

Development Management Sub Committee

Wednesday 21 February 2018

**Application for Planning Permission 16/06447/FUL
At 14 Bath Street, Edinburgh, EH15 1EY
Retention of principal facade of former cinema building
(including partial restoration of missing elements) and the
erection of a residential building comprising 20 flatted
dwellings including garages, car parking and associated
landscaping.**

Item number 6.2(a)

Report number

Wards A17 - Portobello/Craigmillar (Pre May 2017)

Summary

The demolition of the auditorium is justified due to its inability to be repaired. Retaining and restoring the frontage, is beneficial to the character of the listed building and the character and appearance of the conservation area. Redevelopment as residential use is acceptable. Impact on neighbouring amenity and the amenity of the proposed units is acceptable. Parking and road safety concerns are acceptable. No other considerations outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LHOU01, LHOU02, LHOU03, LHOU06, LEN02, LEN04, LEN06, LDES01, LDES03, LDES04, LDES05, LTRA02, LTRA03, NSG, NSLBCA, NSGD02, CRPPOR,

Report

Application for Planning Permission 16/06447/FUL At 14 Bath Street, Edinburgh, EH15 1EY Retention of principal facade of former cinema building (including partial restoration of missing elements) and the erection of a residential building comprising 20 flatted dwellings including garages, car parking and associated landscaping.

Recommendations

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

Background

2.1 Site description

The property is a vacant former cinema, last serving as a bingo hall, standing on Bath Street, the main approach road to Portobello beach from Portobello High Street.

The existing building was designed in 1938/39 but built either during or slightly after the Second World War. Although intended to look like a solid concrete structure, it is actually brick-built with a thin rendered cement skin, standing on a concealed timber frame. The frontage has several added outer layers over the original frontage. The frontage has been stripped of all its original projecting glazed features, and its central tower has been truncated, giving a much lower and flatter form than that originally built. Internally the front section contains the entrance lobby, stairs and projection room, but these areas have been stripped of most original features.

To the rear the building's character is very different. This section contains the auditorium. Externally this section is a simple rendered brick box with a corrugated asbestos roof. Steel uprights (paired C-sections) are visibly expressed as thin "pilasters". Brickwork is only half a brick thick here, despite its great height, and it is not structurally connected to the steel uprights. Steelwork is corroded through where it connects to ground level. It is noted that the outer render contains layers of asbestos.

Internally, the currently accessible lower auditorium is plain and relatively featureless. Its proportions are compromised by a suspended ceiling, and this space is of no intrinsic architectural merit. Above the suspended ceiling the original form and ornamentation remains substantially intact. This includes the entire upper balcony, which although lacking seating, retains its original form and structure. However, it is noted that this ornamentation, though remaining fairly intact above the suspended ceiling, also contains a high percentage of asbestos fibre, rather than being pure plaster.

The structure as a whole was listed category C on 12 December 1974 (reference number: 26818).

The site contains three mature trees along its eastern edge onto Mentone Terrace, but is otherwise wholly hard-surfaced, with tarmac creating an informal (non-delineated) parking area.

On its west side the cinema abuts a substantial five storey Victorian tenement, rising higher than the current remnant cinema structure.

Bath Street as a whole is varied in character, with buildings dating from 1810 to contemporary, and with scales varying from one storey to five storeys. The carriageway is narrow, and although a two-way street, parking on each side restricts car movements to a single car travelling in one direction at any given time.

To the rear, Mentone Terrace is a residential street of more consistent character than Bath Street, which wraps around the north-east corner of the site. Mentone Terrace is cottage-like in character on its western side, and more tenemental in character on the east and to the north.

This application site is located within the Portobello Conservation Area.

2.2 Site History

20 July 2017 - refusal of a pair of linked applications requesting the total demolition of the existing building and erection of 21 flats (application numbers: 16/02052/FUL and LBC). This differs from the current applications in that demolition also included the entire frontage, and no justification was given for this.

A current parallel application seeks listed building consent for the demolition of the main auditorium, remodelling/restoration of the frontage and new-build elements to the rear (application number: 16/06449/LBC).

Main report

3.1 Description Of The Proposal

The application proposes demolition of the entire rear auditorium. Redevelopment creates a new rear form which, in combination with the retained and restored frontage section, creates 20 residential flats. The accommodation comprises three one-bedroom units, 14 two-bedroom units, and three three-bedroom units.

The frontage is largely restored to its original profile and outer envelope, reinstating lost glazed features and the central pinnacle (to their original 1930s form). This work also includes removal of the existing outer skin of rendered wooden boards, framed out in timber from the main brick structure to mimic poured concrete. This is instead re-rendered direct onto the structure. The entrance canopy is not included within the restored elements. This element is trimmed in its projection and filled to create a new outer lobby.

It is noted that the front access is illustrated as is, with a wide set of steps. Level access is only shown to the rear (see section 3.3 h) of the Assessment).

To the rear, the main auditorium is replaced by a six storey development, rising to the same height as the previous structure. This steps inward on its top floor, creating a subservient "attic" level.

Outer walls are to be white rendered to repeat the outer finish of the original building. All roofs are of flat membrane construction.

