

Format Design.  
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Holyrood Business Park  
146 Duddingston Road West  
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EH16 4AP

Ms Hamilton.  
Biscuit Factory  
4 - 6 Anderson Place  
Edinburgh  
EH6 5NP

**Decision date: 20 December 2023**

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

Part change of use of Class 5 factory building to proposed mixed-use development incorporating artisan workshops, events space, office space, general mixed business space (in retrospect).

At 4 - 6 Anderson Place Edinburgh EH6 5NP

**Application No: 23/01336/FUL**

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 27 March 2023, 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;

**Reason for Refusal:-**

1. The proposal is contrary to LDP Policy Ret 8 (Entertainment and Leisure Development - Other Locations). The proposal is not compatible with surrounding residential uses and will lead to a significant increase in noise, disturbance and on-street activity at unsocial hours to the detriment of living conditions for nearby residents.

2. The proposal is contrary to LDP Policy Hou 7 (Inappropriate Uses in Residential Areas). Given the history of noise complaints relating to the site, the potential for noise outbreak from the application site and the potential for extensive disturbance to be caused from on-street activity associated with the operation of the site, it is likely the proposed use of the site for events will have a materially detrimental impact on nearby residents.

3. The proposal is contrary to NPF4 Policy 23 (Health and Safety). The proposal is not compatible with surrounding residential uses and will lead to a significant increase in noise, disturbance and on-street activity at unsocial hours to the detriment of living conditions for nearby residents.

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

Drawings 01-05, 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:

The proposal is contrary to NPF4 and the Edinburgh Local Development Plan. The proposed events space would introduce a use and associated activities that have the potential to cause noise and disturbance, to the detriment of neighbouring residential amenity. Therefore, the principle of the proposal is unacceptable and contrary to relevant local development plan (LDP) policies that seek to protect residential amenity from potentially disruptive uses. There are no material considerations which outweigh this conclusion.

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 Christopher Sillick directly at [christopher.sillick@edinburgh.gov.uk](mailto:christopher.sillick@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](http://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](mailto: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 4 - 6 Anderson Place, Edinburgh, EH6 5NP**

**Proposal: Part change of use of Class 5 factory building to proposed mixed-use development incorporating artisan workshops, events space, office space, general mixed business space (in retrospect).**

**Item – Local Delegated Decision  
Application Number – 23/01336/FUL  
Ward – B12 - Leith Walk**

### **Recommendation**

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

### **Summary**

The proposal is contrary to NPF4 and the Edinburgh Local Development Plan. The proposed events space would introduce a use and associated activities that have the potential to cause noise and disturbance, to the detriment of neighbouring residential amenity. Therefore, the principle of the proposal is unacceptable and contrary to relevant local development plan (LDP) policies that seek to protect residential amenity from potentially disruptive uses. There are no material considerations which outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The site is the former Biscuit Factory on the corner of Anderson Place, it is still referred to colloquially by that name and is referred to as such in this report. The building is set back around 46 metres from Bonnington Road. The present building is a pre-war workshop building which was built sometime between 1932 and 1944. Although some Class 5 activities remain on site; including gin distilleries and a bakery, the site is used as a mixed-use arts and business hub with a range of Class 1A (financial, professional and other services), Class 4 (business), Class 5 (general industrial) and Class 6 (storage or distribution) uses in operation. The site is used for a range of one off events including weddings and live music. The mixed use of the building for these purposes has not been formalised through a planning consent.

## **Description Of The Proposal**

The present application seeks retrospective planning permission to formalise the mixed use of the site and seeks a change of use from the existing Class 5 use to a mixed use artisan workshop, business, general industrial and events space. The proposal includes mixed-use workshops on the ground floor, first floor and second floor with a total area of 851 square metres. The mixed-use workshops will allow Class 1A, Class 4, Class 5 and Class 6 uses. A maximum of 100 square metres of floorspace is proposed for retail use.

The proposal also includes Class 11 (assembly and leisure) to allow the use of the site for weddings, performing arts, and corporate events. Supporting information identifies that live music is to be an important part of the ongoing use of the site. Class 11 floorspace is proposed on ground floor and second floor levels and will take up a total of 753 square metres,

No physical changes to the building are shown in the supporting drawings.

## **Supporting Information**

- Planning Statement
- Noise Impact Assessment

## **Relevant Site History**

20/03841/FUL

4 - 6 Anderson Place

Edinburgh

EH6 5NP

Part change of use of Class 5 factory building to proposed mixed-use development incorporating artisan workshops, events space, office space, gymnasium and business space.

Refused

14 April 2022

## **Other Relevant Site History**

Relevant Site History

Enforcement Cases

27.04.2016 - No Breach - Alleged unauthorised change of use (reference 16/00061/ECOU)

06.09.2019 - No Breach - Alleged unauthorised change of use - former warehouse building operating as an arts hub and events space (reference 18/00688/ECOU).

