

Development Management Sub-Committee Report

Wednesday 20 September 2023

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

Proposal: Proposed refurbishment of and extension to the existing retail /store unit.

**Item – Committee Decision
Application Number – 23/00491/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because forty letters of representation have been received of these twelve in objection to the proposals and 28 in support. The history of the site includes a previous refusal of planning permission where one of the reasons was loss of outlook. Given the scheme isn't changing in that respect, under the Council's Scheme of Delegation , the application must be determined by the Development Management Sub Committee.

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, thereby 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 increase in retail floorspace is supported in this part of the city. 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 ground floor of the building would be extended 2.4 metres to the east creating a ground floor area of 69.5 square metres. A mezzanine level would also be formed with a floor area of 25.1 square metres.

The existing roof would be increased in height by approximately 2 metres with flat roof dormers added to each of the roof planes. The proposed materials are reused slate roofing and stonework. The existing windows on the west elevation would be infilled with plain rendered panels.

Supporting Information

Covering letter and supporting statement
Design Statement
Updated Planning Statement

Relevant Site History

21/04237/FUL
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.

Refused

30 August 2022

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.

Refused

30 August 2022

23/00492/LBC

11A James' Court

493 Lawnmarket

Edinburgh

EH1 2PB

Proposed refurbishment of and extension to the existing retail /store unit.

Other Relevant Site History

No other relevant cases

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Transport

Archaeology

Historic Environment Scotland

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

Publicity and Public Engagement

Date of Neighbour Notification: 9 February 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 17 February 2023

Site Notices Date(s): 14 February 2023

Number of Contributors: 40

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 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

- 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

The proposal relates to previous applications which were refused for both listed building consent (21/04238/LBC) and planning permission (21/04238/FUL). The proposal has been modified and no longer include an external seating area.

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 removed to expose the stonework. New full height windows would be formed on the rear elevation facing into the courtyard area, retaining the vertical proportions of the tenement windows.

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 visual impact of the proposed changes to the building would not dominate or detract in a way that affects existing courtyard setting of the Category A listed buildings.

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 harm the character or appearance of the conservation area?

The site lies in the Old Town 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.

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 the proposals preserve the character and appearance of the conservation area.

a) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF 4 Global Climate and Nature Crises Policy 1
- NPF 4 Historic Assets and Places Policy 7
- NPF 4 Design Policy 14
- NPF 4 Community wealth building Policy 25
- NPF 4 City, town and local and commercial centres Policy 27
- LDP Delivering the Strategy Policy Del 2
- LDP Design Policies Des 1, Des 5 and Des 12

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF 4 Policy 7.

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering NPF 4 Policy 27 and LDP Policy Del 2.

Listed Building and Conservation Area

This is assessed in sections a) and b) and the proposal complies with NPF4 Policy 7 as the proposal would preserve the character, special architectural or historic interest of the building. In addition, it would preserve 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.

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 NPF 4 Policy 7.

Principle of Development

NPF 4 Policy 1 aims to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change. The proposal is neutral in the impact on sustainability and the environment, and thus complies with NPF4 Policy 1.

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 development is in accordance with NPF 4 Policies 25, 27 and LDP Policy Del 2.

Scale, Design and Materials

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 NPF 4 Policy 14 and 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.

Since the previous refusals, the proposal no longer includes an external seating area reducing the potential for external noise within the courtyard area.

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. These windows already have reduced daylighting as they face onto the blank elevation of the retail unit. The proposal would result in one of these windows not meeting 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 proposal is in accordance with LDP Policy Des 5.

Archaeology

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 NPF 4 Policy 7.

Conclusion in relation to the Development Plan

The proposal complies with National Planning Framework 4 and Edinburgh Local Development Plan as the proposal would have an acceptable impact on the integrity of the listed building, an acceptable impact on the character and appearance of the conservation area and the proposal includes additional retailing in the city centre.

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

The following material planning considerations have been identified:

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time 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

A total of 40 representations have been received. Of these contributors 12 object to the proposal and 28 support the proposal.

A summary of the representations is provided below.

material considerations - objections

- size of windows /doors in rear elevation are too big and detract from the area
- size of doors allows shoppers out onto James Court
- the proposal would turn James Court to busy area like Lawnmarket
- distance to Bothwell House A listed
- reduce light into property
- detrimental to setting of surrounding listed buildings
- loss of daylight to Bothwell House
- new windows in rear elevation overlook James Court
- loss of historic fabric
- raise roof height - loss of original roof

material considerations - supporting

- additional retail space in a city centre location
- enhances courtyard spaces
- contemporary improvement
- proposal represents an improvement to the existing building
- the proposal enhances the conservation area
- enhance vitality of the area

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.
- proposal building would block main drain
- not sufficient width between building to east to allow maintenance to tenement
- blocks view from surrounding tenements
- obstructing escape from Bothwell House in the event of fire

Conclusion in relation to identified material considerations

There are no other issues raised in the material considerations.

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, National Planning Framework 4, 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. 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;

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. 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.
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.

Reasons

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to safeguard the interests of archaeological heritage.
3. In order to protect the privacy of adjoining neighbours.

Informatives

It should be noted that:

1. 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.
2. 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: 6 February 2023

Drawing Numbers/Scheme

1-13

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Jennifer Zochowska, Senior Planning Officer
E-mail: jennifer.zochowska@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Transport

COMMENT: No objections

DATE: 18 April 2023

NAME: Archaeology

COMMENT: The building is regarded as being historic and archaeological significance. The proposals will require significant works to the surviving historic building which may reveal important evidence regarding its date and development. 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.

DATE: 21 February 2023

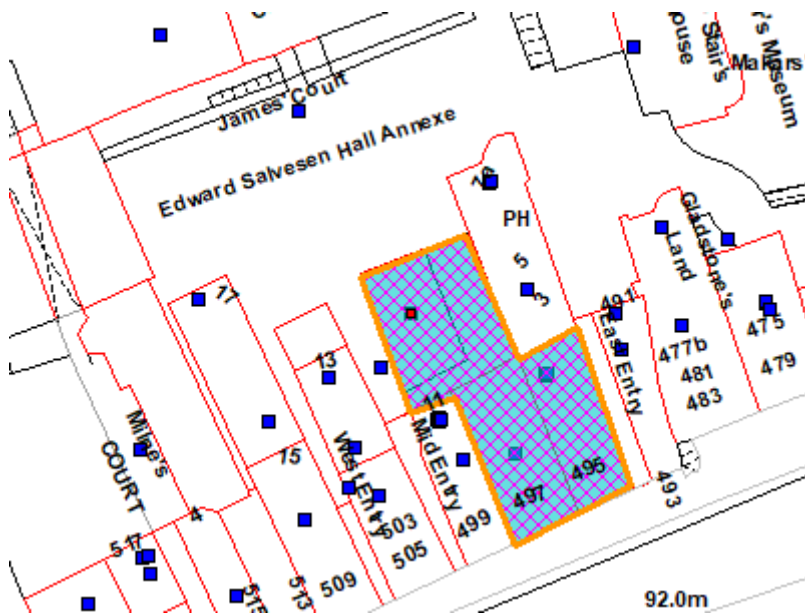
NAME: Historic Environment Scotland

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

DATE: 21 March 2023

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

Location Plan



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