Open landscaped space totals around 250 square metres. 21 car parking spaces are provided to the rear of the building, accessed from Mentone Terrace. The loss of one tree to the north-east is necessitated in order to create this rear car park.

Supporting Statements

Additional documents submitted with the application include: Supporting Statement; Asbestos Survey (in 3 parts); Structural Survey; Original Warrant Drawings clarifying the original design and intended structure; Statement on Affordable Housing; Summary of Resident Comments received via Community Council.

These documents are available to view on the Planning and Building Services Online Services.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of consent.

In considering whether to grant consent, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. For the purposes of this issue, preserve, in relation to the building, means preserve it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character.

Do the proposals comply with the development plan?

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

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

3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) the demolition aspects are justified;

- b) the principle of residential use is acceptable;
- c) the works have an acceptable impact on the character and appearance of the conservation area;
- d) the new-build elements have an acceptable effect upon the character of the listed building;
- e) parking and road safety are acceptable;
- f) impact on neighbouring amenity is acceptable;
- g) amenity of the proposed flats is acceptable;
- h) other issues are considered;
- i) public comments are addressed; and
- j) equality and human rights are considered.

a) Principle of Demolitions

The principle of demolition of the rear auditorium is central to the redevelopment.

Although the building is listed category C, and therefore would not normally attract comments from Historic Environment Scotland, the application attracts HES comment and assessment due to the substantial demolition involved. The degree of demolition also requires the application of Local Development Plan policy Env 2 - Listed Buildings - Demolitions.

The arguments for demolition are discussed in detail in the parallel application for listed building consent (application reference 16/06449/LBC). In summary, that assessment concludes that the rear auditorium "is incapable of repair" and therefore accords with policy Env 2 and criteria ii) of Section 3.48 of the HESPS test. HES have withdrawn their objection to the demolition of the auditorium following a site inspection and consideration of additional information. The auditorium may therefore be demolished.

It is noted that neither the Council policy nor the HESPS test specifically consider partial demolition nor reconstruction or restoration elements within a mixed demolition proposal such as this. To this end, the proposal is considered in two halves: the demolition of the auditorium (then replaced with a new-build structure); and the retention and partial restoration of the frontage. The restoration of the frontage is considered in section 3.3 d) below.

b) Principle of Residential Use and Type

Policy Hou1 of the Local Development Plan (LDP) considers sites suitable for housing development. Bath Street is a primarily residential street and residential use is acceptable in principle, subject to other policy requirements being met.

Policy Hou 4 - Housing Density considers the appropriate density for developments. In this instance 20 units on a site of 1425 square metres equates to 140 units per hectare. This density is less than other tenemental blocks on the street and is acceptable in principle.

Policy Hou 6 - Affordable Housing considers the requirements of a development to provide affordable housing. The size of the development (20 units) lies exactly on the cusp between on-site provision or commuted sum. On-site provision (which would require five affordable units) is impractical given the nature of the development. Following negotiation, the applicant has now agreed to a commuted sum of £187,500 towards off-site affordable housing provision. This approach is agreed as acceptable. The sum will be secured through a legal agreement.

Policy Hou 2 looks at housing mix. The site is not sufficiently large to accommodate both flats and houses and a development of solely flats is acceptable in this context. The range of unit sizes is adequate (see section 3.3 g).

c) The Impact of the Scale, Form and Design on the Conservation Area

The Portobello Conservation Area Character Appraisal specifically mentions the building: *Between the wars, when Portobello was in its heyday, a number of buildings were constructed in the modern style. The former cinema in Bath Street remains.*

Policy Env 6 Conservation Areas - Development considers preservation of existing features of value and looks at the importance of new buildings blending with the existing character.

The existing cinema forms an iconic landmark within Portobello, the distinctive character of the ex-cinema being distinctly different from the wider Portobello character in terms of age, materials and architectural form.

On the frontage, the applicant proposes a radical (but generally restorative) alteration, recreating several missing features. This restoration is based on archival evidence. The restoration includes recreation of the central fin and replacement of missing glazed sections on the flanking projections. The two main areas of variation from the original design on the frontage is the truncation and infilling of the projecting ground floor canopy, and the addition of "shoulders" to the built form at roof level. Whilst the loss of the large cantilever effect of the existing entrance canopy has a large impact, this feature appears to be non-original in its existing form. Moreover, this impact is outweighed by the other restorative works on the frontage, and it is they, rather than the ground floor treatment, which will dominate the net impact upon streetscape character. Other elements of change to the frontage include additional windows in the frontage. However, these in their own right, do not compromise the overall design concept. The overall change proposed on the frontage would recreate much of the original design intent, and would be highly beneficial both to the character of the building and to the character of Bath Street and the wider conservation area,

To the rear, the existing auditorium is externally utilitarian in form and design and has no intrinsic design merit. Replacement of this element with the proposed smaller footprint, of increased articulation and design interest, would enhance the character and appearance of Mentone Avenue. The proposed flat-roofed form complements the existing Art Deco style of the frontage. Render is acceptable due to its existing use on this site. The net change to the rear is an improvement on the current form and would greatly benefit the streetscape on Mentone Terrace and be of benefit to the wider conservation area character.

