

# Development Management Sub-Committee Report

**Wednesday 24 August 2022**

**Application for Planning Permission  
134 Constitution Street, Edinburgh, EH6 6AJ**

**Proposal: Change of use from office to form dwelling including timber clad first floor extension. (AS AMENDED)**

**Item – Committee Decision  
Application Number – 21/05544/FUL  
Ward – B13 - Leith**

## **Reasons for Referral to Committee**

This application has been referred to the Development Management Sub Committee as the application has received more than 6 material objection comments.

### **Outcome of previous Committee**

This application was previously considered by Committee on 29th June 2022

Site visit - This application was continued by the Committee for a site visit. The application is returning to Committee for a decision.

### **Recommendation**

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

### **Summary**

The proposals would preserve the character and setting of the listed buildings and Leith conservation area and are acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Edinburgh Local Development Plan and the Council's non-statutory guidance. The proposal will achieve an acceptable residential environment, shall not have a detrimental impact on the character of the listed building and conservation area and the proposed conversion of the building to housing is acceptable. It is recommended that the application be granted.

## **SECTION A – Application Background**

## Site Description

The application property is a single storey 19th century wing extension to the north side of a late 18th century square-plan classical house. It is listed category B on the 14 December 1970 (LB 27386).

## Description Of The Proposal

The application is for the change of use of a former office to residential use. The proposal includes internal alterations and the formation of a new first floor extension on the flat roof.

Amendment:

- Position of first floor window adjusted along elevation

## Supporting Information

- Solar Shading and Daylight Study
- Design Statement

## Relevant Site History

21/06358/LBC

134 Constitution Street

Edinburgh

EH6 6AJ

Change of use from office to form dwelling including timber clad first floor extension.

Granted

10 May 2022

## Other Relevant Site History

No other relevant planning site history

## Pre-Application process

There is no pre-application process history.

## Consultation Engagement

No consultations undertaken.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 26 October 2021

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 5 November 2021;

**Site Notices Date(s):** 2 November 2021;

**Number of Contributors:** 8

## Section B - Assessment

## Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
  - (i) harming the listed building or its setting? or
  - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
  
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

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 consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

## Assessment

To address these determining issues, it needs to be considered whether:

### a) **The proposals harm the listed building and its setting?**

The following HES guidance is relevant in the determination of this application:

- Managing Change Extensions
- Managing Change Interiors
- Managing Change Windows

The first-floor extension is proposed to sit on the flat roof of the northern wing building. The wings to the north and south form symmetrical architectural features that have been extensively altered in the past and retain little symmetrical detailing when viewed from the streetscape. The proposed extension shall be partially screened by an

entrance gate and shall not disrupt the symmetrical characteristics of the listed property.

The proposed extension would form a contemporary addition to the front elevation of the building using black stained timber and aluminium, combined with its angular roof design, providing a complimentary feature to the classical architectural detailing of the building. It would represent a sympathetic and subservient development and would be of an appropriate scale in the context of the property's curtilage.

The alterations will not impact on any historical architectural features and will therefore not adversely impact on the special architectural or historic interest of the listed building.

### **Conclusion in relation to the listed building**

The proposal is acceptable in this regard and complies with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals harm the character or appearance of the conservation area?**

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

There are a number of similar contemporary additions to buildings within the surrounding area, and the introduction of a relatively small scale and appropriately designed extension would not adversely affect the spatial characteristics of the area.

The green roof involves minimal alteration to the conservation area. The proposed materials, scale and design are appropriate and there will be no detrimental impact on the character or setting of the Leith Conservation Area.

The proposal would be a sympathetic development and would have no adverse effect on the character and appearance of the Leith Conservation Area.

### **Conclusion in relation to the conservation area**

The proposal complies with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in that it would preserve the character and appearance of the conservation area.

### **c) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Housing policy Hou 5
- LDP Environment policies Env 4 and Env 6
- LDP Design policies Des 1, Des, 5 and Des 12
- LDP Transport policies Tra 2, Tra 3 and Tra 4

The non-statutory 'Design' guidance is a material consideration that is relevant when considering policies Hou 5 and Des 5.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6.

### *Principle*

Policy Hou 5 supports the proposed conversion to residential use and sets out the criteria for which planning permission will be granted for the change of use of the existing building in non-residential use to housing. The proposal is compatible with adjacent established residential uses and is considered further below.

The proposal is acceptable in principle.

### *Scale, form and design*

The first-floor extension will sit on the flat roof to the north of the host property. This view is partially obscured by an existing sandstone gate forming the entrance to the side alley. The proposed extension will sit behind this feature which will act to partially obscure the contemporary extension from public views along Constitution Street.

The extension will use dark timber cladding and aluminium materials to introduce a modern and high-quality elevation that would provide a distinct and sympathetic contrast with the simple detailing of the host building and architecture of the surrounding historic properties.

The proposal is acceptable in design terms and comply with LDP policy Des 1 and Des 4.

### *Amenity*

The application is for the change of use from an office unit to a residential dwelling. The residential use would match the existing character of the surrounding properties and would not create an intensification of noise generated on the site. The residential use would not have a detrimental impact on the amenity of neighbours.

The conversion of the premise to residential use will provide a good standard of amenity in terms of accommodation. The property will have a dual aspect and will exceed the minimum internal floor area for a three-bedroom flat as specified in the Edinburgh Design Guidance. All habitable rooms within the flat will receive adequate levels of daylight through the window openings.

The proposal does not offer any private green space; However, the site is in close proximity to Leith Links and other high-quality amenity spaces. In these circumstances, the absence of private garden space is acceptable in this location.

