

Development Management Sub Committee

Wednesday 9 February 2022

Application for Planning Permission 21/04912/FUL at Mill Lane Clinic, 5 Mill Lane, Edinburgh. Change of use from dwelling (class 9) to residential institution (class 8).

Item number

Report number

Wards

B13 - Leith

Summary

The proposal complies with Section 64(1) and 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, with the development plan and the Council's non-statutory guidance. The principle of residential institutional development on the site is acceptable. The scale, design and materials are satisfactory and there will be no unacceptable loss of residential amenity to existing residents. There are no road safety or car parking issues. There are no other material considerations which outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LEN04, LEN06, LDES01, LHOU02, LHOU07, LDES05, LDES12, LTRA02, LTRA03, LTRA04, NSG, NSGD02, NSLBCA, OTH, CRPLEI,

Report

Application for Planning Permission 21/04912/FUL at Mill Lane Clinic, 5 Mill Lane, Edinburgh. Change of use from dwelling (class 9) to residential institution (class 8).

Recommendations

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

Background

2.1 Site description

The building forms part of a group of buildings built as a philanthropic gesture in the 1830s. The building has been in NHS use since the mid-20th century and was the last operational section of Leith Hospital. The property was changed to a dwelling house with a new driveway in 2014.

The building is statutorily listed, category C (29 March 1995, LB ref. 27819).

This application site is located within the Leith Conservation Area.

2.2 Site History

30 June 2014- Listed building consent and planning permission granted for the change of use from a clinic/office to a residential dwelling house (Application references: 14/02028/LBC and 14/01727/FUL).

Main report

3.1 Description of the Proposal

The application is for planning permission for the change of use of the property from a class 9 (Residential Building) to a class 8 (Residential institution). The applicant has stated that the site will provide shelter for eight persons and will be operated as a dry hostel. No physical changes are proposed.

3.2 Determining Issues

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

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

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

Do the proposals comply with the development plan?

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

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

3.3 Assessment

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

- a) the proposals preserve the listed building and its setting;
- b) the proposal preserves or enhances the special character or appearance of the conservation area;
- c) the principle of development is acceptable in this location;
- d) the proposal will result in an unreasonable loss of neighbouring amenity;
- e) the proposal raises any implications for road safety;
- f) any impacts on equalities or human rights are acceptable;
- g) other material considerations and
- h) comments raised have been addressed.

a) Impact on Listed Building

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

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

Historic Environment Scotland's (HES) Guidance Notes on Managing Change in the Historic Environment set out the principles for alterations to listed buildings including physical alterations.

LDP Policy Env 4, Listed Buildings - Alterations and Extensions, permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.

The proposal does not include any internal or external alterations to the listed building.

The proposal complies with LDP Policy Env 4 and Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 and HES Managing Change guidance.

b) 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."

LDP Policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted if it preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal and demonstrates high standards of design and utilises materials appropriate to the historic environment.

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 proposal does not include any internal or external alterations. The proposal shall not have a detrimental impact on the character or appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

c) Principle of Development

The Edinburgh Local Development Plan (LDP) does not have specific policies relating to residential institutions development but the LDP aims to help and create strong sustainable and healthier communities, enabling all residents to enjoy a high quality of life. It also recognises the housing needs of particular groups.

LDP Policy Hou 2 (Housing Mix) seeks to ensure that a mix of house types and sizes meet a range of housing needs, including those for families, older people and people with special needs, and have regard to the character of the surrounding area and its accessibility.

Mill Lane is set within a densely populated and highly accessible area of Leith. This side of Mill Lane is characterised as an urban neighbourhood, with a mixture of residential and commercial buildings around the site. On the opposite side of Mill Lane, there is a moderately sized green space.

The provision of local residential institutions is an important function within a community and should be located within a highly accessible location for pedestrian or cycle access. A residential institution is a complementary use to neighbouring residential uses and can be considered as part of the Council's drive to create sustainable communities. Therefore, the principle of a residential institution on the site is acceptable, subject to compliance with other policies in the LDP.

d) Residential amenity

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

The property is located within an existing urban environment, forming part of a mixed residential and commercial area.

A residential institution is essentially a form of residential use, where occupants generally reside within a room and share facilities for temporary periods of time. Given the urban context of the property, the change of use does not raise any issues around increased activity which may have a detrimental effect on the living conditions of nearby residents.

Many of the objections made to this application relate to noise and safety concerns. However, the proposed use would be small scale, given the size of the building, and would not raise concerns about noise.

The applicant has stated that the site will provide shelter for eight persons and would be operated as a dry hostel to safeguard the amenity of neighbouring residents. It is noted that the intention to restrict the operations of the site as a dry hostel cannot be secured by a condition. Changes to ownership and operational use of the site may remove this restriction without the consent of the Planning Authority. Public safety concerns are not material planning considerations and would be a matter for Police Scotland.

Concerns have been raised regarding the intensification of residential institutions within the area. LDP Policy Hou 7 seeks to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas. However, as the area is mixed use in nature and having regard to the restricted scale of the property, it would not lead to an unacceptable diminution of residential amenity in the surrounding area.

No extensions or alterations to the existing building are proposed. The privacy distances between the house, its grounds and that of the surrounding properties are established.

The proposal would not have a detrimental impact on neighbour privacy or outlook.

The proposed alterations would not result in an unacceptable loss of neighbouring amenity and would have no impact on daylight, overshadowing or overlooking. The proposal complies with LDP Policy Hou 7.

e) Road Safety

LDP Policies Tra 2- Tra 4 set out the requirement for private car and cycle parking.