In conclusion, both alterations to the front and new-build to the rear, will benefit the character and appearance of the conservation area.

It is noted that the proposed location of the bin store (on the main corner) is considered insensitive and likely to impact negatively on the setting of the listed building. In relation to the scheme as a whole this is readily remedied without impact upon the wider concept. The location of the bin store is therefore further reserved, being encouraged to be sited to the rear of the building.

In conclusion, both the restored frontage and the new-build element to the rear improve the character and appearance of the conservation area, meeting policy Env 6.

d) Impact of New Build Elements upon the Listed Building Character

Considering the frontage as a separate entity, it is retained and partially restored, thereby falls under the umbrella of policy Env 4 - Listed Buildings and Extensions (rather than policy Env 2). The majority of the works on the frontage are restorative. The entrance canopy is excluded from these restorations but is noted that this feature is non-original.

The new-build elements to the rear are subservient to the retained frontage and will complement its design. The form is articulated and the footprint is reduced in relation to the existing auditorium. Bearing in mind that the loss of the auditorium is conceded, the impact of the new-build elements on the character of the remaining listed building is acceptable.

The works improve the character of the retained frontage, meeting policy Env 4.

e) Parking and Road Safety

Access to the site is via the existing road network and positioned close to the existing site access on the north-east corner. The new access necessitates the loss of one tree (see section 3.3h).

A total of 21 parking spaces are created, six of which are within an undercroft section at the rear of the building. Access to the area remains from Mentone Avenue, but is moved southwards onto the straighter section of road. The Roads Authority has no objection to the level of car parking provision or its layout.

Although cycle storage is not illustrated, and the absence of cycle parking is not justified, there is sufficient space on site to resolve this issue. A planning condition is added, requiring provision of a secure on-site cycle store.

f) Impact on Neighbouring Amenity

The existing rear auditorium causes considerable overshadowing to the houses to north and east on Mentone Avenue. Reduction in the building's rear bulk greatly benefits daylight and physical appearance on Mentone Avenue. Positive impact is especially great to 10 Mentone Avenue, which currently physically attaches to the rear of the cinema and is currently heavily overshadowed.

The re-addition of a central spike on the frontage, despite its additional height, has minimal impact due to its highly restricted width. Also, due to the stepped form of the upper additions on the south side, the additional bulk of the "shoulders" at attic level (when viewed from the south) has no further impact on houses opposite.

Edinburgh Design Guidance considers privacy in terms of the prevailing urban pattern. Privacy distances within the development on both Bath Street and Mentone Terrace are similar to other existing properties on these streets. Some of the proposed windows on the rear western flank overlook the common rear green of 12 Bath Street. However, as a common green, this is already overlooked by multiple owners, and therefore this area will not suffer any undue loss of privacy.

The impact on neighbouring privacy and amenity is acceptable.

g) Amenity of the Proposed Units

Edinburgh Design Guidance considers minimum space standards and amenity levels for new housing. The proposal creates a mixture of unit sizes from one-bedroom to three-bedroom which will complement the existing range of units on the street. One-bedroom units vary from 52 to 77 square metres; two-bedroom units vary from 73 to 77 square metres; and three-bedroom units vary from 88 to 97 square metres. All units exceed Council minimum size guidelines and will have adequate daylight. All units are dual aspect.

Open space totals around a quarter of the site and meets policy Hou 3 Private Green Space in Housing Development. Although much of the landscaped areas at ground floor will largely link to the three ground floor, main-door, units, the absence of open space pertaining to upper floors is not a reason to resist the proposal, as the site lies only slightly over 100 metres from Portobello beach, which gives good amenity provision.

It is noted that a high number of the units have private terraces and/or balconies, which further complement amenity provision.

Amenity of each unit is considered acceptable.

h) Other Issues are Addressed

The proposal involves the loss of one of the three mature trees along the eastern boundary. Loss of this tree is necessitated due to creation of an access to the car park and is acceptable.

The proposal lacks a DDA compliant access to the front, and the existing steps at the entrance are part of the listed form. Whilst this can be viewed to some extent as repeating the existing status quo (the cinema having been built in this non-compliant form and the bingo hall never having resolved this issue) there remains potential to add a compliant ramp to the west side without major compromise to the form or design. A condition is added to require a ramped access to be added to the west side.

The site is known to be contaminated with asbestos. A full decontamination investigation report is required on the site and all remedial works will be complete prior to commencement of new-build elements. A condition is added to address this.

The site potentially has archaeological interest and a condition is added to address this issue.

No education contribution is required for the development (submission and consultation pre-date current protocols).

There is no known flood risk on the site.

i) Public Comments

The proposal attracted substantial support and even more substantial objection. Supporters saw the scheme as a good restoration of the frontage and a good new use for a problem building. Objectors raised the following issues:

Material

- The existing building is capable of re-use - this is addressed in section 3.3 a) of the assessment.
- There is no need for further flats in Portobello - this is addressed in section 3.3 b) of the assessment.
- Demolition is unacceptable - this is addressed in section 3.3 a) of the assessment.
- Parking and road safety concerns - this is addressed in section 3.3 e) of the assessment.
- Impact on neighbouring amenity - this is addressed in section 3.3 f) of the assessment.