Surrounding Area

11.10.2021 - Planning permission granted - Demolition of existing buildings and redevelopment comprising build to rent residential accommodation, commercial uses, associated landscaping and infrastructure (As Amended)(application reference 20/01932/FUL).

## **Consultation Engagement**

Environmental Protection

Transport Planning

Archaeology

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 12 April 2023

**Date of Advertisement:** Not Applicable

**Date of Site Notice:** Not Applicable

**Number of Contributors:** 0

## **Section B - Assessment**

### **Determining Issues**

Due to the proposals relating to a listed building(s), this report will first consider the proposals in terms of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development harming the listed building or its setting?
- 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 or its setting?**

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

- Managing Change in the Historic Environment: Setting.

The application site is located 114 metres to the south of the B listed Bonnington Bond Warehouse. The proposal does not include any external changes to the existing building. It will not have a detrimental impact on the setting of the listed building.

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

The proposal will not have a detrimental impact on the setting of the listed building.

### **b) 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 Policy 7 (Historic Assets and Places)
- NPF 4 Policy 15 (Local Living and 20-Minute Neighbourhoods)
- NPF 4 Policy 23 (Health and Safety)
- NPF 4 Policy 26 (Business and Industry)
  
- LDP Retail Policies Ret 6 and Ret 8;
- LDP Housing Policy Hou 7.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF4 Policy 7. The non-statutory 'Guidance for Business' is a relevant material consideration when considering the proposed change of use. The Bonnington Development Brief is also a material consideration in the assessment of the application.

### Setting of the Listed Building

NPF4 Policy 7 part c) states that Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.

This has been assessed in section (a) above. The proposal complies with NPF4 Policy 7 (Historic Assets and Places).

### Principle

The application site has operated for a number of years on an unauthorised basis as a mixed use space for artists, live music and a range of emerging businesses with a range of use classes; including Class 1A, Class 4, Class 5 and Class 6. This mixed use has included a range of one-off events ancillary to the use of the space as a mixed use arts venue. The operation of the site has also included some ancillary retail activity.

### *Class 1A, Class 4, Class 5 and Class 6 Uses*

NPF4 Policy 26 (Business and Industry) sets out relevant criteria relating to the location of Class 4, Class 5 and Class 6 uses. The application site is located within a wider allocation within the Edinburgh Local Development Plan 2016 which promotes the development of sites for employment use. Therefore, the principle of the development of the site for Class 1A, 4, 5 and 6 uses is generally supported. Although the surrounding area was historically industrial, the area is becoming increasingly residential in nature. The area is covered by the Bonnington Development Brief (produced in 2008) which sets out principles to guide the redevelopment of the area. The Development Brief sets out a presumption in favour of protecting the continued operation of sites for business, industry and storage purposes.

The proposed use of the site as a mixed-use arts and business space is consistent with the aspirations contained within the Bonnington Development Brief. The use of the site for these purposes would therefore be acceptable.

### *Retail Use*

LDP Policy Ret 6 (Out of Centre Development) is supportive of retail development outwith the Retail Core and Town Centre subject to a number of criteria.

No formal information has been provided in relation to qualitative and quantitative deficiencies in the area. In this case the proposal would lead to the provision of no more than 100 square metres of retail floor space. Given the small scale nature of this element of the proposal and the recognised expanding residential nature of the area, retail use is acceptable in this location. The provision of retail space in an easily accessible area, close to existing homes is consistent with the principles of the '20 minute neighbourhood' and the wider principles of sustainable development as set out in Policy 15 of NPF4.

The proposed retail use would be acceptable subject to a condition limiting the total floorspace for this element of the scheme to 100 square metres.

### *Class 11 Use*

The site has been used to host a range of live music events and other gatherings over a number of years. The use of the building in this manner is contrary to the building's lawful Class 5 use. In September 2020 the applicant submitted a planning application proposing the change of the use of the current building, seeking to formalise the use of the space for events and to support a mix of workshops (application reference

20/03841/FUL). This application was refused in April 2022 due to the failure of the applicant to provide a Noise Impact Assessment (NIA) demonstrating that the proposed activities would not negatively impact the amenity of neighbouring residential properties.

The current application also includes a significant Class 11 element. The proposed use of 753 square metres of the total unit floorspace for events (representing 47% of the total floorspace available) would not be incidental to the lawful Class 5 use of the site. A supporting statement provided by the applicant states that the "events space has been in operation for a while now and the "agent of change" principles are relevant to the ongoing operation of the site, in particular with regards to the adjacent development of the former John Lewis depot site."

