
  - if the building is considered to be of any value, either in itself or as part of a group, a positive attempt should always be made by the planning authority to achieve its retention, restoration and sympathetic conversion to some other compatible use before proposals to demolish are seriously investigated;
  - where demolition may be thought appropriate, for example, if the building is of little townscape value, if its structural condition rules out its retention at reasonable cost, or if its form or location makes its re-use extremely difficult, consent to demolish should be given only where there are acceptable proposals for the new building.

The relevant policies within Local Development Plan (LDP) can also aid in the assessment of the proposals.

LDP Policy Env 5 (Conservation Areas - Demolition of Buildings) only supports the demolition of unlisted buildings in conservation areas which are considered to make a positive contribution to the character of the area in exceptional circumstances. If the building does not make a positive contribution, its removal is considered acceptable in principle so long as the replacement does make a positive contribution.

The Leith Conservation Area Character Appraisal emphasises the area's unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value.

The buildings to be demolished date from the late 19th century and are not of architectural or historical significance. The buildings are utilitarian garage buildings - single storey. They do not make a positive contribution to either the character or appearance of the conservation area.

The demolition of garage buildings is permitted development and the loss of the garage use is not a material consideration in terms of conservation area consent which only centres on the impact on the character and appearance of the conservation area. The loss of the use is addressed under the application for planning permission.

Historic Environment Scotland has no comments on the demolition.

The Council's archaeological officer recommended that demolition shall be limited in the first instance to above ground works only, with no grubbing up of wall foundations nor ground floor surfaces. This is in order to avoid any impacts upon the sites potentially nationally significant buried archaeological remains until the results of the archaeological mitigation have been undertaken.

The drawings include a demolition plan and there are photographs of the buildings to be demolished in the design statement. There is sufficient information to make an assessment.

In summary, the loss of the buildings will not have an impact on the character and appearance of the conservation area and therefore their demolition is acceptable.

#### b) Replacement Development

The HES interim guidance and the similar advice in LDP Policy Env 5 (Conservation Areas - Demolition) sets out that consent should generally only be given where there are acceptable proposals for the new building.

The proposals for the redevelopment of the site are recommended for grant under application 19/05184/FUL. The flats proposed for the site represent a high quality development which will make a positive contribution to the conservation area.

#### c) Public comments

##### **Material comments - objection:**

- lack of information on demolitions - addressed in 3.3 a)

##### **Non-material comments:**

- no parking - this is not relevant to conservation area consent
- daylighting - this is not relevant to conservation area consent
- structural issues - this is not relevant to conservation area consent
- fire risk - this is not relevant to conservation area consent
- overcrowding - this is not relevant to conservation area consent
- noise - this is not relevant to conservation area consent
- housing mix - this is not relevant to conservation area consent
- open space - this is not relevant to conservation area consent
- lack of affordable housing - this is not relevant to conservation area consent
- overdevelopment - this is not relevant to conservation area consent

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

### **3.4 Conditions/reasons/informatives**

#### **Conditions:-**

1. No demolition shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

## **Reasons:-**

1. In order to safeguard the interests of archaeological heritage.

## **Informatives**

It should be noted that:

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

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

## **Risk, Policy, compliance and governance impact**

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

## **Equalities impact**

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### **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**

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### **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**

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### **8.1 Pre-Application Process**

Pre-application discussions took place on this application.

### **8.2 Publicity summary of representations and Community Council comments**

Six objections and one neutral comment has been received.

## Background reading/external references

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- 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**

Urban area

### **Date registered**

4 November 2019

### **Drawing numbers/Scheme**

01-03,

Scheme 1

## **David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

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## **Links - Policies**

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### **Relevant Policies:**

#### **Relevant Government Guidance on Historic Environment.**

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

HES Interim Guidance on Conservation Area Consent sets out Government guidance on the principles that apply to the demolition of unlisted buildings in conservation areas

#### **Relevant policies of the Local Development Plan.**

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

#### **Relevant Non-Statutory Guidelines**

**The Leith Conservation Area Character Appraisal** emphasises the area's unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value

# Appendix 1

## **Application for Conservation Area Consent 19/05187/CON At 111 - 115 Constitution Street, Edinburgh, EH6 7AE Substantial demolition in a conservation area**

### **Consultations**

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#### **Historic Environment Scotland**