Non-material

- The building should be given to the community.
- Impact on property values.
- Disturbance during demolition and reconstruction.

Reasons for Support

- The scheme creates a restoration of the frontage.
- The existing rear of the building is inappropriate to the street and conservation area.
- The scheme brings a derelict building back into use.

Portobello Community Council

The community council comments may be read in full in Appendix 1.

In summary, the community council objected to the proposal and sought an alternative community use for the building. They also questioned several elements within the Supporting Statement and associated documents and the adequacy of these.

However, there is adequate information to assess the application and the case for demolition is already argued in section 3.3 a) above.

j) Equalities and Human Rights

The proposals do not give rise to any equalities or human rights issues.

Conclusion

The demolition of the auditorium is justified. Redevelopment as housing, retaining and restoring the frontage, is beneficial to the character of the listed building and the character and appearance of the conservation area. Impact on neighbouring amenity and the amenity of the proposed units is acceptable. Parking and road safety concerns are acceptable. No other considerations outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.
2. Details of a disabled access ramp placed on the frontage, towards the west side shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.
3. Details of secure cycle storage for all residents, and revised bin storage and location, shall be submitted for the further approval of the Planning Authority prior to commencement of works. Approved provision to be in place prior to the first occupation of the development.
4. 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.
5. The pavement along the northern boundary to be reconstructed as a continuous pavement, removing the former access to the site. This work to be completed prior to occupation of the development.

6. a) A site survey (including intrusive investigation where necessary) must be carried out to establish, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and

b) Where necessary, a detailed schedule of any required remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning Authority.

Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided for the approval of the Planning Authority.

Reasons:-

1. In order for the Planning Authority to consider this matter in detail.
2. In order that the building may be DDA compliant.
3. In order for the Planning Authority to consider this matter in detail.
4. In order to safeguard the interests of archaeological heritage.
5. In the interests of pedestrian safety.
6. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.

Informatives

It should be noted that:

1. The decision notice shall not be released until the applicant has entered into a suitably worded legal agreement with the Council to ensure a commuted sum of £187,500 towards affordable housing.

Financial impact

4.1 The financial impact has been assessed as follows:

The application requires a legal agreement agreeing a sum of £187,500 towards off-site affordable housing provision.

Risk, Policy, compliance and governance impact

5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 27 January 2017.

415 representations were received: 261 in objection and 154 in support. A full assessment of these representations can be found in section 3.3. i) of the report.

Background reading/external references

- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development
Plan Provision**

The property lies in the Portobello Conservation Area as shown in the Edinburgh Local Development Plan (LDP).

Date registered

29 December 2016

Drawing numbers/Scheme

1-10,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

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Links - Policies

Relevant Policies:**Relevant policies of the Local Development Plan.**

LDP Policy Hou 1 (Housing Development) sets criteria for assessing the principle of housing proposals.

LDP Policy Hou 2 (Housing Mix) requires provision of a mix of house types and sizes in new housing developments to meet a range of housing needs.

LDP Policy Hou 3 (Private Green Space in Housing Development) sets out the requirements for the provision of private green space in housing development.

LDP Policy Hou 6 (Affordable Housing) requires 25% affordable housing provision in residential development of twelve or more units.

LDP Policy Env 2 (Listed Buildings - Demolition) identifies the circumstances in which the demolition of listed buildings will be permitted.

LDP Policy Env 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

LDP Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) supports development where it is demonstrated that existing and potential features have been incorporated into the design.

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

Relevant Non-Statutory Guidelines

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

Non-Statutory guidelines Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

The Portobello Conservation Area Character Appraisal emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high quality architecture, and the predominant use of traditional building materials.

Appendix 1

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Consultations

City of Edinburgh Council - Structures

Defects to the structural frame, external rendering, and lack of ties to the masonry external walls, would not make it viable to repair the defects even to a standard to maintain its current use.

Upgrading of the existing roof sheeting would also entail strengthening of the original truss roof members to comply with current standards.

Any attempt to change the use of the building or introduce additional floors will require underpinning of existing foundations and major strengthening works to the existing structure frame.

The extent of the temporary works and installation of wall ties and restraints to carry out the strengthening will require removal of internal finishes to the auditorium.

The Asbestos report by AIR Greenair Environment highlight the fact that there is in excess 960 sq m of asbestos (chrysotile and amosite) contained in the lining, ceilings and ornamentation within the auditorium which will require to be removed under licence.

Having reviewed the Intrusive Visual Inspection Report February 2017 by Harley Haddow Consulting Engineers I concur that the auditorium/main hall of the building has now reached the end of its serviceable life.

Historic Environment Scotland (final comments following a site visit)

Following receipt of your re-consultation of 25 May we have reconsidered our position in light of further information, which included a site inspection, and now withdraw our objection to the demolition of the auditorium at 14 Bath Street.

In our original objection letter we stated the supporting information failed to focus on addressing the requirements of the demolition tests contained within the Historic Environment Scotland Policy Statement, and fell short of what is expected to justify substantial demolition of this C-listed building. Further information in the form of an Intrusive Visual Inspection Report has now been submitted. Beforehand, only a visual inspection had been undertaken.