Although the Agent of Change principle would protect the application site's use for Class 5 activities, it would not provide any right to continue using the site for the purpose of hosting live music, weddings and other events. No planning permission has ever been granted for the use of the site for these purposes and such uses do not reflect the lawful Use Class of the site.

LDP Policy Ret 8 (Entertainment and Leisure Development - Other Locations) is relevant to the assessment of whether the use of the site is appropriate for entertainment and leisure purposes. This policy states that entertainment and leisure development will be supported in such locations provided:

- a) all potential City Centre, or town centre options have been thoroughly assessed and can be discounted as unsuitable or unavailable;
- b) the site is or will be made easily accessible by a choice of means of transport and not lead to an unacceptable increase in traffic locally;
- c) the proposal can be integrated satisfactorily into its surroundings with attractive frontages to a high quality of design that safeguards existing character; and
- d) the proposal is compatible with surrounding uses and will not lead to a significant increase in noise, disturbance and on-street activity at unsocial hours to the detriment of living conditions for nearby residents.

In terms of LDP Policy Ret 8, part a) of the policy requires a sequential approach outlining that city centre or town centre options have been thoroughly assessed and discounted. The applicant has not provided supporting information that demonstrates that such a sequential approach has been undertaken.

In terms of criterion b) the site is accessible by public transport and the Roads Authority has not objected to the scheme. Criterion c) requires proposals to integrate into surroundings, creating attractive frontages to high level of design. In this instance the proposal does not include external changes to the building and does not conflict with this element of the policy. Compliance with criterion d) of LDP Policy Ret 8 and NPF4 Policy 23 is set out below.

NPF4 Policy 23 (Health and Safety) is also relevant. Part e) of the policy states development proposals that are likely to raise unacceptable noise issues will not be supported. The policy states that a Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely. The policy also states that the Agent of Change principle should be considered. As outlined above, the Agent of Change principle is not relevant to this proposed change of use.

Page 20 of the applicant's Planning Statement outlines that between 2015-2019 a total of 15 separate noise complaints were made in relation to the site by surrounding residents. The planning statement provided indicates that these complaints have mainly related to amplified noise from use of the second floor of the site for events. The applicant states that only two of these complaints were made after they took ownership of the site in 2019. However, the Planning Statement further acknowledges that on 29th January 2022 a DJ/live music event resulted in a number of noise complaints from surrounding residents and the attendance of the police. The applicant states that in this case the noise issues were due to participants failing to cooperate with management.

The Council's Environmental Protection Team has objected to the proposal on the basis that the use of the site for events will have a detrimental impact on neighbouring residential amenity. CEC Environmental Protection note that since 2015 the Council has had 24 noise complaints on record relating to the site and that 14 of these have been received since the latest owners of the site took over operations.

CEC Environmental Protection note in the consultation response provided, that the application site has limited noise insulation and so noise from internal operations has potential to travel far. In this regard, noise complaints due to activities held on site have been received by the Council from existing residential properties on Breadalbane Street, Bonnington Road, Anderson Place and Tinto Place. Although supporting information provided by the applicant suggests music events will typically conclude by 1am, Environmental Protection advises that noise generating activities have been alleged to have gone on as late as 3am at this site.

This noise does not just occur from the internal operations but also externally when people congregate outside to smoke and make use of an external seating area. Noise is also generated from the arrival of event operators, set up of events and also from the removal of equipment after events. Noise is further generated externally when members of the public arrive to events and leave, again with potential for this to be in the early hours when background noise would be expected to be low. Such external noise events are exacerbated by the fact that the surrounding area becomes reasonably quiet at night when background noise drops.

In correspondence with the Council, the planning agent acting on behalf of the applicant, has noted that not all noise complaints submitted to the council were independently witnessed by Council Officers from the Environmental Protection Team. The applicant has also provided explanations where possible for potential sources of noise associated with the complaints received by the Council and notes that complaints may have been associated with DJ nights, wedding events and a film shoot. However, in a number of cases the applicant states that staff were not visited by Environmental Protection Officers and the venue was not aware of noise complaints. In all instances where Council Officers have arrived on site, the applicant states they have complied with all requirements.

As part of the application the applicant has provided a Noise Impact Assessment which has assessed the potential impact of noise on neighbours and in particular the potential impact of noise on a recently consented residential scheme that neighbours the site (consented through application 20/01932/FUL).

In May 2020 application 20/01932/FUL gave consent for 453 build-to-rent flats in blocks adjacent to the Biscuit Factory on the north, west and south sides of the site, effectively surrounding it on three sides. This consent is hereafter referred to as the 'Platform development' within this report.