*We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on listed building/conservation area consent, together with related policy guidance.*

#### **City Archaeologist**

*The site lies within the historic limits of the medieval port and town of Leith, on the eastern side of Constitution Street inserted and developed in the 18th century. The site however is likely to originally have occupied by the rear of medieval burgage plots which extended eastwards from the Kirkgate towards Leith Links. The Kirkgate was established by the 14th century as the main medieval route into the port from Edinburgh, though it probably followed the line of an earlier medieval route. Archaeological evidence from the recent excavations along Constitution Street supports the development of this area from the 13th/14th centuries.*

*Significantly however, this development overlies the remains of the port's town defences, initially constructed during to defend the town during the English Siege of 1559-60. These defences were significantly enhanced during the 1640's across the eastern side, with the site occupying the central part of a large bastion constructed as part of the mid-17th century refortifications.*

*The buildings occupying the site appear all to date from the early to mid-19th century, with building No.111 fronting onto Constitution Street constructed as a possible stables/coach house between 1849 & 1876, though in parts this building may pre-date the 1st Edition plan of 1849. The C-listed warehousing 18-25 Johns Lane contrary to the HES Listing are first shown on Kirkwood's 1817 plan of Edinburgh and are therefore 20-30 years older than recorded.*

*Based on the historical and archaeological evidence the site contains a range of 19th century commercial buildings of historic significance and also occurs within an area of potential national archaeological significance. Accordingly, this application must be considered under terms Scottish Government's Our Place in Time (OPIT), Scottish Planning Policy (SPP), Historic Environment Scotland's Policy Statement (HESPS) 2016 and Archaeology Strategy and CEC's Edinburgh Local Development Plan (2016) Policies ENV5, ENV8 & ENV9. The aim should be to preserve archaeological remains*

*in situ as a first option, but alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be an acceptable alternative.*

*As stated in relation to the associated FUL application (19/05084/FUL) this proposal will have a significant archaeological impact, requiring the demolition of a range of industrial buildings/garages which may contain earlier historic fabric. It is essential therefore that detailed historic building surveys (internal and external elevations and plans, photographic and written survey and analysis) of all the surviving buildings is undertaken prior to and during any such work, in order to provide a permanent record of this historic buildings.*

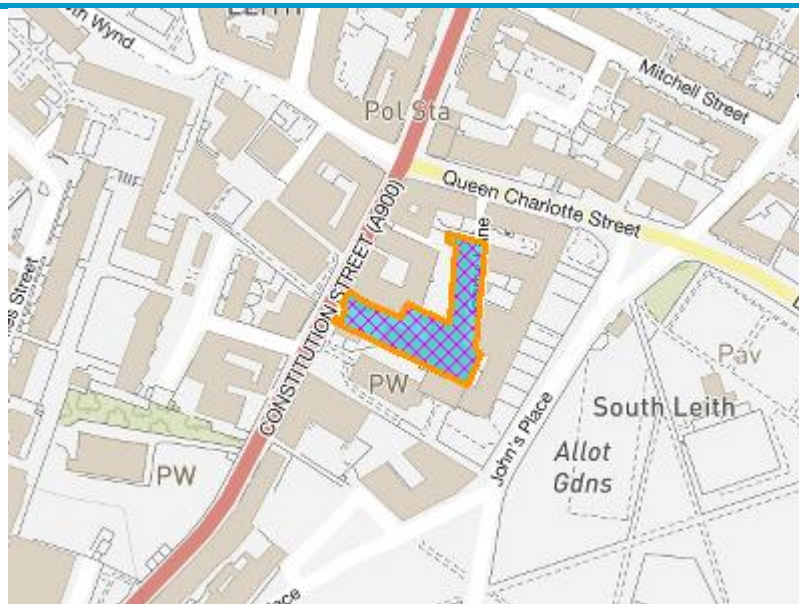
*In addition, demolition shall be limited in the first instance to above ground works only, with no grubbing up of wall foundations nor ground floor surfaces. This is in order to avoid any impacts upon the sites potentially nationally significant buried archaeological remains until the results of the archaeological mitigation have been undertaken (see response to FUL application 18/10297)).*

*Such mitigation should be secured by the following condition;*

*'No demolition shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'*

*The work would 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.*

## Location Plan



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