We are tending to concur with the conclusion of the Report which states the 'level of repair and upgrading required would necessitate major intrusive works, and likely involve the partial demolition and rebuild of key elements.' This appears to be backed-up by the Report's findings. In considering the decorative scheme to the auditorium, which is fixed directly to the internal face of the brick wall panels (which are not tied into the steel frame), the implication is that any repair works are likely to result in the substantial removal of brickwork and destruction of the internal wall finish. It is also noted that the presence of asbestos in the wall and ceiling linings will also complicate any repair scheme and almost certainly result in the loss of the remaining ornamental finishes.

This suggests an argument for removing the auditorium is being formed on the basis that it is incapable of being repaired, thereby addressing demolition test b) of the Historic Environment Policy Statement. However, this connection to policy is not made explicitly clear and your Council may also wish to investigate further e.g. with independent engineering advice the contents of the Report. It would be interesting to hear why this situation is different from, say, the former Odeon in Clerk Street, a building of similar vintage (including a more economically built auditorium) which has had asbestos removed without loss of finishes.

The removal of the auditorium, particularly its surviving finishes, would represent a significant negative impact on the special interest of the listed building, and is not a way forward we support. However, if the extent of repair of walling and asbestos removal means the interior decoration of the auditorium cannot be salvaged, we would be inclined to be pragmatic, rather than argue for reinstatement of a partially surviving interior.

In turning to the proposals for the frontage block. The condition of the front façade is considered, as noted in the Report, not to be as severe as the auditorium. We also note that the existing external cementation cladding system (fixed to the façade by battens) is not original and we therefore have no issue with its removal.

The importance of handling re-instatement of missing architectural features was also highlighted in our original response. While recognising the conservation benefits which can potentially be achieved by restoration, again not a requirement for owners of listed buildings, the importance in achieving accuracy was stressed. We would again repeat our advice that any restoration should conform to the original character of the building, which would discourage new openings and the addition of new floors. Our prime aim in this process is to retain the listed status of the building, which would be achieved by repairing (minus any alterations) of the front elevation. We therefore encourage a more sensitive conservation-based approach to the façade, including the removal of several proposed windows. The risk of allowing more extensive alterations is the de-listing of the building.

We consider more scope exists for cladding and colour options as the level of surviving information may not allow an accurate replication of the original scheme.

In summary, the new information presented has allowed us to better understand the current structural condition of the auditorium. Further investigation will potentially be able to establish more precisely the extent of both the walling and decorative scheme which can be repaired in-situ and retained. However we do consider that sufficient doubt now exists over the feasibility of retention. If the auditorium is removed, your Council must consider the full range of proposals for the listed building and we would advise improvements in the handling of the front façade are negotiated to ensure its retention as a Category C-listed building.

We hope this is helpful, however if you wish clarification on our advice we would be happy to discuss further.

Planning authorities are expected to treat our comments as a material consideration, and this advice should be taken into account in your decision making. Our view is that the proposals do not raise historic environment issues of national significance and therefore we do not object. However, our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on listed building/conservation area consent, together with related policy guidance.

Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/. Technical advice is available through our Technical Conservation website at www.engineshed.org.

As this application involves the demolition of the auditorium at 14 Bath Street (substantial demolition of the listed building), if consent is granted there is a separate requirement through section 7 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 (as amended) to allow us the opportunity to carry out recording of the building. To avoid any unnecessary delay in the case of consent being granted, applicants are strongly encouraged to complete and return the Consent Application Referral Form found at www.historicenvironment.scot/about-us/what-we-do/survey-and-recording/threatened-buildings-survey-programme.

Historic Environment Scotland (initial comments)

We object to the application as we do not consider the substantial demolition of the Bingo Hall at 14 Bath Street, Portobello (originally the County Cinema) to be justified with the information currently presented. The information does not focus on addressing the requirements of the demolition tests contained within the Historic Environment Scotland Policy Statement, and falls short of what is expected to justify the loss of this Category C-listed building. If further information becomes available we may be able to re-assess our position.

Significant of 14 Bath Street.

The former County Cinema opened in 1939 and is an important example of the work of Thomas Bowhill Gibson (1895-1949), a specialist in Cinema architecture of the inter-war period. Alterations carried out in the 1950s and 1970s have impacted upon the original external appearance and internal layout, notably the removal of the central tower feature, lowering of adjacent stepped walls and the insertion of a suspended ceiling to the auditorium. Nevertheless, the building remains a good example of a purpose-built Art Deco cinema of the late 1930s. The survival of the original decorative scheme to the auditorium, above the suspended ceiling, is also significant. We consider the building has both architectural and historical merit which is reflected in its listed status.

The proposal is for the substantial demolition of 14 Bath Street and subsequent development of 21 residential units. The principal façade and returns would be retained and re-worked, including re-instatement of the central tower feature. The remaining elevations and interior, including the auditorium, would be removed.

