

# Report of Handling

## **Application for Listed Building Consent 16/02052/LBC At 14 Bath Street, Edinburgh, EH15 1EY Demolition of existing category C listed Bingo Hall.**

<b>Item</b>	Delegated Decision
<b>Application number</b>	16/02052/LBC
<b>Wards</b>	A17 - Portobello/Craigmillar

### Summary

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The proposal fails to meet the requirements of policy Env2 - Demolition of Listed Buildings and policy Env5 - Demolition in Conservation Areas and has neither demonstrated that an alternative use cannot be found nor that the building cannot be economically repaired.

### Links

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<a href="#"><u>Policies and guidance for this application</u></a>	LPC, CITE2, CITE5, NSG, NSLBCA,
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# Report of handling

## Recommendations

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**1.1** It is recommended that this application be Refused for the reasons below.

## Background

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### 2.1 Site description

The existing building is an eclectic Art Deco cinema, designed by T. Bowhill Gibson (a specialist in cinema design) in 1938 (completed 1939). Although stripped of much of its external glazed features it is still recognisable as an important piece of cinema design. It was listed category C on 12.12.1974 ref.26818. The building was previously known as the "George" Cinema. It sits as a landmark building within the streetscape which is otherwise of more traditional character, but ranging widely in scale: from Georgian bungalows to tall Victorian tenements. This application site is located within the Portobello Conservation Area.

### 2.2 Site History

The property has been on Edinburgh's Buildings at Risk register for several years.

A parallel application for planning permission to erect 21 flats has been lodged (16/02052/FUL)

## Main report

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### 3.1 Description Of The Proposal

The application proposes demolition of the listed building to clear the site for residential development (subject of a parallel application for planning permission).

A Supporting Statement (including a condition report) was submitted with the application.

### 3.2 Determining Issues

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

### 3.3 Assessment

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

- a) demolition on the listed building is acceptable
- b) impact on the character and appearance of the conservation area is acceptable
- c) public comments are addressed

a) Policy Env2 considers demolition of listed buildings. This is complemented by the Historic Environment Scotland Policy Statement 2016 (HESPS 2016). This test replaces the former SHEP test. It is noted that supplementary guidelines on historic theatres and cinemas also exist within the Cinemas Thematic Study 2007-8.

Policy Env 2 states that demolition of listed buildings will only be supported in exceptional circumstances, taking into account:

- a) the condition of the building and the cost of repairing and maintaining it in relation to its importance and to the value to be derived from its continued use.
- b) the adequacy of efforts to retain the building in, or adapt it to, a use that will safeguard its future, including its marketing at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.
- c) the merits of alternative proposals for the site and whether the public benefits to be derived from demolition outweigh the loss.

Both SHEP and HESPS effectively reiterate these principles plus add one additional requirement: that the building is not of architectural or historic merit. In order to demolish a listed building an applicant must demonstrate compliance with at least one of the four principles within these guidelines. The building, as a rare surviving example of 1930s cinema architecture, is of both architectural and historic interest. As an existing listed building in reasonable condition the first requirement cannot be met. The proposal does not involve a scheme of benefit to wider community. This leaves two remaining considerations: appropriate marketing; and ability to repair.

The Supporting Statement addresses a small element of each of these tests, but is not laid out in accordance with the tests.

In particular, marketing appears to have based valuation upon a cleared site. This is completely counter to the principles of both the SHEP test and HESPS test which require all attempts to be made to save the existing building in its existing form. Appropriate marketing should demonstrate that no-one will buy or lease the property as a restorative purchaser at a price reflecting restoration rather than redevelopment value.

Equally, whilst the building's condition is not perfect, the building is far from dangerous, and is capable of repair to at least a basic standard of being wind and water-tight. There is no evidence that repair of the building to a basic standard is either impossible or uneconomic.

In conclusion, none of the four requirements of either the HESPS 2016 or the SHEP test are addressed and the submission does not correctly meet these tests in any respect. None of the three requirements of Env2 are met.

It is not accepted that the building has no capability of re-use.

Demolition of the property is therefore not acceptable.

b) Policy Env5 considers demolition in conservation areas. Its application is parallel to policy Env2 above.

Loss of the existing building would cause a major change to the character and appearance of the conservation area and has not been justified. The impact upon the conservation area due to the building's loss is not acceptable.

The replacement building in its own right would not require listed building consent and does not require assessment as part of this application. This is assessed in the parallel application for planning permission (16/02052/FUL).

c) The application attracted substantial public objection to the principle of the loss of the building (273 letters of objection). Support for the proposal was minimal (two letters) and did not outweigh other considerations.

Other issues raised such as parking, loss of amenity etc. form part of the parallel assessment of planning permission but are not material to the assessment of listed building consent.

Portobello Community Council's comments are included within the appendix on Consultations.

### Conclusion

It has not been demonstrated that the building is incapable of sale or lease, and the building is not beyond economic repair. Demolition of the listed building has not been justified.

It is recommended that this application be Refused for the reasons below.