Due to the COVID-19 pandemic and associated lockdowns it was not possible for the applicant for the Platform development application to quantify the frequency of events being held at the Biscuit Factory, the noise associated with such events or the likely impact on future residents of the continued use of the Biscuit Factory to host events. The Report of Handling relating to the assessment of the Platform development noted that the applicant had taken some measures to limit noise exposure of potential future residents, including the introduction of recessed balconies and the sealing of some windows on gables facing the Biscuit Factory. Planning permission was granted for the Platform development subject to a condition stating that no development was to take place until a scheme for protecting the residential development from noise from the road and commercial, entertainment and plant noise had been submitted to and approved in writing by the Planning Authority.

Additional information was subsequently provided in 2022 to discharge this noise condition. Noise information submitted by the applicant for the Platform development notes that British Standard 8233:2014 sets out recommended maximum noise levels to safeguard public health. These levels are 35 Decibels (dB) in living rooms and bedrooms between 0700 and 2300 hours. A maximum level of 40 dB is recommended for dining rooms. After 2300 hours World Health Organisation Guidelines recommend that noise in sleeping areas should not exceed 30 dB. In terms of external amenity space it is stated that it is desirable that the noise level does not exceed 50 dB.

The applicant noted in supporting information that these levels could not be achieved when windows of living spaces are open. In order to achieve the recommended levels the applicant proposed to install high performance acoustic glazing across the development as well as mechanical ventilation which would allow all living spaces to be appropriately ventilated without the need to open windows. With these measures the applicant's Noise Consultant indicated it would be possible to achieve internal noise levels which would not exceed relevant guidelines. This assumed that events at the Biscuit Factory would not take place on the upper level after 2300 hours and also outlined the potential for the Biscuit Factory to undertake noise mitigation measures.

The Planning Authority considered the noise mitigation measures proposed for the Platform development and also took account of the refusal of application 20/03841/FUL which meant that the Biscuit Factory did not have planning permission to operate as an events venue. Subsequently the Planning Authority concluded it was appropriate to discharge the noise condition imposed on the Platform development.

As a new planning application has been submitted to formalise the use of 753 square metres of floorspace at the Biscuit Factory for events such as live music shows and weddings, a full and thorough assessment must be made of potential effects of the proposed use on surrounding residential amenity.

The NIA provided by the applicant, relating to the current application at the Biscuit Factory, acknowledges that complaints received from surrounding neighbours have typically been related to significant levels of amplified sound, particularly from the use of the second floor level. This area contains significant glazing and rooflights which are

not designed to contain sound. The applicant has recognised this acoustic weakness and has suggested the use of a management plan and/or a planning condition which would limit use of the second floor space for events to be no later than 11pm. The NIA then states that all 'significant' amplified sound events are proposed to be held on the ground floor after 11pm.

A programme of targeted amplified sound break-out testing was carried out in November 2021 on the existing ground and second floor event spaces in their current format. This confirmed sound escape from both the second floor and ground floor event spaces with noise levels between 51dB and 63dB measured at various points surrounding the Biscuit Factory.

The NIA results demonstrate that there would be a need for additional measures to ensure that all music noise egress from the ground floor event space is managed and within acceptable parameters. In order to mitigate the potential negative impact on residential amenity from the proposed events space, the NIA recommends a series of physical alterations to the existing building and the introduction of a venue Noise Management Plan. The Planning Statement provided by the applicant notes that all ground floor windows have been infilled with brick and an enclosed lobby has been introduced to limit sound escape from the west entrance. The NIA further recommends the repair of defective brickwork which is allowing sound escape and improvements and alterations to windows and doors to limit sound escape. These measures are not shown on the submitted drawings.

Other measures outlined to assist with external noise control include providing wayfinding and security on Anderson Place as required to ensure rapid processing into the venue which can be scaled up or down depending on the specifics of an event. Designated smoking areas are provided and can be stewarded at all times. Staff will be trained to ensure that customers are pre-warned of closing times and encouraged to move inside, ensuring that all customers have left areas where required. Ensuring staff keep doors and windows closed will also be required to ensure noise escape is limited. The NIA also acknowledges the potential for external noise associated with the movement of equipment before and after events. The NIA advises that this is best dealt with by staff training or putting up notices asking people to keep noise down.

The NIA advises that breakout noise from the Biscuit Factory affecting the neighbouring consented Platform development would be effectively mitigated with windows shut due to enhanced glazing used within that development. Mechanical ventilation means that future residents within this scheme will not need to open their windows to ventilate their homes.

The NIA focuses almost exclusively on the potential impact of amplified sound on the adjacent Platform development. The NIA offers no commentary on the impact of amplified sound on existing residents in other residential buildings on Anderson Place, Tinto Place and Breadalbane Street from where previous noise complaints have been received. The NIA suggests that the recently consented Platform scheme will provide some acoustic buffering which will limit the level of noise impacting surrounding properties. This is not quantified in any way.