Focusing on the range of works being brought forward to the principal façade, we would question how much of this elevation would remain afterwards? The re-cladding, alterations and additions (even if packaged as re-instatement of missing architectural elements) will have the potential to result in the loss of a significant amount of existing fabric. In a scenario where substantial (if not complete) re-building of the façade is required this has the potential to result in the de-listing of the building.

The authentic restoration of missing architectural features on listed buildings is an approach we often welcome, although it should be noted that restoration is not a requirement of owners of listed buildings. While we can see the benefits of a well-considered restoration of Gibson's principal façade by re-instating the central glazed tower, we would question if a re-instatement approach could mitigate the loss of the significant original 1930s auditorium.

In considering the detail of the new tower and alterations, we note this is far from an exact replication/restoration and includes additional floors and the provision of new window openings in a façade notable for their absence. The original two-tone blue colour scheme is also not proposed for re-instatement. While we wouldn't argue that restoration of the colour scheme is critical, we would suggest that the detailed handling of the tower and further alterations to the façade (including the provision of a fourth and fifth floor) is critical if re-instatement is to be pursued. The character of the original building would be much changed by the 'restoration' proposed. Again this may, as above, result in the building being delisted.

In summary, we consider the loss of the interior (specifically the auditorium) and the impact of alterations and additions on the principal façade would result in significant negative impact on the listed building. Due to the level of removal currently proposed, your Council has confirmed the application will be considered as substantial demolition.

Policy Context

The presumption of national policy, as set out in Scottish Planning Policy (SPP), is that listed buildings should be protected from demolition work or other works that would adversely affect it or its setting. It is expected that an application for demolition demonstrates that one of the Historic Environment Scotland Policy Statement tests can be met;

- a. the building is not of special interest; or
- b. the building is incapable of repair; or
- c. the demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
- d. the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.

Demolition Tests

The information currently presented with the application does not provide a robust argument for the loss of the listed building against the demolition tests. While information on the building's importance, condition and economic viability is provided the link to the demolition tests is not specifically made. In considering the information in more detail;

Importance of the building

We consider the building to have merit, as noted above, which is recognised by its listed status. The listing was reviewed as part of the Cinemas Thematic Study in 2007-8. We have not been asked to look again at the listing, however as it was recently reviewed as part of the wider cinemas thematic study it is unlikely that we will come to a different view now. If the applicant asks for a review we will of course give that request consideration if all interested parties, including your Council, agree to this taking place. This would need to be undertaken to justify demolition under test a).

Condition

We note the conclusion of the structural report that the building is structurally in a sound condition. The presence of asbestos is not unexpected or uncommon in a former cinema from the 1930s and by itself does not justify demolition - we have examples of other former cinemas in Edinburgh that have successfully removed asbestos prior to undertaking a scheme of refurbishment and alteration. If the presence of asbestos represents particular challenges then we would ask that these are explained in more detail. As it currently stands, we don't consider it has been proved the building is incapable of repair - test b).

Economic Viability

The supporting statement does not prove the repair of the building is economically unviable which appears - although not explicitly - to address test d).

The decline in bingo as a recreational pastime is recognised and we are inclined to agree that alternative uses will be required for the building. If the owner of a listed building is unable to secure a viable scheme of adaptive re-use (which hasn't been conclusively proved), test d). also requires marketing of the building at a price reflecting its location and condition to potential restoring purchasers for a reasonable period. It is stated the building has been marketed for a period of three years with potential purchasers either withdrawing their interest or, in the case of the local community council, not being considered credible. However, without knowing the terms and conditions of sale or the asking price for the building it is hard to judge what serious interest has been generated. We have evidence that the building has been marketed at a price reflecting its redevelopment potential rather than its true worth as a listed building to be retained. It appears to us at this stage a more open and transparent marketing process needs to be undertaken if test d) is to be met. We would be happy to input into such a process.

Conclusion

We do not consider that a case for demolition of 14 Bath Street has been made in terms of relevant policy and guidance.

We would be happy to meet you and the applicant to discuss our concerns in more detail should that be helpful, and to discuss how development at the site can be potentially brought forward with retention of the listed building. Alternatively, we would be happy to review our position if further information becomes available which addresses one or more of the Historic Environment Scotland Policy Statement demolition tests.

If you are minded to grant consent, with or without conditions, you are required under the terms the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015 to notify Scottish Ministers.

Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes. Technical advice is available on our Technical Conservation website at <https://www.engineshed.org/>.

As this application involves the demolition of a listed building, if consent is granted there is a separate requirement through section 7 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 (as amended) to allow us the opportunity to carry out recording of the building. To avoid any unnecessary delay in the case of consent being granted, applicants are strongly encouraged to complete and return the Consent Application Referral Form found at www.historicenvironment.scot/about-us/what-we-do/survey-and-recording/threatened-buildings-survey-programme.

City Archaeologist

This C-listed former bingo hall lies at the centre of the historic settlement of Portobello and at the heart of its conservation area. The building was constructed as the town's cinema in 1938 and reflects the Art Deco style of the period. Originally called the County Cinema the building underwent alterations in 1954 and finally closed as a cinema in 1974, thereafter trading as a bingo-hall. Prior to cinema's construction, historic mapping including John Woods 1824 Plan of the town, shows that site was occupied by a Georgian villa one of the earliest buildings on Bath Street and constructed during the initial phases of development of the street laid out in 1802 for the soon to be constructed public baths.