A Solar Shading & Daylighting Study has been undertaken in order to assess the impact of the proposed extension on neighbouring residential dwellings. Analysis has been carried out to assess the Impact of the proposed development on the immediate neighbouring residential dwelling (136 Constitution Road), the potential impact of

shading and to review the available daylight provision to the adjacent building as a result of the development.

The results show that there is no notable additional shading to the neighbouring property and that there is no significant impact to the existing daylighting levels as a result of the new development.

Although the distance between the proposed first floor window and the kitchen window on the host building measures 4.8 meters, the application has been amended and the first-floor bedroom window has been moved to face the gable of the neighbouring building. Future occupiers will not immediately overlook the neighbouring property. Furthermore, the highly urban context of the property would justify a minor breach of overlooking and the overall impact on neighbouring amenity would be minimal. The proposed extension will not have an unreasonable impact on neighbouring amenity.

The proposal shall result in the creation of a suitable residential dwelling and shall not impact on neighbouring amenity.

### *Transport*

The proposal includes sufficient provision for internal private cycle storage. The site is in a central location that is well served by public transport.

The property has an established off-street parking lot within the front curtilage of the property. The proposal includes the provision for a single private parking space which would be acceptable in this case.

The proposal is acceptable in transport terms and complies with LDP policy Tra 2, Tra 3 and Tra 4.

### **Conclusion in relation to the Development Plan**

The proposals comply with the Development Plan.

#### **d) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### 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 complies with Paragraph 29 of SPP.

#### Emerging policy context

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

While City Plan 2030 represents 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.

### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

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.

### Public representations

The application has received eight letters of representation. The letters were all in objection to the proposals.

A summary of the representations is provided below:

#### *material considerations*

Negative impact on the character and setting of the listed building; this is addressed in section a) *listed buildings*

Proposal would create an asymmetrical addition to the detriment of the listed building; this is addressed in section a) *listed buildings*

Negative impact on the character and setting of the conservation area; this is addressed in section b) *conservation area*

The proposed green roof would negatively impact the character of the conservation area; this is addressed in section b) *conservation area*

Incongruous design using non-traditional materials; this is addressed in section c) *Scale, form and design*

Noise generated would negatively impact on neighbouring amenity; this is addressed in section c) *Amenity*

Negative impact on neighbouring privacy; this is addressed in section c) *Amenity*

Negative impact on residential amenity; this is addressed in section c) *Amenity*

Negative impact on sunlight/daylight to neighbouring units; this is addressed in section c) *Amenity*

Proposal would have a negative impact on the car parking provision; this is addressed in section c) *Transport*

#### *non-material considerations*

- Proposal shall be built on open space and shall impact views currently enjoyed onto open space - proposal is not on open space

- Enforcement case relating to the painting of a downpipe should be addressed - not material to this application but to the relevant enforcement case (16/00066/ELBB)

#### *Conclusion in relation to other material considerations*

The proposal does not raise any issues in relation to identified material considerations. These material considerations therefore support the grant of planning permission.

## Overall Conclusion

The proposals would preserve the character and setting of the listed buildings and Leith conservation area and are acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Edinburgh Local Development Plan and the Council's non-statutory guidance. The proposal will achieve an acceptable residential environment, shall not have a detrimental impact on the character of the listed building and conservation area and the proposed conversion of the building to housing is acceptable. It is recommended that the application be granted.

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

### 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.

### Background Reading/External References

To view details of the application go to the [Planning Portal](#)

**Further Information - [Local Development Plan](#)**

**Date Registered: 20 October 2021**

**Drawing Numbers/Scheme**



01,02A,03-04,05A

Scheme 2

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

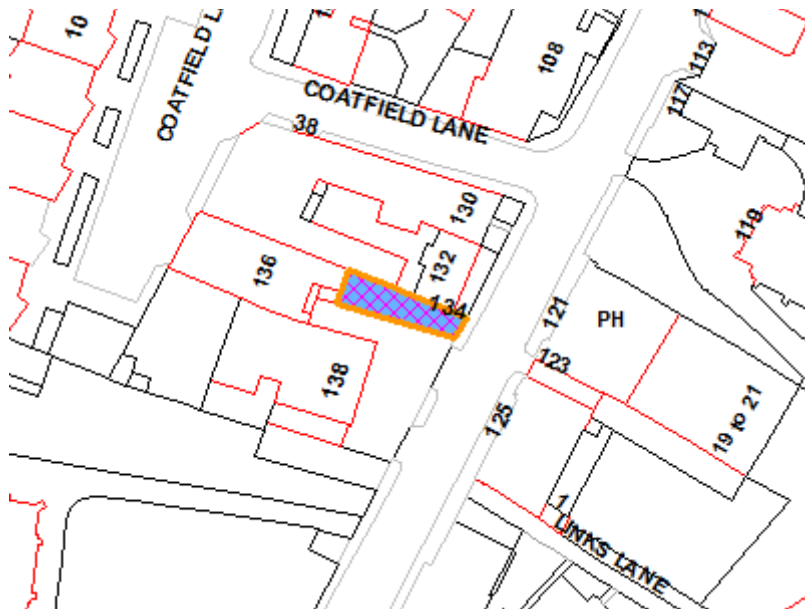
Contact: Adam Gloser, Planning Officer  
E-mail: [adam.gloser@edinburgh.gov.uk](mailto:adam.gloser@edinburgh.gov.uk)

Appendix 1

**Summary of Consultation Responses**

No consultations undertaken.

**Location Plan**



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