The NIA also advises that the assessment indicated that broadband amplified sound break-out was most notable opposite the south facing entrance door of the Biscuit Factory on Anderson Place. Anderson Place will not be screened by the new properties

associated with the Platform development and will continue to be affected by noise from the Biscuit Factory. The NIA further states that low frequency sound was most notable at the listening position directly west of the venue (towards Tinto Place residential properties).

It should also be noted that surrounding residents on Anderson Place and other nearby residential streets do not necessarily have the same enhanced glazing or Mechanical Ventilation which will be implemented within the Platform development. The pattern of noise complaints from existing residential neighbours, received in relation to events operating from the Biscuit Factory since 2015 (both before and after the current operator took over the venue), show a demonstrable negative impact on surrounding residential amenity. Given that the NIA confirmed sound escape from both the second floor and ground floor event spaces with noise levels between 51dB and 63dB measured at various points surrounding the applicant site it is also considered there is potential for noise to negatively impact the use of existing external amenity spaces of surrounding residents (such as gardens and balconies). The NIA submitted by the applicant offers no commentary on this matter.

Although the current operator of the Biscuit Factory has committed to a Noise Management Plan and the implementation of a range of best management practices, these measures could not effectively be conditioned. The need for the police to attend the site and the noise complaints from members of the public relating to an event in January 2022 demonstrates the potential for management practices to be ignored to the detriment of surrounding residential amenity. It should also be noted that planning permission goes with the land and not the applicant. Even if the current operator was to try to operate events in line with a range of best management practices, such measures could not be guaranteed if the site was sold on to another operator. It should also further be noted that the applicant's NIA also identifies that ventilation of the Biscuit Factory relies on windows being opened at the venue. The need to ventilate the site by opening windows (and potentially doors) will also potentially exacerbate noise escape from the site.

With consideration to the discussion outlined above, the proposal does not comply with criterion d) of LDP Policy Ret 8 (Entertainment and Leisure Development - Other Locations). The proposal is not compatible with surrounding residential uses and will lead to a significant increase in noise, disturbance and on-street activity at unsocial hours to the detriment of living conditions for nearby residents.

### Amenity

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

The lawful use of the site is Class 5 (General Industry). This use class allows for a range of noise intensive uses to operate on sites and it is acknowledged that the site could return to an industrial use, with significant implications for neighbouring residents. Notwithstanding this situation, it is appropriate and correct for a full and thorough assessment to be made of the effects of the proposed use on residential amenity. The impact of the proposed development on neighbouring amenity has been considered in detail above.

Environmental Protection has recommended that the proposal is refused due to the likely negative impact the proposed events use will have on surrounding residents. Environmental Protection has outlined 24 separate noise complaints related to the site from surrounding residents since 2015 of which 14 have been made since the current operator took over the site.

Given the history of noise complaints relating to the site, the potential for noise outbreak from the application site and the potential for extensive disturbance to be caused from on-street activity associated with the operation of the site, it is likely the proposed use of the site for events will have a materially detrimental impact on nearby residents.

The proposal is contrary to LDP Policy Hou 7.

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

The proposed events space would introduce a use and associated activities that have the potential to cause noise and disturbance, to the detriment of neighbouring residential amenity. Therefore, the principle of the proposal is unacceptable and contrary to relevant local development plan (LDP) policies that seek to protect residential amenity from potentially disruptive uses. There are no material considerations which outweigh this conclusion.

The proposal conflicts with LDP Policies Ret 8 and Hou 7.

### **c) 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 on the Proposed City Plan 2030 and its supporting documents. These documents have now been submitted 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 City Plan 2030 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

No representations were made from members of the public.

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

No material considerations have been identified which would outweigh the conclusion above.

### **Overall conclusion**

The proposed events space would introduce a use and associated activities that have the potential to cause noise and disturbance, to the detriment of neighbouring residential amenity. Therefore, the principle of the proposal is unacceptable and contrary to relevant local development plan (LDP) policies that seek to protect residential amenity from potentially disruptive uses. There are no material considerations which outweigh this conclusion.

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

The recommendation is subject to the following;

### **Reason for Refusal**

1. The proposal is contrary to LDP Policy Ret 8 (Entertainment and Leisure Development - Other Locations). The proposal is not compatible with surrounding residential uses and will lead to a significant increase in noise, disturbance and on-street activity at unsocial hours to the detriment of living conditions for nearby residents.
2. The proposal is contrary to LDP Policy Hou 7 (Inappropriate Uses in Residential Areas). Given the history of noise complaints relating to the site, the potential for noise outbreak from the application site and the potential for extensive disturbance to be caused from on-street activity associated with the operation of the site, it is likely the proposed use of the site for events will have a materially detrimental impact on nearby residents.
3. The proposal is contrary to NPF4 Policy 23 (Health and Safety). The proposal is not compatible with surrounding residential uses and will lead to a significant increase in noise, disturbance and on-street activity at unsocial hours to the detriment of living conditions for nearby residents.

