

# Development Management Sub-Committee Report

**Wednesday 24 August 2022**

**Application for Planning Permission  
11A James' Court, 493 Lawnmarket, Edinburgh**

**Proposal: Proposed refurbishment of and extension to the existing retail/store unit at 11A James Court including provision of ancillary coffee bar, external seating area and formation of a connection to the existing retail unit at 497 Lawnmarket.**

**Item – Committee Decision  
Application Number – 21/04237/FUL  
Ward – B11 - City Centre**

## **Reasons for Referral to Committee**

The application has been referred to Development Management Sub-Committee because 39 objections and 24 letters of support have been received. Consequently under the Council's Scheme of Delegation, the application must be determined by the Development Sub-Committee.

## **Outcome of previous Committee**

This application was previously considered by Committee on 15th 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 appearance of the Old Town Conservation Area and the character and setting of nearby listed buildings, and would be 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 development would form an appropriate addition to the area and would not have an unacceptable impact on neighbouring residential amenity. The proposal complies with the relevant SPP - sustainable

development principles. No other material considerations outweigh this conclusion. It is recommended that planning permission is granted.

## **SECTION A – Application Background**

### **Site Description**

The site lies to the north of the Lawnmarket, within James Court and forms part of a group listing for 497-499 Lawnmarket, 7 and 11 James Court The group is Category B listed and was listed on 14.12.1970 (LB ref 29235).

The site is a single storey building, which is in retail / storage use. The building is finished in white render, with a pitched slate roof. There is no connection between the building and the main tenement, the ground floor of which is also in retail use. The site is accessed independently from Lady Stairs Close.

The immediate area within James Court is characterised by tenemental buildings and hard landscaping. The wider surroundings have a mix of uses, being predominantly residential at the upper floors, with a variety of commercial ground floor uses.

A tenement building is situated to the east at 491-495 Lawnmarket, 3 and 5 James Court. The group is Category A listed and was listed on 14.12.1970 (LB ref 29234).

The site is within the Edinburgh World Heritage Site and the Old Town Conservation Area.

### **Description Of The Proposal**

The application proposes the refurbishment of and extension to the existing retail/store.

The retail use of the rear building would be retained, whilst also providing a small, ancillary coffee bar. The ground floor would be extended and a mezzanine level created, providing an internal floor area of 161sqm. An external seating area would be formed to the rear of the building and an enclosed, refuse and recycling store would also be created.

The existing roof would be increased in height, with flat roof dormers added to the roof planes. The proposed materials are reused slate roofing and stonework. It is proposed to infill the existing windows with plain rendered panels.

### **Supporting Information**

Planning Statement  
Surface Water Management Plan  
Design Statement

### **Relevant Site History**

21/04238/LBC  
11A James' Court  
493 Lawnmarket

Edinburgh

EH1 2PB

Proposed refurbishment of and extension to the existing retail/store unit at 11A James Court including provision of ancillary coffee bar, external seating area and formation of a connection to the existing retail unit at 497 Lawnmarket.

Continued

### **Other Relevant Site History**

No other relevant site history.

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

Archaeology

Historic Environment Scotland

Environmental Protection

Refer to Appendix 1 for a summary of the consultation response.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 8 February 2022

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

**Press Publication Date(s):** 11 February 2022; 27 August 2021;

**Site Notices Date(s):** 8 February 2022; 24 August 2021;

**Number of Contributors:** 63

## **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 Setting
- Managing Change Roofs
- Managing Change Extensions
- Managing Change Interiors
- Managing Change External Walls

Although the roof would be increased in height, it would remain subservient to the main building. It would be connected to the main building by a lower pitched roof, which would be a sympathetic and modest addition. The proposal would preserve the character of the building and would not challenge or diminish the setting of the neighbouring listed buildings. The dormers would be appropriately designed and scaled features and would create an interesting visual juxtaposition with the rest of the building.

The vaulted basement would be retained and the render from the older north and west walls would be stripped off to expose the stonework. A new access would be formed into the courtyard area.

The internal alterations proposed are minor and respect the original architectural style. They would not result in the loss of any significant historic fabric.

The external seating area proposes the use of granite; this stone is not an appropriate finish, as sandstone is the predominant external material and the introduction of a small

element of granite would create a disjointed and fussy addition, to the detriment of the character and setting of the adjoining buildings, it is recommended that a condition is added, requiring a detailed specification of all proposed external materials.

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

The proposals are acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and the proposals preserve the character and setting of the listed buildings.

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

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

The proposal retains the single storey element of the existing building and creates a new mezzanine level by the formation of flat roofed dormers on the roof planes. These are contemporary in design but tie in with the character and appearance of the Old Town Conservation Area, where modern additions sit comfortably on elevations of buildings in the Old Town, contributing to the evolving character of the area. The materials of slate and exposed stonework reflect the materials on surrounding buildings and provide a sense of unity. The proposed alterations would be architecturally compatible in design, scale and materials with the original building.