As such the site has been identified as containing occurring within and area being of archaeological and historic significance both in terms of buried archaeology and the surviving listed former Cinema. Accordingly, this application must be considered under terms Scottish Government's Our Place in Time (OPIT), Scottish Planning Policy (SPP) and Historic Environment Scotland Policy Statement (HESPS) 2016 and also CEC's Edinburgh Local Development Plan (2016) Policies ENV2, ENV8 & ENV9. The aim should be to preserve archaeological remains in situ as a first option, but alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be an acceptable alternative.

Historic Buildings

The development will require the significant loss of the Auditorium of this C-listed Art Deco former cinema. Such an action by its very nature must clearly be considered as having a significant adverse impact as it would lead to the loss of a main architectural element of this locally significant historic building. However, the impact is lessened in part by the aims to retain the important Art Deco facades and also the aim to retain and reuse salvaged architectural details within the scheme.

Therefore, it is considered that this application is broadly acceptable in archaeology terms. However, if permission is granted it is essential that an archaeological historic building survey (level 2/3: surveyed phased plans and elevations, photographic and written survey) of the existing building is undertaken prior to and during demolition, in order to provide a permanent record of this important historic structure. This will build upon the original architect's drawings located within the RTPi archives in the NMRS held by HES. In addition, a conservation plan should be undertaken to identify what significant architectural elements can be retained and how they will be retained within the new building.

Buried Archaeology

The proposed scheme will require extensive ground breaking works relating to proposed demolitions and construction. Such works may disturb significant archaeological remains not only relating to the towns Georgian development in particular the pre-1824 Georgian Villa shown Wood's Plan, but also potentially relating to Portobello's early pottery industry. It is therefore essential if consent is granted, that a programme of archaeological excavation is undertaken prior to/during development in order to fully excavate, record and analysis any significant remains affected by demolition, landscaping & construction.

It is recommended that these programmes of works be secured using the following condition in order not only to fully record this historic building but also any associated buried remains;

'No demolition nor development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, historic building recording reporting and analysis, conservation, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.

Waste Management

Waste and Cleansing Services takes no stance either for or against the proposed development but as a consultee would make the following comments.

Waste and Cleansing Services would expect to be the service provider for the collection of waste as this appears to be a residential development.

The planning application refers to a bin store being used for storage of waste and recycling. However, we need to quantify appropriate capacity for waste and recycling streams to ensure waste and recycling requirements have been fully considered.

The provision of a full recycling service is mandatory in Scotland. Developers must make provision for the full range of bins: landfill waste, mixed recycling for paper and packaging, glass and food.

It is imperative that adequate provision is made for the storage of waste off street, and that cognisance is taken of the need to provide adequate space for the storage of segregated waste streams in line with the Waste (Scotland) Regulations.

The waste collection teams will require safe and efficient access to these from the earliest occupation. Developers need to ensure that services are accessible so that collection crews can provide the service in a safe and efficient manner, taking account of turning circles, length and width of vehicles, distance bins must be pulled, surfaces, slopes and so on.

Children and Families

The Council has assessed the impact of the growth set out in the LDP through an Education Appraisal (Updated December 2016), taking account of school roll projections. To do this, an assumption has been made as to the amount of new housing development which will come forward ('housing output'). This takes account of new housing sites allocated in the LDP and other land within the urban area.

The Council's assessment has identified where additional infrastructure will be required to accommodate the cumulative number of additional pupils from development. Education infrastructure 'actions' are set out in the Action Programme and current Supplementary Guidance on 'Developer Contributions and Infrastructure Delivery'.

Residential development is required to contribute towards the cost of the required education infrastructure to ensure that the cumulative impact of development can be mitigated. To ensure that the total cost of delivering the new education infrastructure is shared proportionally and fairly between developments, Education Contribution Zones have been identified and 'per house' and 'per flat' contribution rates established.

Assessment and Contribution Requirements

Assessment based on:

17 Flats (3 one bedroom flats excluded)

This site falls within Sub-Area P-1 of the 'Portobello Education Contribution Zone'. No education infrastructure actions have been identified for this part of the Zone, as set out in the Action Programme and Supplementary Guidance.

Although the proposal will be expected to generate one additional primary school pupil, additional education infrastructure is not required to mitigate its impact.

No contribution towards education infrastructure is therefore required.

Roads Authority

Whilst there are no objections to the application in principle, the application should be continued to:

- provide a cycle store
- provide a suitable wheelchair access on the frontage

Environmental Assessment

Ground conditions relating to potential contaminants in, on or under the soil as affecting the site will require investigation and evaluation, in line with current technical guidance such that the site is (or can be made) suitable for its intended new use/s. Any remediation requirements require to be approved by the Planning & Building Standards service. The investigation, characterisation and remediation of land can normally be addressed through attachment of appropriate conditions to a planning consent (except where it is inappropriate to do so, for example where remediation of severe contamination might not be achievable).

The applicant should also make provisions for electric vehicle charging points to serve the proposed private car parking spaces. There may be grant funding available from the Energy Saving Trust to assist.