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

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

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

**Date Registered: 27 March 2023**

## **Drawing Numbers/Scheme**

01-05

Scheme 1

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

Contact: Christopher Sillick, Planning Officer  
E-mail:[christopher.sillick@edinburgh.gov.uk](mailto:christopher.sillick@edinburgh.gov.uk)

## Appendix 1

### **Consultations**

NAME: Environmental Protection

COMMENT: There is serious concern from Environmental Protection that this application will make an already existing noise issue considerably worse and that the proposal will impact upon residential amenity by way of noise.

Environmental Protection therefore recommends that the application be refused.

DATE: 22 August 2023

NAME: Transport Planning

COMMENT: No objections to the proposal.

DATE: 17 April 2023

NAME: Archaeology

COMMENT: Given that the application will not require substantial physical changes to the structure, it has been concluded that there are no, known, archaeological implications regarding this application.

DATE: 19 March 2023

The full consultation response can be viewed on the Planning & Building Standards Portal.

## Appendix 2

### **Application Certification Record**

#### **Case Officer**

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: Christopher Sillick

Date: 15 December 2023

#### **Authorising Officer**

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Kenneth Bowes

Date: 20 December 2023

## Memorandum

**To** Head of Planning  
City of Edinburgh Council  
Planning and Transport  
Place  
Waverley Court  
4 East Market Street  
Edinburgh  
EH8 8BG

F.A.O Local Planning Team 1

**From** John A Lawson

**Date** 19<sup>th</sup> April 2023

**Your ref** 23/01336/FUL  
**Our ref** 23/01336/FUL

To whom it may concern,

### 4 - 6 Anderson Place

Further to your consultation request I would like to make the following comments and recommendations concerning this application for the part change of use of Class 5 factory building to proposed mixed-use development incorporating artisan workshops, events space, office space, general mixed business space.

The application concerns the former biscuit factory built during the inter-war and a locally important survival of the areas light industrial heritage dating back to the early 19<sup>th</sup> century. Given that the application will not require substantial physical changes to the structure, it has been concluded that there are no, known, archaeological implications regarding this application.

Please contact me if you require any further information.

Yours sincerely



**John A Lawson**  
Archaeology Officer



To: Christopher Sillick  
From: Colin Brown, Environmental Protection, Place

Date: 22/08/23

**TOWN AND COUNTRY PLANNING SCOTLAND ACT 1997  
PART CHANGE OF USE OF CLASS 5 FACTORY BUILDING TO PROPOSED MIXED-USE DEVELOPMENT  
INCORPORATING ARTISAN WORKSHOPS, EVENTS SPACE, OFFICE SPACE, GENERAL MIXED BUSINESS  
SPACE AT 4 - 6 ANDERSON PLACE, EDINBURGH, EH6 5NP.  
REFERENCE NUMBER: 23/01336/FUL**

I refer to the above and would advise that Environmental Protection objects to the application proposal based on likely amenity impacts by way of noise.

The proposed uses include 753 square metres of Class 11 events space covering weddings, functions, birthdays, performing arts and fringe events, corporate events (e.g. gin tastings) and gym uses covering most of the ground floor and around half of the second floor. Class 11 can also include a disco and significant amplified sound.

The Biscuit Factory is arranged over three floors with events space, office space, gin distillery and bakery at ground floor, commercial and studio space at first floor, and events space, office space and workshop space at second floor. There is also an outdoor area on Anderson Place, which has a small number of customer tables associated with the ground floor event space.

The lawful use of the site is Class 5 and existing breweries continue to operate on-site. The whole site could be used for industrial use. A number of Class 4, Class 5 and Class 6 businesses operate from the site. Given the lawful Class 5 use of the site, the applicant could change to Class 4 or 6 under permitted development rights.

The current planning application seeks to formalise the flexible use of the building for the future, facilitating an eventual application for a venue licence.

The site has existing nearby residential properties and new residential properties have been consented which are immediately adjacent to, and will wrap around, the application premises (20/01932/FUL).

Special events to date (weddings, live music, etc.) have been facilitated using occasional licences, the requirements of which have varied. Typically, live music events may conclude by 0100h, however later licences have previously been granted. The NIA advises that the intention is to stop club nights although live music in the ground floor event space will remain a key feature, which may comprise bands or DJs. Such events can be amplified, very loud, cannot all be restricted by a noise limiter and are of significant concern to this team when considering impacts upon residential amenity. The NIA states that the surrounding newly consented development has included mitigation and been designed to accommodate such uses. This would require the occupants to keep windows closed at the very least and even then, it would be unlikely that amplified music noise would be completely stopped. Therefore this team is not in agreement with this conclusion, nor does it agree that occupants of noise sensitive properties should be required to keep their windows closed (i.e. unable to purge ventilate their properties) in order to protect themselves from late night noise.