The formation of the seating area would extend the building's footprint into the court area to the north. However, it would be open and would not extend beyond the line of the outshot of the building to the east of the site. It would form a modest and unobtrusive addition to the square and would not adversely affect its spatial character. As set out above, granite is not an appropriate material for the external seating area, and a condition is attached requiring details of more suitable external materials to be submitted.

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

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and preserve and enhance 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 Environment policies Env 1, Env 3, Env 4, Env 6, Env 9 and Env 15
- LDP Strategy policies Del 2
- LDP Design policies Des 1, Des 5, Des 12

- LDP Transport policies Tra 2, Tra 3

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering LDP Policies Env 3, Env 4 and Env 6.

The non-statutory 'Business' guidance is a material consideration that is relevant when considering Policies Del 2 and Ret 1.

The non-statutory 'Edinburgh Design Guidance' is a material consideration that is relevant when considering Policies Des 1, Des 5 and Des 12.

#### Impact on the setting of the listed buildings

This has been assessed in section a) and the proposals comply with LDP Policies Env 3 and Env 4. as the proposed extension would not harm the listed building.

#### Impact on the setting of the conservation area

This has been assessed in section b) and the proposals comply with LDP Policy Env 6 as the extension would preserve and enhance the character and appearance of the conservation area.

#### Impact on the Edinburgh World Heritage Site

Although the proposed development would be located back from the Lawnmarket, it would be within James Court, a prominent and unusual large open area, being set within the broader context of the tightly formed and dense Old Town.

However, the form of the development would create a modest addition to the building. It would avoid intruding into the open area to an unacceptable degree and would, therefore, respect the spatial character of the court. The proposal would have no adverse effect on the Outstanding Universal Value of the Edinburgh World Heritage Site and would comply with LDP Policy Env 1.

#### Principle of Development

LDP Policy Del 2 (City Centre) supports development which retains and enhances the character, attractiveness, vitality, and accessibility of the City Centre and contributes to its role as a strategic business and regional shopping centre and the role of Edinburgh as a capital city.

The proposals are for an extension to the existing retail use and seek to improve the attractiveness of the site. The development would improve the vitality of the site and surrounding area. The proposed ancillary coffee bar use would support the existing retail use, without detriment to the amenity of the area.

The proposed development is in accordance with LDP Policy Del 2.

#### Scale, Design and Materials

LDP Policy Des 1 (Design Quality and Context) states that planning permission will be granted for proposals which create or contribute towards a sense of place. Proposals

should be based on an overall design concept that draws upon positive characteristics of the surrounding area.

LDP Policy Des 12 (Extensions and Alterations) states that planning permission will be granted for alterations to existing buildings which are compatible with the character of the existing building.

The design and form of the proposals are compatible with the character of the building and would not adversely affect the character and appearance of the surrounding area.

The proposal is in accordance with LDP Policies Des 1 and Des 12.

### Amenity

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

The site is bounded by tenemental buildings, with residential properties at upper floor levels. Details have been submitted which confirm that these properties would have no reduction in daylighting and only ground floor windows would be affected by increasing the height of the roof.

There is a residential property to the east of the site at ground floor level which has four windows overlooking the site. One of these windows would not meet the requirements for daylighting as set out in the Council's Edinburgh Design Guidance. Whilst it is acknowledged that there will be a loss of light into this room, the daylighting from the other windows and open plan nature of the room will ameliorate any loss of light. Reasonable levels of sunlight will be achieved complying with the Edinburgh Design Guidance.

Given the historic and organic character of the Old Town and the circumstances of this particular situation, the impact on daylighting is acceptable. To avoid overlooking from the east facing dormer window, it is recommended that a condition is attached requiring obscure glazing.

The coffee bar within the unit is ancillary to the main retail use and does not constitute a change of use of the land. In such circumstances, there is no opportunity to require ventilation details or restrict the hours of operation of this element. Environmental Protection has also raised concerns regarding noise from the external seating area. However, the premises are in a city centre location where there are existing, relatively high ambient noise levels during the day. Given the small scale of the seating area, and the fact that no change of use is proposed, the development would not adversely affect neighbouring residential amenity by virtue of increased noise.

Refuse and recycling facilities have been sensitively integrated into the design and are acceptable.

The proposal is in accordance with LDP Policy Des 5.

### Road Safety

Policy Tra 2 (Private Car Parking) is applicable to the proposed development. The proposed development would not provide any car parking, which is in accordance with the Council's guidelines.

Policy Tra 3 (Private Cycle Parking) is applicable to the proposed development. The site is located within Zone 1 of the EDG parking standards, which does not require cycle parking for retail proposals of less than 250sqm. As such, there is not a requirement for cycle parking as part of the proposed development.

The proposals are in accordance with LDP Policies Tra 2 and Tra 3.

### Archaeology

LDP Policy Env 9 (Development of Sites of Archaeological Significance) is to protect and enhance archaeological remains where possible by preservation in situ in appropriate setting. The City Archaeologist has confirmed that the site lies within an area of potential archaeological significance. A condition is recommended requesting that an archaeology survey is undertaken.

