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17 Bernard Street
Edinburgh
EH6 6PW

Mr Nigel Ellis.
2F 69 Madeira Street
Edinburgh
EH6 4AX

Decision date: 25 July 2022

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Alterations to existing flatted property. Installation of new stair within common stairwell. Creation of new studio flat within existing attic space C.W new dormer, external terrace and solar PV /hot water panels.
At 2F 69 Madeira Street Edinburgh EH6 4AX

Application No: 22/02716/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 20 May 2022, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

Reasons:-

1. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the proposal will not preserve nor enhance the conservation area.
2. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as the materials proposed are inappropriate for the building. ****

3. The proposal is contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the proposal is inappropriate and out of keeping with the original building.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01-02, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Erin Gallagher directly at erin.gallagher@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

**Application for Planning Permission
2F 69 Madeira Street, Edinburgh, EH6 4AX**

Proposal: Alterations to existing flatted property. Installation of new stair within common stairwell. Creation of new studio flat within existing attic space C.W new dormer, external terrace and solar PV /hot water panels.

**Item – Local Delegated Decision
Application Number – 22/02716/FUL
Ward – B13 - Leith**

Recommendation

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

Summary

The proposal would have significant impact on the special historic or architectural interest of the listed building and be detrimental to the character and appearance of the conservation area. This is unacceptable with regards to Sections 59 and 64 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant LDP policies and Guidance.

SECTION A – Application Background

Site Description

The application refers to C listed building (LB27142) dated circa 1840. It is a three-storey, nine-bay terraced pair of tenements. Which features cream sandstone ashlar.

The site is located within the Leith Conservation Area.

Description Of The Proposal

The proposal is for the conversion of the existing attic to a studio apartment which will include a new dormer, terrace, roof windows, solar panels and new stair within the common stair well.

Relevant Site History

22/02721/LBC
2F 69 Madeira Street
Edinburgh
EH6 4AX

Convert existing attic space to studio apartment C.W. new dormer, terrace, roof windows and solar water heating /PV panels and new stair within common stair well.

Refused

22 July 2022

Other Relevant Site History

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 25 July 2022

Date of Advertisement: 10 June 2022

Date of Site Notice: 10 June 2022

Number of Contributors: 5

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 - Interiors
- Managing Change - Roofs

The proposal is for a modern attic conversion to the rear of the building, with zinc clad dormer, terrace with glass balustrade panels and a composite timber decking. The proposal will also rebuild the reduced chimney and will fit new pots. The dormer is proposed to be 2.6m high and 2.63m in depth. It is also proposed five new roof windows to the front elevation of the building.

Historic Environment Scotland's 'Managing Change in the Historic Environment' guidance on 'Roofs' states that "the significance of a historic roof is derived from a number of factors including its age, functional performance, shape, pitch, profile, and the qualities of its supporting structure, covering materials and associated features". The retention of original structure, shape, pitch, and cladding is therefore of paramount importance.

The proposals would alter the original traditional roof through the excessive removal of original building fabric and the positioning of features incongruous to its simple aesthetic to undermine the integrity of the listed building and causing damage to its character and loss of original fabric.

The proposals would therefore adversely impact on the special architectural and historic interest of the listed building

Conclusion in relation to the listed building

The proposals are unacceptable with regard to 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 areas 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 proposed elements are excessive and detrimentally impact on the properties contribution to the Conservation Areas special character and appearance. The proposals would not preserve the special character or appearance of the Conservation Area.

Conclusion in relation to the conservation area

The proposals are unacceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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 4 and Env 6
- LDP Design Principle policy Des 12

The non-statutory 'Listed Buildings and Conservation Area' and 'For Householders' guidance are material considerations that are relevant when considering policies Env 4, Env 6 and Des 12.

Scale, form, design and neighbourhood character

The proposals fail to preserve the character and appearance of the listed building and conservation area, as detailed in section a) and b) of the assessment. Policy Des 12 supports applications which use materials that are compatible with the character of the existing building. The materials proposed are inappropriate for the building.

Neighbouring Amenity

With respect to privacy, overshadowing and loss of daylight or sunlight, the proposals have been assessed against requirements set out in the non-statutory 'Guidance for Householders'. The proposals will not result in any unreasonable loss to neighbouring amenity.

Conclusion in relation to the Development Plan

The proposals are of an unacceptable scale, form and design and are not compatible with the existing dwelling and therefore will not preserve/enhance the special character and appearance of the conservation area.

Therefore, the proposals do not comply with LDP policies Env 4, Env 6 and Des 12 and the overall objectives of 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 is contrary to SPP Principle 3 and 10.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet 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

Five objections have been received.

A summary of the representations is provided below:

material considerations

The design of the proposal is not inkeeping with the conservation area, the roof would unbalance the traditional roofscape and the proposals would change the buildings appearance, the roof fabric and finishes will be irreversibly altered, this has been addressed in sections a) and b).

non-material considerations

There were concerns for the possible short-term let usage of the property and comments raised the possible access issues the proposal would produce for the other residents of the tenement to the roof.