The Council has a number of existing noise complaints on record due to operations held at the Biscuit Factory. These relate to operations and activities held on site which were unlicensed and licensed on a temporary basis. The NIA advises that the complaints occurred before the existing owner took control of the premises as the current proprietors have had control of the space since May 2019. However the Council has 24 noise complaints on record, received since 2015 which originated from premises' events with 14 of those complaints having occurred since the latest owners took control of operations. The Biscuit Factory premises has limited noise insulation and so noise from internal operations travels far. In this regard, noise complaints due to activities held on site have been received by the Council from as far as Breadalbane street, Bonnington Road, Anderson Place and Tinto Place. These noisy activities have occurred during licensed and unlicensed events, have included music and alleged to have gone on till 3am. Noise does not just occur from the internal operations but also externally when people congregate outside to smoke, when leaving to go home at night and when utilising the external seated area. Such external noise events are exacerbated by the fact that the surrounding area becomes reasonably quiet at night when background noise drops.

In addition, Environmental Protection has already raised the issue of noise from the Biscuit Factory within an objection to planning application 20/01932/FUL on the basis of noise from the Biscuit Factory is highly likely to impact upon the amenity of those proposed properties. There are serious concerns that existing operations from the Biscuit Factory will not only impact upon surrounding existing residential properties but also the newly proposed properties which will be even closer to the Biscuit Factory.

This application will allow for the the intensification of the noisier licensed events by regularising the existing licensing/planning issues that the applicant is presently trying to address by gaining appropriate planning consents.

A noise impact assessment has been provided in support of the application which outlines mitigation measures designed to reduce noise impacts on the surrounding residential properties. These measures include the following complementary elements to improving the containment of amplified sound from The Biscuit Factory ground and second floor event spaces and limiting any residual adverse effects. These include:

- A venue Noise Management Plan.
- Improvement of Anderson Place main door entrance lobby by upgrading doorsets (minimum acoustic performance of each double doorset 30dB Rw).
- Repair defective brickwork on bricked up ground floor windows.
- Replace fire escape doorset by the ground floor stage area exiting to the north with appropriately specified acoustic doorset (minimum acoustic performance of escape doorset 35dB Rw).
- Introduce drywall partition to create improved acoustic separation between front of house and back of house areas and west stairwell.
- Ensure doorset from front of house to back of house has equivalent acoustic performance, taking into account any fire regulation requirements.
- Replace key essential internal doorsets around the event spaces to improve containment of sound.
- Remove windows at the back of top floor fire escape and closure of the aperture (brick up and drywall lining as required).
- Retain drapes / stage blacks and introduce additional appropriately specified sound absorptive materials in both event spaces to reduce reverberant sound levels.

#### Hours of operation

- Second floor event space will not be used for events featuring amplified sound and will be restricted to use by weddings or small parties with background level music only, until such time in

the future as all necessary repairs and additional mitigation works have been completed and tested for efficacy.

- All activity in the second-floor event space to conclude by 2300hrs.

In addition, the NIA recommends suitable sound system design however this team is of the opinion that such measures can be in part bypassed (e.g. by a live band or DJ) and are not seen as a reliable measure to adequately deal with noise breakout.

The NIA advised that The Biscuit Factory is committed to upgrading the Anderson Place lobbied access doors to contain sound more effectively, and security will be in place during live events to ensure that these doors remain closed, **in so far as is reasonably practicable**. The implication is that it will not always be practical to stop music from escaping the premises when the doors are opened.

It is common to find that ventilation and cooling of such spaces (especially in summer) can exacerbate noise breakout as windows are opened by staff and visitors. The NIA advises that this is an issue which will require considerable thought and recommends mechanical ventilation. However the report does not consider the noise implications of such plant or indicate where it will be sited. It is likely that an external condenser unit will be required which has noise implications for surrounding residential properties.

In addition, the NIA advises that key to noise reduction from the premises is a management commitment to cease all amplified sound in the second-floor event space by 2300h, and to undertake all events where significant amplified sound is the focus in the ground floor venue. The NIA also advises that the venue operators no longer wish to pursue club night events with a late licence. However, such restrictions cannot be secured through planning condition and whilst the existing operator may be able to provide such commitments, there is no guarantee that future owners will abide by such commitments.