The proposals are in accordance with LDP Policy Env 9.

### Open Space

LDP Policy Env 15 (Sites of Local Importance) does not support development that is likely to have an adverse impact on the flora, fauna, landscape or geological features of a Local Nature Reserve or a Local Nature Conservation Site.

The open character of the courtyard would be retained by the modest scale of the extension and adjacent trees will remain in their present positions and would not be adversely affected by the proposals.

The proposals are in accordance with LDP Policy Env 15.

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

The proposal complies with the Edinburgh Local 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 presumption in favour of sustainable development is a significant material consideration due to the development plan being over five years old. SPP introduces a presumption in favour of development that contributes to sustainable development and sets out 13 principles to guide policy and decisions.

The development proposes an appropriate and sustainable land use, which would support the local economy, and protect the historic environment. The outdoor seating

area within an open courtyard overlooked by residential properties would not be detrimental to residential amenity.

The proposed development complies with SPP principles 3, 10 and 13, as it supports good design and the six qualities of successful places. It would protect and enhance the historic environment and protect the amenity of nearby residents.

#### 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 was advertised on 27th August 2021 and 58 comments were received: 34 objecting and 24 supporting. These included comments from the Cockburn Association, the Architectural Heritage Society of Scotland and the Old Town Community Council which has not requested to be a statutory consultee.

The application was re-advertised on 11th February 2022 and a further five objections were received including one from Alison Johnstone MSP.

A summary of the representations is provided below:

#### *material considerations*

Material Comments - Objections:

- excessive concentration of food and drink premises - this is assessed in section (c) of the assessment.
- neighbouring amenity - this is assessed in section (c) of the assessment.
- loss of open area - this is assessed in section (c) of the assessment.
- impact on the character and appearance of the conservation area - this is assessed in section (b) of the assessment.

- loss of historic fabric - assessed in section (a) of the assessment.
- impact on outlook - this is assessed in section (c) of the assessment.
- loss of light to ground floor residential property - this is assessed in section (c) of the assessment.

Material Comments - Supporting:

- improvements to building will bring revenue to the area - this is assessed in section (c) of the assessment.
- the design sympathetic to surrounding buildings and enhance appearance of James Court - this is assessed in section (a) of the assessment.
- the new cafe will improve recovery and regeneration of the area - this is assessed in section (c) of the assessment.

*non-material considerations*

- the distance between the extension and existing building to east would make maintenance of the building a problem - this is not a planning issue.

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

The proposal complies with the relevant sustainable development policy principles set out in SPP. There are no other issues raised in the material considerations.

#### **e) Overall conclusion**

The proposals would preserve the character and appearance of the Old Town Conservation Area and the character and setting of nearby listed buildings, and would be 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 development would form an appropriate addition to the area and would not have an unacceptable impact on neighbouring residential amenity. The proposal complies with the relevant SPP - sustainable development principles. No other material considerations outweigh this conclusion. It is recommended that planning permission is granted.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

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

2. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required. Granite will not be used in the external seating area.

3. The approved east facing dormer shall be fitted with obscure glazing before occupation of the extension and remain in perpetuity. Details of the glazing shall be submitted to the Planning Authority for approval prior to the initiation of development.

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

2. In order to safeguard the character and setting of the listed buildings and the character and appearance of the conservation area.

3. In order to protect the privacy of adjoining neighbours.

### **Informatives**

It should be noted that:

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

2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

### **Background Reading/External References**

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

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

**Date Registered: 10 August 2021**

**Drawing Numbers/Scheme**

1A, 2, 3A, 4-8, 9A, 10-12

Scheme 2

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

Contact: Jennifer Zochowska, Senior Planning Officer  
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## Summary of Consultation Responses

NAME: Archaeology

COMMENT: This court was constructed in the 1720s on the site of several medieval closes running northwards at right-angles from the medieval high street (Lawnmarket) necessitating their demolition. As has been proved elsewhere up and down the Royal mile, the 18th century redevelopment of the Royal Mile often retained the walls and cellars of the earlier tenements which can date back to the 16th century and in some cases possibly earlier.

Although the current out-building dates to the 20th century, it clearly utilises earlier walls principally its northern wall and western along the Close. The building is regarded as being of historic and archaeological significance and as the proposals will require works to the surviving historic building, it is essential that a detailed programme of archaeological work is undertaken during development to record this historic building and ensure conservation/preservation are undertaken.

To secure this programme of archaeological works is undertaken it is recommended that the following condition is attached

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

DATE: 25 August 2021

NAME: Historic Environment Scotland

COMMENT: We have considered the information received and do not have any comments to make on the proposals.

DATE: 12 April 2022

NAME: Environmental Protection

COMMENT: Environmental Protection have concerns that noise from the outdoor area may be difficult to modulate and control . Nearby residents would likely be subjected to unacceptable levels of noise, and it would be detrimental to residential amenity.

DATE: 8 November 2021

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

## Location Plan