Environmental Protection offers no objections subject to the following condition;

- i) Prior to the commencement of construction works on site:

a) A site survey (including intrusive investigation where necessary) must be carried out to establish, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and

b) Where necessary, a detailed schedule of any required remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning Authority.

ii) Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided for the approval of the Planning Authority.

Informative

Charging outlet (wall or ground mounted) should be of the following standard:

Type 2 (EN62196-2), Mode 3 (EN61851-1) compliant and be twin outlet. With the ability to supply 22 kW (32 Amps) AC - Three Phase power and have the ability to be de rated to supply 11 kW to each outlet when both are in use. Where this is not possible then 7 kW (32 Amps) AC - Single Phase chargers that have the ability to deliver power of 7 kW capacity to each outlet simultaneously.

Affordable Housing

Thank you for providing the information on the development at Bath Street. We are happy that all possibilities in providing on site affordable housing have been explored. We agree that a commuted sum would be the most appropriate affordable housing contribution for this site.

Having received evidence of the purchase price of the site (£750,000) a commuted sum for 25% of the land value at £187,500 will be required. This will form the basis of our affordable housing consultation response.

Flooding

No comments on this application.

Portobello Community Council

Portobello Community Council objects to the above applications concerning 14 Bath Street, Portobello. The new owners and the agent for the application attended our meeting on November 28th last year asking for feedback on their new proposals for re-development. To that end we ran a short consultation to gather the views of the community, a summary of which is attached. We received 263 responses with the following results.

- o On changing the use to residential: 70% object, 9% neutral, 21% support.
- o On the proposals themselves: 73% object, 7% neutral, 21% support.

Whilst there is some support for residential development, and the façade retention to keep some of the character of the building, there is also significant opposition to the development just as with the previous applications for the site. The existing building is held in high regard by people and is of considerable local importance. Whilst the building may not be in the best of conditions, and has been altered over the years, it is still highly valued for its architectural style, its history within the community, and as a functional space.

A large number of people responding to the proposals have expressed the desire to see the building continue to function in public use, and the possibilities for that must be explored in detail. When it comes to the proposed development concerns have been expressed about the scale, massing, over-development, over-shadowing, and the impact of traffic and access in what is a very congested area.

In addition, we must also point out the following factual inaccuracies within the application:

Planning Statement 4.02 - Portobello Community Council have never expressed any interest in the purchase of the property, nor approached the then owners in any way at all. This statement was included on the previous application, and its inaccuracy highlighted then too.

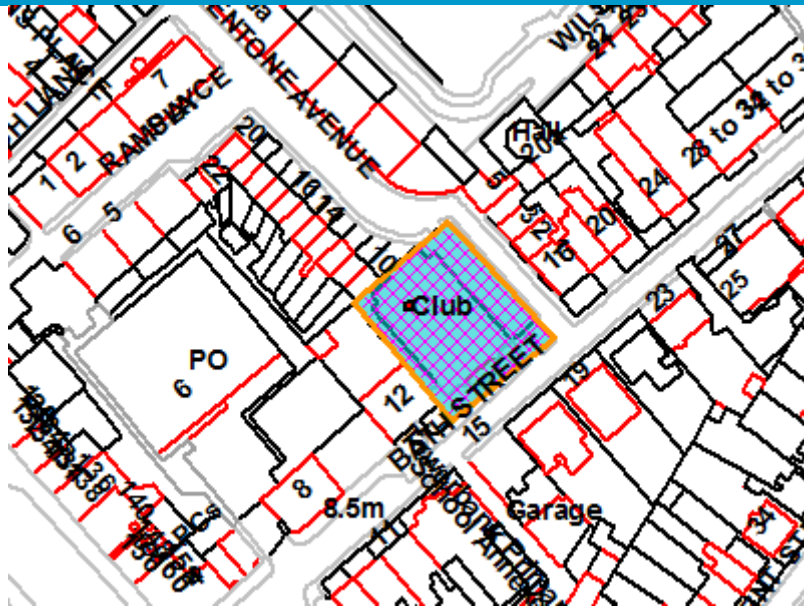
Planning Statement p2, item 3.0 - Portobello Community Council received a copy of a feasibility study by Out of The Blue regarding this property. Out of the Blue concluded there was nothing further they could do at this stage, given they do not own the property. The community council has no position on this. Likewise another unrelated group in the local community is currently pursuing purchase of Bellfield Church via Urban Community Right to Buy. The community council's interest in this only in raising awareness and sharing information - we are not purchasing a church.

Given the reasons previously given to refuse demolition both of these issues need to be corrected. They build up a picture of attempts to find alternative uses, which have been unsuccessful. They are inaccurate and have never occurred.

Given these clear errors we feel the veracity of all claims made as part of the submission must be scrutinised carefully, with supporting evidence provided. The Listed status of the building is a recognition of its local importance and that designation should not be set aside without robust examination.

In short we feel that: the Application has failed to demonstrate a case for the demolition of what is a highly valued local building: that the proposed re-development would be detrimental to local character and amenity: and that local opinion seems decisively in favour of rejecting both applications.

Location Plan



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