The NIA also advises that the mitigation and management measures proposed, combined with the physical screening between The Biscuit Factory and the closest existing dwellings afforded by the new student and buy-to-let development will ensure that any residual effects will be acceptable at these existing locations. This is concerning as it would imply that the new student and buy to let development will act as a noise barrier and thus will be affected by noise from operations. Such an approach is not supported by this team and is likely to lead to noise complaints being received by the Council.

The NIA advises that the current operators recognise this existing acoustic weakness in the building and have agreed to limit the use of the second-floor space to events with limited amplified sound profile, including ceasing use of the space for any amplified sound after 2300hrs. In other words, amplified music will occur on the second floor and noise could impact upon surrounding noise sensitive properties up to 2300 hrs. This is likely to mean significant impacts upon residential amenity. The NIA goes on to advise that sound break out from the second-floor events space was significantly louder and noticeable during the assessment, due to the large area of glazing in this space, much of which requires refurbishment. Therefore, concerns remain that any part of the second floor will be used for music events at any time of the day.

The NIA advises that all significant amplified sound events will occur in the ground floor event space, the ability of which to contain sound effectively has been examined and is discussed in the NIA report. The NIA states that the operators have established a range of deliverable measures, which will improve acoustic containment in the future, as well as a Noise Management Plan to assist with the control of amplified sound egress, and control of other operational noise as required. It should

be noted that noise management plans are not able to be conditioned through planning and will not in the opinion of this team guarantee that noise will be suitably controlled as sometimes such issues can be outwith management control (e.g. external noise, DJ turning up the volume, shouting etc). Amplified music events will continue to occur until the early hours within the ground floor.

The NIA advises that a programme of targeted amplified sound break-out testing was carried out in November 2021 to quantify amplified sound break-out from existing ground and second floor event spaces in their current format. This NIA advises that a noise breakout assessment was undertaken during the period that the developers of planning application 20/01932/FUL (adjacent residential development) were seeking to discharge Condition 5 attached to Planning Consent and sought the cooperation of The Biscuit Factory to determine typical worst case amplified sound levels to select appropriate glazing. The NIA advises that the data and mitigation were accepted by CEC and the condition discharged. In other words, a closed window assessment was utilised to assess whether amplified noise from the Biscuit Factory would impact on those new properties. Such measures are not and were not supported by this team as occupants should be allowed to purge ventilate and not be affected by noise. In addition, it should be noted that even if (with closed windows) noise levels were assessed against this new development, this does not mean that other surrounding properties e.g. Anderson Place, Tinto Place, Breadalbane Street etc where previous noise complaints have been received from will not be affected by noise from the Biscuit Factory activities. Indeed, the NIA advises that the assessment indicated that broadband amplified sound break-out was most notable opposite the south facing entrance door on Anderson Place. Anderson Place will not be protected by the new properties and will continue to be affected. Low frequency sound was most notable at the listening position directly west of the venue (towards Tinto Place residential properties).

It is also likely that certain events will require vehicles to shift equipment late at night after the event. Such loading and unloading of vehicles can be noisy and could impact upon surrounding residential properties. The NIA advises that this is best dealt with by staff training or putting up notices asking people to keep noise down e.g. not to shout. This issue has not been assessed within the NIA and the experience of this team indicates that those undertaking the loading are not associated with the venue and so such noise is almost impossible to control. This issue remains a concern as such activities will become prevalent should this application be consented.

Other measures outlined to assist with external noise control include providing wayfinding and security on Anderson Place as required to ensure rapid processing into the venue which can be scaled up or down depending on the specifics of the event. Designated smoking areas are provided and can be stewarded at all times. Staff will be trained to ensure that customers are pre-warned of closing times and encouraged to move inside, ensuring that all customers have left areas where required. It is the experience of this team that such measures rarely achieve suitable or consistent noise control and noise is therefore likely to impact upon surrounding residential amenity. Other measures outlined in the NIA (e.g. encouraging patrons to wait for taxis inside instead of outside or telling delivery drivers to turn off engines) are not consistently reliable and in the experience of this team, are difficult for staff to enforce.

There is serious concern from Environmental Protection that this application will make an already existing noise issue considerably worse and that the proposal will impact upon residential amenity by way of noise.

Environmental Protection therefore recommends that the application be refused.

Should you wish to discuss the above please contact me on 0131 469 5802.

**MEMORANDUM**

**To:** Planning Officer  
Local1 Team

**From:** Transport  
Kofi Appiah

**Our Ref:** 23/01336/FUL

**23/01336/FUL  
4 - 6 ANDERSON PLACE  
EDINBURGH  
EH6 5NP**

**TRANSPORT CONSULTATION RESPONSE**

**Summary Response**

No objections to the application

**Full Response**

**TRANSPORT  
Kofi Appiah  
Transport Officer**