

Development Management Sub-Committee Report

Wednesday 28 February 2024

**Application for Conservation Area Consent
Car Park 2, 2 Canaan Lane, Edinburgh.**

Proposal: Complete demolition in a conservation area.

**Item – Committee Decision
Application Number – 23/02585/CON
Ward – B10 - Morningside**

Reasons for Referral to Committee

The application is referred to the Development Management Sub-Committee as it is associated with the development the subject of conterminous planning application 23/00359/FUL.

Recommendation

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

Summary

The demolition of the existing buildings are acceptable in terms of Section 66 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the interim HES guidance.

SECTION A – Application Background

Site description

The site is to the rear of the existing public house, The Canny Man's, fronting Canaan Lane. Directly to the east is the Lane Hotel, which is also in the ownership of the applicant, who owns The Canny Man's public house, The Lane Hotel and 6A Canaan Lane. The site has an area of approximately 220sqmetres. The site is currently used as a private car park with six spaces for visitors to either the neighbouring Canny Man's public house or the Lane Hotel. The site includes a garage building that is used for storage by the pub/hotel; it was built in 1999 and is constructed from rendered concrete block, with a timber truss roof clad in slate.

There is also an enclosed external bin store which fronts Canaan Lane, and an enclosed grassed area. Within the car park is a fenced/walled off storage space for bins and an open area for beer kegs. Behind this is a further single storey building that is an extension to the rear of the former garage.

To the west is the category B listed building The Canny Man's public house, a two storey traditional stone property which fronts Morningside Road. The building was listed on 30th March 1993, LB ref: LB46297. Constructed circa 1890, it is described as a late Victorian public house with fine interior, 2-storey 3-bay square-plan corner block. The east (rear) elevation which faces the application site is described as having single windows and modern fire escape stair; tall wall head stack to right of centre. Detached single storey stable block with two large openings and gabled hayloft door. It has four-pane timber sash and case windows. There is a beer garden to the rear of the public house adjacent to the application site as well as a single storey building (Stables) which is used as function space and storage known as The Stables building.

The Lane Hotel to the east is a traditional two storey stone and slate built property. On the opposite side of the road from the site is a residential two storey property, a recently constructed five storey flatted block and the rear of tenements which front Morningside Road. To the south is a high wall with railings which separates the site from the neighbouring property.

The site is within the Morningside Conservation area.

Proposed development

The proposal is for the demolition of the existing garage and walls within the site.

Relevant Site History

No relevant site history.

Other Relevant Site History

9th February 2023 Planning application submitted for a new hotel to be linked to existing public house and hotel (23/00359/FUL)

History of neighbouring sites:

6a Canaan Lane:

19th April 2023 - Permission refused for short term let (in retrospect) (application ref: 23/05239/CLESTL)

11th October 2023 - Appeal review upheld officers' decision to refuse permission (appeal ref: 23/00130/REVREF)

6C Canaan Lane:

4th December 2020 - Planning permission granted for change of use from office to residential (application ref: 20/04253/FUL)

6th November 2023 - Certificate of Lawfulness submitted for use of property as a short term let undetermined (23/05239/CLESTL)

7 Canaan Lane:

03 August 2017 - Planning permission refused for the erection of new six storey building to replace public toilet comprising 11 flats (as amended) (application reference 17/00184/FUL).

20 November 2017 - Appeal against refusal of 17/00184/FUL dismissed by reporter.

15th November 2018 - Planning permission was granted for a five storey block containing ten flats (application ref: 18/01506/FUL)

9A Canaan Lane:

18th October 2018 Extension and enlargement following part demolition to create a new dwelling granted (application ref: 18/07763/FUL)

22nd October 2018 Certificate of Lawfulness refused (application ref: 18/04539/CLE)

Pre-Application process

There is no pre-application process history.

Consultation Engagement

City Archaeology

Historic Environment Scotland

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

Publicity and Public Engagement

Date of Neighbour Notification: 27 September 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 19 January 2024 6 October 2023 23 June 2023

Site Notices Date(s): 16 January 2024 3 October 2023 20 June 2023

Number of Contributors: 4

Section B - Assessment

Determining Issues

Consent is required because section 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act") states that in making a decision on the demolition of a building in a conservation area section 6 to 25 of the same Act shall have effect in relation to buildings in conservation areas as they have effect in relation to listed buildings. The proposals therefore require to be assessed in terms of Section 64 of the 1997 Heritage Act:

- Having due regard to HES Policy and guidance, does the proposed demolition 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 on demolition in a conservation area, 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 on demolition in a conservation area, 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:

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

- Managing Change - Interim guidance on the Designation of Conservation Areas and Conservation Area Consent (2019) outlines criteria to assess the acceptability of the demolition of unlisted buildings within conservation area, including:
 - the importance of the building to the character or appearance of any part of the conservation area, and of proposals for the future of the cleared site.
 - if the building is considered to be of any value, either in itself or as part of a group, a positive attempt should always be made by the planning authority to achieve its retention, restoration and sympathetic conversion to some other compatible use before proposals to demolish are seriously investigated.
 - where demolition may be thought appropriate, for example, if the building is of little townscape value, if its structural condition rules out its retention at reasonable cost, or if its form or location makes its re-use extremely difficult, consent to demolish should be given only where there are acceptable proposals for the new building.

a) Demolition of building(s) is acceptable?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Section 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in making a decision on the demolition of a building in a conservation area, certain provisions of the same Act shall have effect in relation to buildings in conservation areas as they have effect in relation to listed buildings.