Overall conclusion

The proposal would have significant impact on the special historic or architectural interest of the listed building and be detrimental to the character and appearance of the conservation area. This is unacceptable with regards to Sections 59 and 64 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant LDP policies and Guidance.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

1. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the proposal will not preserve nor enhance the conservation area.
2. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as the materials proposed are inappropriate for the building. ****
3. The proposal is contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the proposal is inappropriate and out of keeping with the original building.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 20 May 2022

Drawing Numbers/Scheme

01-02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Erin Gallagher, Student Planner
E-mail:erin.gallagher@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 22/02716/FUL

Application Summary

Application Number: 22/02716/FUL

Address: 2F 69 Madeira Street Edinburgh EH6 4AX

Proposal: Alterations to existing flatted property. Installation of new stair within common stairwell. Creation of new studio flat within existing attic space C.W new dormer, external terrace and solar PV /hot water panels.

Case Officer: Erin Gallagher

Customer Details

Name: Ms Juliet Moleta

Address: 69/2 Madeira Street Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I am writing to object to the planning application as follows:

The studio flat and the terrace would not be in line with this conservation area. Both the extended staircase and exterior terrace specifically would be very visible on the building. It does seriously affect a listed property where even replacement windows have to be sash and case, therefore I am not understanding why a large exterior terrace with solar panels would be granted permission. There are no such terraces within the conservation area and this would set a precedent if permission is granted.

The noise and disturbance from an exterior terrace would be serious considering the proximity of the terrace and noise carrying from a few feet away from my kitchen window. This could continue into anti social hours and I have 2 school age children to consider.

At present my flat is very quiet at the back and I would want to keep it this way. I would also be concerned as to the main purpose of the flat. ie. air bnb or rentals. Previously the applicant's flat below has been rented which adjoins mine at the living /kitchen area. There have been several noisy incidents in the past - parties into the night and I have had to complain to the rental agents. Rottie for the tenants to be mindful of neighbours. All the residents in the tenement are owner occupiers and community minded. I would not want short term or holiday rentals to be encouraged in the block due to noise and disturbance. The said terrace would also overlook our gardens and interfere with privacy.

Often at this height things get really windy and I would not feel secure at possible furniture or objects accidentally being blown off the top. The rain can also be relentless creating noise just on the drainpipes therefore water run off from the terrace or flat could also create unnecessary noise. It could also. be used as an outside bbq area which again could be very noisy.

Comments for Planning Application 22/02716/FUL

Application Summary

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Address: 2F 69 Madeira Street Edinburgh EH6 4AX

Proposal: Alterations to existing flatted property. Installation of new stair within common stairwell. Creation of new studio flat within existing attic space C.W new dormer, external terrace and solar PV /hot water panels.

Case Officer: Erin Gallagher

Customer Details

Name: Mr Colin Wilson

Address: 1F, 69 Madeira Street, Edinburgh EH6 4AX

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:

These comments cover both the renovation of flat 69/2 and the creation of a new housing unit in the roofspace of 69 Madeira Street.

Firstly, comments on development and addition of an entire new flat in the roof space at 69 Madeira Street:

We have significant concerns about the development of an additional house in the attic roof space as detailed below.

1. The dormer and roof terrace: The design creates a roof terrace to the rear of the property which will be very visible from surrounding streets. It seems entirely out of keeping with the character of the property, considering its category C listing and location in a conservation area.

The three adjacent properties that make up the character of Georgian north Madeira Street are North Leith Parish Church (Category A, 1816), 68 Madeira Street house (Category C, built 1830s), 63-69 Madeira Street tenement of 6 flats (Category C, built 1840s). These three properties were the first built in north Madeira Street and make up the key character of the area. The context of the property at 63-69 Madeira Street behind and adjacent to North Leith Parish Church is shown in the contemporary etching from about 1850 viewable on:

http://www.leithlocalhistorysociety.org.uk/churches/north_leith_parish_church.htm

The rear elevation of 63-69 Madeira Street has retained the building's original character. A planning application (recently approved) for flat 63/1 to reinstate sash and case windows in place of aluminium being a good example of sympathetic restoration. In the recent two years all the windows at 69/1, front and rear, were returned to the six over six Georgian style. It would be wrong to encourage retention and reinstatement of the Georgian style features of the building yet allow a dormer roof with a glass roof terrace.

The Leith Conservation Area Character Appraisal notes the importance of retaining the Georgian character of buildings and roofs. "The Madeira area retains a largely Georgian domestic character, with stone buildings and slate roofs predominating; some of the Georgian buildings retain astragaled windows and doors with fanlights."

The proposed roof terrace will be clearly visible from Portland Street, with the spire of North Leith Parish Church behind. Changing the slated roof of this Georgian property is contrary to the objectives of the conservation area.

The addition of solar panels (whilst acknowledging the general benefit of renewable energy) creates a solar array along the entire roof line of half the property. This will be very visible from the street and seems out of keeping with the Georgian nature of the building, and the symmetry of the rear of the building.

We have general concerns about the rebuilding of the roof, steel framework for the dormer and the general complexity of the new roof design. This creates a maintenance complexity and risk from leaks etc, for which we become jointly responsible for maintaining and repairing.