There is an existing driveway to the side of the building with two car parking spaces but there will be no change to this provision. There is a requirement to provide a minimum of three secure cycle parking spaces. The submitted site plan does not provide any secure cycle parking. Therefore, a condition is attached to ensure the provision of cycle parking.

The proposal would be predominantly accessed by pedestrian users and the location of the site is well suited for pedestrian access. There is a bus stop close to the site, which provides approximately seven services. Other bus services are available within walking distance on Commercial Street and Ferry Road. The site is well served by public transport access to the City Centre.

Subject to a condition securing cycle parking, the proposal complies with LDP Policies Tra 2- Tra 4.

f) Equalities and Human Rights

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

g) Other Material Considerations

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal accords with Paragraph 29 of SPP.

Emerging Policy Context

NPF 4 - Draft National Planning Framework 4 is being consulted on at present. As such, it has not yet been adopted. Therefore, little weight can be attached to it as a material consideration in the determination of this application.

City Plan 2030 - While the proposed City Plan is the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

h) Public Comments

Material Considerations: objections

- Inappropriate location - addressed in section 3.3(c);
- Overprovision of similar uses within the vicinity - addressed in section 3.3(c);
- Proposal lacks details of the proposed users - addressed in section 3.3(d);
- Impact on residential amenity - addressed in section 3.3(d);
- Increase in anti-social behaviour - addressed in section 3.3(d);
- Negative impact on parking provision and road safety - addressed in section 3.3(e);

Community Council

Leith Harbour and Newhaven Community Council objects to the application as it fails to provide sufficient information regarding the nature and details of the proposed use of the site.

Non-Material Comments

- Impact on security of area - This matter is not relevant to this planning application and would be a matter for Police Scotland.
- The building will require work to the built fabric in order to accommodate the proposal - This matter is not relevant to this planning application as no internal or external works are proposed.
- Safety within nearby children's play park - This matter is not relevant to this planning application and would be a matter for Police Scotland.
- Neighbours not directly notified of the application - neighbours were notified in accordance with planning legislation.
- Impact on house prices. This is not a material planning consideration.
- Concerns about future use of the property. The applicant has applied for the property to be utilised as a residential institution.
- The proposal will bring unwanted visitors. This is not a material planning consideration.

Conclusion

The proposal complies with Section 64(1) and 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, with the development plan and the Council's non-statutory guidance. The principle of residential institutional development on the site is acceptable. The scale, design and materials are satisfactory and there will be no unacceptable loss of residential amenity to existing residents. There are no road safety or car parking issues. There are no other material considerations which outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. Three cycle parking spaces shall be provided in a secure and undercover location to be agreed by the Planning Authority. The agreed spaces shall thereafter be implemented prior to the occupation of the property hereby approved. NB Parking spaces may have to be reduced to allow for sufficient cycle parking.

Reasons:-

1. To ensure the development forms a sustainable use.

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.
2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
4. This consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

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

Equalities impact

6.1 The equalities impact has been assessed as follows:

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

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application meets 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

The application received 23 objection comments. The points raised are addressed in section 3.3 of this report.

Background reading/external references

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

**Statutory Development
Plan Provision**

The site is located within the Urban Area as defined by the Local Development Plan.

Date registered

20 September 2021

Drawing numbers/Scheme

01,

Scheme 1

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

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

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 Hou 2 (Housing Mix) requires provision of a mix of house types and sizes in new housing developments to meet a range of housing needs.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

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

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

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.

LDP Policy Tra 4 (Design of Off-Street Car and Cycle Parking) sets criteria for assessing design of off-street car and cycle parking.

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.

Other Relevant policy guidance

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

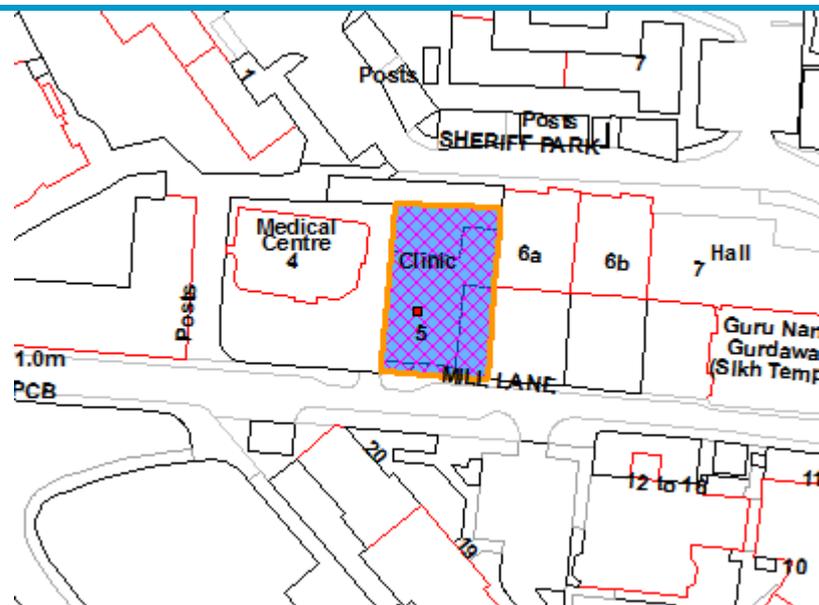
Appendix 1

**Application for Planning Permission 21/04912/FUL
at Mill Lane Clinic, 5 Mill Lane, Edinburgh.
Change of use from dwelling (class 9) to residential
institution (class 8).**

Consultations

No consultations undertaken.

Location Plan



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