NPF 4 policy 7 f) (Historic Assets and Places) states demolition of buildings in a conservation area which make a positive contribution to its character will only be supported in certain circumstances.

Historic Environment Scotland's (HES) Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (April 2019) outlines criteria to assess demolition of unlisted buildings in a conservation area including a buildings' importance to the character or appearance of the conservation area.

The Morningside Conservation Character Appraisal emphasises *'that the architectural character of the conservation area is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas which are in variety of architectural styles are unified by the use of local building materials.'*

The garage/ storage building proposed for demolition was constructed in 1999; walls within the site which are proposed for demolition are non traditional. The structures are not of architectural or historic significance with no particular interior or exterior detailing of interest. These buildings do not make any appreciable contribution to the character or appearance of the conservation area. A heritage statement has been provided which concludes that the structures to be demolished are not of significance.

Historic Environment Scotland have no comments to make on the proposal.

A condition is recommended to ensure that the buildings are not demolished before a detailed scheme has been granted and the Notification of Initiation of Development has been received with a start date for the detailed development.

Conclusion in relation to the demolition and replacement

The demolition of the existing building is therefore acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the interim HES guidance. The proposal complies with NPF4 policy 7.

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

The HES interim guidance and the similar advice in NPF 4 Policy 7 Part g), sets out that consent should generally only be given where there are acceptable proposals for replacement development.

As detailed in the assessment for the parallel planning application (application reference: 23/00359/FUL), the demolition of these structures would enable the development of the site in a coherent and positive way. The proposed demolition will therefore not conflict with NPF 4 policy 7 g) or relevant HES interim guidance. It will have a neutral impact on the character and appearance of the conservation area and is acceptable, subject to planning permission being granted for an acceptable replacement development.

The demolition of the existing buildings is therefore acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the interim HES guidance.

Conclusion in relation to the conservation area

The proposals are acceptable in terms 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:

Archaeology

The Council's archaeological officer recommends that a programme of archaeological work is carried out during ground-breaking works associated with both demolition and construction in order to fully excavate and record any significant remains that may be disturbed but has not objected to the demolition.

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

Comments have been received from a neighbour, Morningside Community Council and The Architectural Heritage Society of Scotland who object to the proposals.

One letter of support has been received.

A summary of the representations is provided below:

material considerations

- demolition will facilitate development of an unsuitable, oversized hotel;
- proposals do not comply with NPF4 policy 7, LDP policies Env4 and Env9, or the Morningside Conservation Area character appraisal. The replacement building is too large, too high and inappropriate for this location. Materials proposed are not suitable;
- removal of parking will increase road safety concerns;
- traffic is a source of complaint on Canaan Lane;
- deliveries from the road will not prioritise pedestrians and
- where will bins and refuse be stored.

Conclusion in relation to other matters considered

The proposals do not raise any concerns in relation to other material considerations identified.

Overall conclusion

The proposed demolition of the existing garage and walls will preserve the character and appearance of Morningside Conservation Area. Thereby the proposed demolition accords with Section 66 of the Town and Country Planning Listed Buildings and Conservation Areas (Scotland) Act 1997 (The Heritage Act) and Historic Environment Scotland's Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (April 2019).

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

1. No demolition shall start until the applicant has confirmed in writing the start date for the new development by the submission of a Notice of Initiation of Development for planning permission application reference 23/00359/FUL.
2. No development shall take place until the applicant has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Planning Authority, having first been agreed by the City Archaeologist.

Reasons

1. In order to safeguard the character of the conservation area.
2. In order to safeguard the interests of archaeological heritage.

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.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 14 June 2023

Drawing Numbers/Scheme

1, 2A-4A

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Karen Robertson, Senior planning officer
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Appendix 1

Summary of Consultation Responses

NAME: City Archaeology

COMMENT: A condition is recommended to ensure that a programme of archaeological works is undertaken during demolition to fully excavate, record and analysis any significant remains that may be affected.

DATE: 4 July 2023

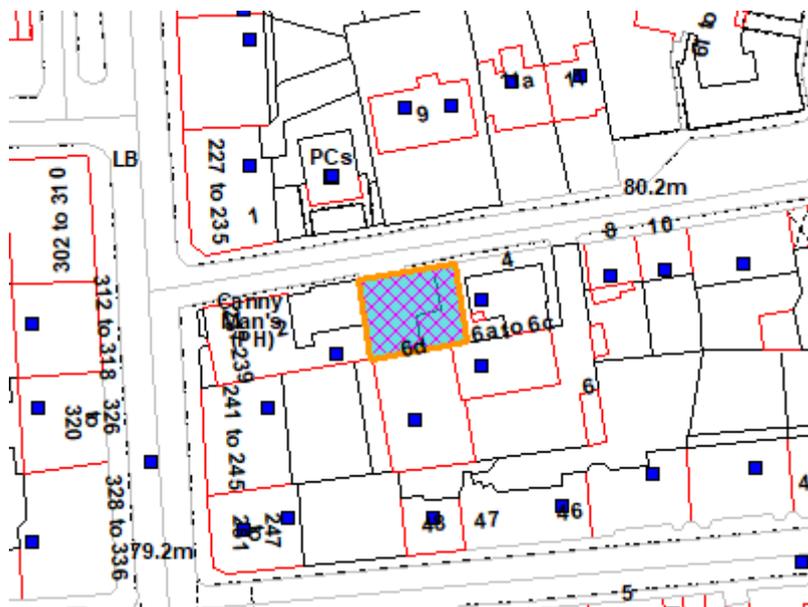
NAME: Historic Environment Scotland

COMMENT: No comments

DATE: 21 February 2024

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

Location Plan



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