Velux style windows sympathetically executed may be acceptable.

2. We would have concerns that any new property created could be utilised for short term "Airbnb" type rental. The flat 69/2 has been used for rental for 20 years. We would like to see a restriction or control that any new flat could not be used for Airbnb style usage.

3. The addition of a new flight of stairs would require to be done in a manner sympathetic to the scheduled facade of the building. A modern steel design would be out of character. The proposed new flight of stairs will be visible through the large windows at the front of the building. The existing stairs can be seen through these windows. The existing stairs are stone and have reeded iron balusters with a hardwood handrail. Any new stair and design will be visible and comparable between the two windows. Given the category C listing this will affect the facade of the building and should be controlled in planning.

4. Communal roof access is currently made through a loft hatch at the top of the stairwell and

thence by a skylight onto the roof. Access is taken annually (and periodically as required) by residents of 69 and 67 (which is the ground floor flat) to conduct inspection, gutter cleaning, and general maintenance. The plan encloses this hatch and makes no provision for access by joint owners of the roof. This independent access should be maintained and without constraint of having to access another party's property. It is also not shown how the existing roof access skylight can be accessed from outside the property.

5. Windows to the front (Madeira St). Five Velux style windows are shown on the plan. There are currently no roof windows or skylights on this roof. The roof is clearly visible from the end of Madeira Street, where the whole building can be seen in its Georgian style. These new windows will be a change to the street facing elevation. The windows would only exist at one end of the building's roof, therefore changing the current symmetry of the roof between both ends of the building. We would suggest two Velux style windows, one for each room, might be acceptable if they were kept to a size similar to skylights of the period.

Comments on renovation of 69/2:

We are generally supportive of the renovation of 69/2. The design is similar to the one we adopted in 69/1 and makes the flat much more suited to modern life, whilst retaining the character of the property. The redesignation of rooms and creation of a modern kitchen and bathroom will improve the property.

Comments for Planning Application 22/02716/FUL

Application Summary

Application Number: 22/02716/FUL

Address: 2F 69 Madeira Street Edinburgh EH6 4AX

Proposal: Alterations to existing flatted property. Installation of new stair within common stairwell. Creation of new studio flat within existing attic space C.W new dormer, external terrace and solar PV /hot water panels.

Case Officer: Erin Gallagher

Customer Details

Name: Mr Ben Anderson

Address: 67 Madeira Street Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Although it could be commended to utilize empty space in an exiting building, the size and scope of the proposed scheme raises some questions as outlined below.

- major change to the buildings appearance with regards to the classic roofscape of an Edinburgh tenement
- it creates access issues to the roof for the other owners / residents of the tenement
- legal responsibilities with regards to the repair and maintenance of a more complicated roof structure
- the increase of noise in the common stair and tenement due to the creation of another apartment which in all probability will be rented out in a similar manor as 69/2 which was an MHO for over fifteen years until the license was refused due to the above problems
- major disruption while works proceed on which in essence is a land grab for material gain as opposed to the increase of space for the sole use of the top flat done in a sympathetic way to the building and with consideration of the other owners in the tenement

Comments for Planning Application 22/02716/FUL

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Proposal: Alterations to existing flatted property. Installation of new stair within common stairwell. Creation of new studio flat within existing attic space C.W new dormer, external terrace and solar PV /hot water panels.

Case Officer: Erin Gallagher

Customer Details

Name: Ms Fiona Stenke

Address: 63/1 Madeira Street Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:I object to this proposal on the following grounds:

The proposed new property is within a listed building next to the A-listed North Leith Parish Church. It is in a conservation area, and due to the prominent corner location of the building the rear roof elevation is clearly visible from the surrounding streets, including Portland Street and the new Leith Fort housing development.

The proposed dormer, terrace and solar panels would therefore have a negative impact on the character of the listed building, the conservation area and the setting of the North Leith Parish Church.

It would unbalance the traditional roofscape of the listed building, which is formed of two matching blocks.

In addition, given the height and position of the terrace, significant overlooking into the four private gardens to the rear of the tenement would result in a loss of privacy. Noise could also become an issue for neighbours.

Finally, the drawings give no detail about the materials that would be used to rebuild the chimney - this should be reinstated in sandstone to match the neighbouring rear chimney.

Comments for Planning Application 22/02716/FUL

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Case Officer: Erin Gallagher

Customer Details

Name: Dr The Architectural Heritage Society of Scotland

Address: 15 Rutland Square, Edinburgh EH1 2BE

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The AHSS Forth and Borders Cases Panel has examined the proposals and objects.

69 Madeira Street is a listed tenement of circa 1840, one of a pair of tenements which form part of the setting of North Leith Parish Church. The tenement also lies within Leith Conservation Area.

The proposed attic conversion with rooflights on the front roof slope, large new dormer with terrace to the rear and solar water heating / PV panels is inappropriate and out of keeping with the original building. The roof fabric and finishes will be irreversibly altered. The work will not preserve nor enhance the conservation area nor protect the architectural character or special interest of the building.

We recommend that this application is rejected as the proposals are not in line with Local Development Plan policies ENV 4 and ENV 6.