

Development Management Sub-Committee Report

Wednesday 15 March 2023

**Application for Listed Building Consent
31 Lothian Road, Edinburgh, EH1 2DJ**

Proposal: External works to facilitate use of balcony as a terrace and internal alterations involving reconfiguration of toilets.

**Item – Committee Decision
Application Number – 22/06023/LBC
Ward – B11 - City Centre**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-Committee as it has received a petition with more than six material representations in support and the recommendation is to refuse listed building consent.

Recommendation

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

Summary

The proposals are not acceptable with regards to Sections 14 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals will not preserve the character and appearance of the conservation area and will have a detrimental impact on the character of the listed building. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The site is located on the eastern side of Lothian Road. The surrounding area has a mixed residential/commercial character which is predominantly characterised by ground floor commercial units situated within tenement buildings.

The building was designed by JS Richardson and JR Mackay in 1922. It is Category B listed and was listed on 12.12.1974. LB ref: 30021.

The site lies in the West End Conservation Area.

Description of the Proposal

External works to facilitate use of balcony as a terrace and internal alterations involving reconfiguration of toilets.

Supporting Information

Heritage Statement
Planning Statement

Relevant Site History

22/06022/FUL
31 Lothian Road
Edinburgh
EH1 2DJ
External works to facilitate use of balcony as a customer terrace.

19/05065/LBC
31 Lothian Road
Edinburgh
EH1 2DJ
External works at first-floor level to facilitate use of existing balcony to front elevation as an external customer terrace and internal alterations on balcony floor level involving reconfiguration of toilets.
withdrawn
18 December 2019

19/05064/FUL
31 Lothian Road
Edinburgh
EH1 2DJ
External works at first-floor level to facilitate use of existing balcony to front elevation as an external customer terrace.
withdrawn
18 December 2019

Other Relevant Site History

No other relevant planning history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

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

Publicity and Public Engagement

Date of Neighbour Notification: Not Applicable

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 23 December 2022

Site Notices Date(s): 19 December 2022

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) within a conservation area, this application for listed building consent requires to be assessed against Sections 14 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- Having due regard to HES Policy and guidance, do the proposals:
 - harm a listed building or its setting? or
 - conflict with the objective of preserving or enhancing the character or appearance of the conservation area?

- If the proposals do comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for not approving them?

- If the proposals do not comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for approving them?

Assessment

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

a) The proposals harm the listed building or its setting?

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

- Managing Change Windows
- Managing Change Roofs
- Managing Change Interiors
- Managing Change External Fixtures
- Managing Change External Walls

- Managing Change Setting
- Managing Change Use and Adaptation of Listed Buildings

The building was originally built as a cinema and has been adapted to be used as a public house, retaining the original architectural and historic features. The use of the balcony would be incidental to the main use.

The main entrance and the frontage above the ground floor retail units create a very powerful appearance, with the first floor level windows having a particularly impressive pedimented design.

The formation of the balcony would require the introduction of a stainless-steel decorative balustrade, with a Perspex barrier behind it. This would disrupt its sense of symmetry and severely reduce the ability to appreciate the composition of the building, creating an undesirable and unsympathetic focal point on the first floor.

Moreover, the creation of an accessible space at first floor level would formalise an outdoor use. It would result in people being able to congregate on a very prominent location on the building, which was never intended to be accessed and used in the way that is now being proposed. The change of this part of the building from an architectural feature, positively contributing to the overall character of the building, to a functional space, occupied by individuals, would have a negative effect on the special interest and character of the listed building.

Internally, it is likely that the addition of a new staircase to access the terrace would not be significant.

The proposed alterations to the toilets and staff room will affect only modern stud-wall divisions, which make no contribution to the special interest of the Caley Picture house. As a result, these alterations would result in no change to the special interest and character of the building

Overall, this would have a negative effect on the special interest and character of the listed building.

Conclusion in relation to the listed building

The proposal is unacceptable with regard to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and HES guidance as the proposal would not preserve the character of the listed building.

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

The site lies in the West End Conservation Area. The West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

The proposal would form a significant and visually intrusive external feature, which would have a detrimental and negative impact on the integrity of the listed building. The building forms an important focal point within Lothian Road and the development would erode its contribution to the streetscene, to the detriment of the character and appearance of the conservation area.

Conclusion in relation to the conservation area

The proposal has an adverse impact on the character and appearance of the conservation area and is unacceptable in regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) there are any other matters to consider?

The following matters have been identified for consideration:

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

A summary of the representations is provided below:

A petition in support of the proposal has been submitted with 261 signatures.

material considerations

- use of the external space - assessed in sections a) and b)
- bringing a vacant part of listed building into use - assessed in sections a) and b)
- *non-material considerations*
- increases employment
- no loss of amenity

Conclusion in relation to other matters considered

All other matters have been considered.

Overall conclusion

The proposals are not acceptable with regards to Sections 14 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals will not preserve the character and appearance of the conservation area, will have a detrimental impact on the character of the listed building. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

1. The application is not acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and does not comply with HES guidance as the alterations would adversely affect the character of the listed building.
2. The application is not acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and HES guidance as the alterations fail to preserve the character or appearance of the conservation area

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 13 December 2022

Drawing Numbers/Scheme

1-9

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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Appendix 1

Summary of Consultation Responses

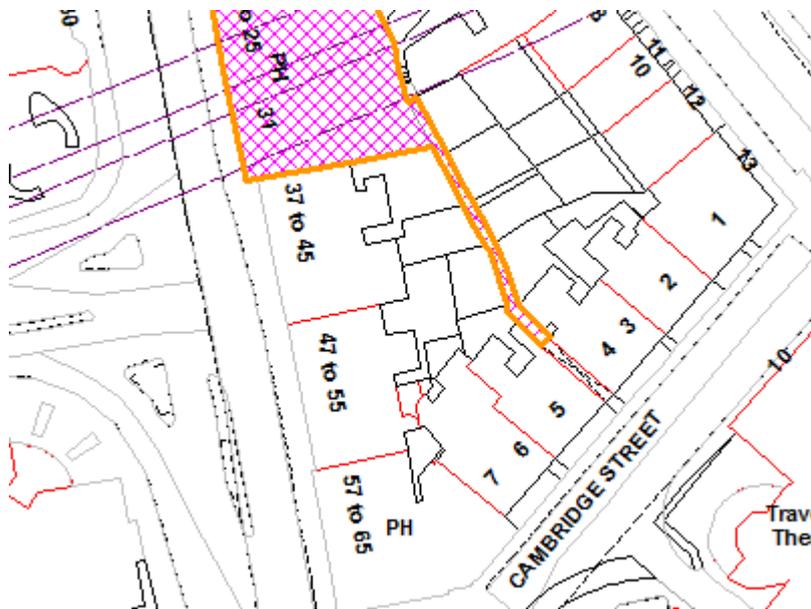
NAME: Historic Environment Scotland

COMMENT: We consider the proposals would have a negative impact on the special interest and character of the listed building.

DATE: 22 December 2022

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

Location Plan



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