### **3.4 Conditions/reasons/informatives**

#### **Reasons:-**

1. The proposal is contrary to Edinburgh City Local Plan Policy Env 2 in respect of Listed Buildings - Demolition as the building is of historic and architectural interest and:

- a) the condition of the building is not incapable of repair;
- b) marketing has been at a value reflecting redevelopment rather than restoration; and
- c) the proposal does not give any public benefit

2. The proposal is contrary to Edinburgh City Local Plan Policy Env 5 in respect of Conservation Areas - Demolition of Buildings, as the proposal would result in the loss of a building of historic and architectural importance to the character and appearance of the conservation area.

## Risk, Policy, compliance and governance impact

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

## Equalities impact

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### 5.1 The equalities impact has been assessed as follows:

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

## Consultation and engagement

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### 6.1 Pre-Application Process

There is no pre-application process history.

### 6.2 Publicity summary of representations and Community Council comments

The application was advertised on 20 May 2016.

275 representations were received of which only two supported the proposal.

All objections spoke strongly against the loss of this iconic listed building.

## Background reading / external references

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- To view details of the application go to

[Planning and Building Standards online services](#)

**John Bury**

### Statutory Development Plan Provision

**Date registered** 9 May 2016

**Drawing numbers/Scheme** 1-6

Scheme 1

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### **Relevant Policies:**

#### **Relevant policies of the Edinburgh City Local Plan.**

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

Policy Env 5 (Conservation Areas – Demolition of Buildings) sets out criteria for assessing proposals involving demolition of buildings in conservation areas.

#### **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.

# Appendix 1

## Consultations

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### Historic Environment Scotland

Historic Environment Scotland has considered your consultation and objects to the proposals.

We object to the demolition of the Bingo Hall at 14 Bath Street, Portobello (originally the County Cinema) on the grounds that the information currently presented to justify loss of this C-listed building falls short of what is expected and raises wider issues for the historic environment. If further information becomes available we may be able to re-assess our position.

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.

As you will be aware, 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 following tests can be satisfied;

- 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.

The information currently presented with the application does not provide a robust argument for the loss of the listed building against these tests.

In our analysis of the supporting information, much of the argument appears centred on the view that better examples of 1930s cinemas survive in Edinburgh, i.e. the B-listed Dominion Cinema, and that it is very unlikely anyone will be interested, or have the financial means, to restore the building. This information appears to be more applicable to tests a) and d) above; however, the link to policy is not made explicitly

clear within the application. In any case the second point is not relevant as, although it may be desirable, the listed status of a building does not bind an owner to full restoration.

We consider the building to have merit, as noted above, and the listing was reviewed as part of the Cinemas Thematic Study in 2007-8. In order to meet test a), the building should not meet the criteria for listing, a decision that would be made by the Designation Team at Historic Environment Scotland. 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.

The supporting statement does not prove the repair of the building is economically unviable as required by the first part of test d). The decline in bingo as a recreational pastime is noted and we are inclined to agree that alternative uses will be required. 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 considered credible. However, without knowing the terms and conditions of sale or the asking price for the building (we understand it is still on the market) it is hard to judge what serious interest has been generated. 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.

In turning very briefly to look at test b) and c). We note some of the limitations on the structural survey, however no evidence is presented to suggest the building is incapable of repair as required by test b). The conclusion of the report is that the building is structurally in a sound condition. The benefits that would be secured by demolition and re-development of the site, test c), are not, in our view, of the level expected, which should be of a national, or least regional, importance.

We would be happy to meet with the applicant and your Council to discuss our concerns in more detail and look for a way forward. Several former listed cinemas/ Bingo Halls have been repaired and reused in other parts of Edinburgh and we would suggest there may be scope for several alternatives to demolition at Bath Street. While we would hope to discuss such alternatives, we would also be willing to talk in more detail with the applicant over the requirements of the demolition tests.

If, however, your Council is minded to grant consent, with or without conditions, you are obliged under Section 12 of the above Act and the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015 to notify Scottish Ministers.

#### Note

Detailed guidance on the application of National policy is set out in our 'Managing Change in the Historic Environment' series available online at <http://www.historic-scotland.gov.uk/managingchange>. Technical advice is available through our Technical Conservation website at <http://conservation.historic-scotland.gov.uk/>.



## **Portobello Community Council**

Whilst not a statutory consultee the community council's comments are included here as a useful summary of the community view:

Having publicized the proposals and encouraged people to give their views, it is clear from the responses that 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. The overwhelming majority of people responding to the application 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 arguments put forward by the Applicant as to why the building is no longer viable we have concerns, in particular with the following passage:

"4.02 The first enquiry was made by the Local Community Council. This Body proposed to utilise the property for general community purposes including meetings, local events and promotions. This bid fell when the Community Council were unable to demonstrate the ability not only to fund the essential every day running costs but also to finance the necessary conversion costs."

This paragraph from the Applicant's supporting statement is untrue. Portobello Community Council has made no enquiries about the building, has not made any proposals to use it for general community purposes, has not investigated any such possibility, and has not undertaken any assessment of financing such a proposal. It is concerning that such incorrect information has been provided, and we also note that incorrect drawings have been submitted that exaggerate the height of the existing building's front elevation. 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, especially when there are parties interested in continuing the use of the building.

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