

Appeal Decision Notice

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Decision by Frances McChlery, a Reporter appointed by the Scottish Ministers

- Conservation area consent appeal reference: CAC-230-2001
- Site address: 1 Canonmills Bridge, Edinburgh EH3 5LF
- Appeal by Glovart Investments Ltd against the decision by City of Edinburgh Council
- Application for conservation area consent reference 15/01786/CON dated 15 April 2015 refused by notice dated 4 September 2015
- The works proposed: Demolition of existing building
- Date of site visit by Reporter: 17 December 2015

Date of appeal decision: 28 January 2016

Decision

I allow the appeal and grant conservation area consent subject to the two conditions listed at the end of this notice. Attention is drawn to the advisory note also at the end of the notice.

Reasoning

1. Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. With that in mind, the determining issue in this appeal is the effect on the character and appearance of the Inverleith Conservation Area, were the building to be demolished.
2. The application arises because it is proposed to demolish the building and construct a mixed use development of 2 restaurants, 6 flats and 3 townhouses on the site. The council granted planning permission for this development in response to planning application reference 09/00830/FUL. This was considered by the council on 11th November 2010 and planning permission was issued on 8th May 2013, following the conclusion of a legal agreement relating to transport implications. The necessary consequence of this development proposal would be the removal of the existing building, but the application for consent for demolition now at appeal was not submitted to the council at the same time as the development proposal, but separately in April 2015.
3. The committee report for application 09/00830/FUL directs the committee to their duty to have regard to the the desirability of preserving or enhancing the character or appearance of the conservation area, and contains an assessment of effect of the development proposals on the area. The officer's recommendation was that the proposed design and



layout of the building were acceptable and would preserve and enhance the character and appearance of the conservation area, and this was approved. There is no discussion in that report about the comparative importance of the present building and its value to the conservation area.

4. Notwithstanding their previous approval of an alternative development for the site, in September 2015, after a hearing prompted by a high level of objections the council refused the application now at appeal for demolition of the existing building. Their officers had recommended approval, and in that report provided members with their assessment of the importance of the building, concluding that it was not important to the character and appearance of the area. The council's given reasons for refusing the application were that they considered that the proposal would conflict with policies ENV 2 and ENV 5 of the adopted Edinburgh City Local Plan 2010 and Policy ENV 2 and ENV 5 of the emerging Edinburgh Local Development Plan 2014. In addition, they considered that application did not comply with the Scottish Historic Environmental Policy 2011. They also said that the loss of the building would not be offset by the redevelopment proposals.

5. I consider that the previous decision by the council to grant planning permission for the redevelopment of the site, and further, their views that the new development would preserve and enhance the character and appearance of the conservation area, are material considerations which I should take into account. No fundamental flaw in that decision making process has been indicated. I do not consider it necessary or appropriate to revisit the council's considerations and reach my own view on the appropriateness, or relative value of the approved redevelopment scheme for the site. I proceed on the basis that there are acceptable proposals for the replacement of the building.

6. Against this background the central issue in this appeal is the value of the standing building to the character and appearance of the Inverleith Conservation Area and the implications of its demolition.

7. The building is not listed as a building of architectural or historic interest under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. In its present day form, it is a two storey building on a triangular site, formed by the junction of Inverleith Row at Canonmills Bridge, and Warriston Road. The third and north western side of the site is formed by the banks of the Water of Leith, passing under the bridge. The balance of the site is used for parking and storage. The building is a single unit with a pitched slate roof with various chimneys, presumably now out of use. The upper floor of the building is at street level, with its frontage on to Canonmills Bridge, with lower levels of the building below street level apparently used as kitchens and storage. It is currently functioning as 'Earthy', a specialist delicatessen and restaurant. The rear elevation has various service doors and stairways. The elevation to the west, which looks out over the Water of Leith, has number of windows and is mainly brick, some of which is painted. Because the building appears as single storey at street level it contrasts with most of the surrounding buildings, which are a variety of three storey Victorian and Georgian buildings, some simple tenements, and some in a more elaborate baronial or classical style.

8. The building seems to have had its origins in the industrial past of the Inverleith area, with early uses of the site including a tannery and a mason's yard. During the 19th century the building was converted into a row of six small shops, which must have been no more

than booths, as the residential area grew up around it, and appears to have remained in retail or restaurant use ever since.

9. The special character of the Inverleith Conservation Area has been identified in a conservation area character appraisal. From this study, in terms of its townscape, the area is characterised by its important and historic open spaces, such as Royal Botanic Garden, other significant landscaped and green areas such as Warriston cemetery, and playing fields. This overall openness allows panoramic views across to the City skyline. The urban form of the conservation area is arranged around these spaces with some denser development to the east and around the margins. Fettes College and grounds dominates the skyline of the conservation area and is an important element. The predominant character of the built form is one of large Victorian houses throughout, with some Georgian villas and terraces to the east of the area. Generally, the street layout follows a loose grid pattern with some wide streets. In architectural terms the special interest is characterised by high quality stone built architecture of restricted height, generous scale and fine proportions. Within this framework there is a variety of architectural forms and styles that contribute to the overall character. There is a significant degree of unity resulting from the predominant use of traditional building materials, such as local sandstone for buildings and boundary walls and Scots slate for roofs.

10. Against these key elements which distinguish the area, I consider the building is atypical. It is essentially a simple and functional mid 19th Century small scale mainly brick built industrial building, which appears to have served the area as shops throughout most of its existence. It has been the subject of various ad hoc adaptations throughout its life and is now built of mixed materials. At present it is particularly well presented at street level by its current occupiers as an organic food grocers and restaurant and is clearly valued by the local community. However, I do not consider that its current occupation and use is relevant to the question of the intrinsic value of the building itself to the special interest of the conservation area.

11. The building is also peripheral to the Inverleith Conservation area, in the sense that it is on the southern margin of the area and also in the sense that it plays no significant role in the streetscape. I examined the building in longer views from both north and south to assess the argument made by objectors that the single storey building contributes to a moment of openness in the streetscape, in contrast to the tall buildings around it, giving wider views of the water of Leith. Closely considered, this opinion is to an extent an objection to the somewhat taller alternative proposals for the site, as opposed to a view on the contribution made by the present building. Focussing on the building, I do not consider that the presence of the building at this point contributes to the appearance of the conservation area to any significant degree. The important view looking north is towards the green setting of the water of Leith working its way through the blocks of buildings. Looking south towards the Edinburgh New Town the important elements of the view are the river, the bridge and the New Town buildings beyond. The building does not make a significant beneficial contribution to either of these views, and looking south in particular, the rear of the building and its parking area tend to detract from the tall symmetry of the buildings beyond. The building is not unattractive in its modesty, and it would be fair to call it “quaint”, but in its setting and context, I do not consider the building to be of any importance to the character and interest of the Inverleith conservation area.

12. Local planning policy on this matter is the Edinburgh City Local Plan adopted in May 2010. Policy ENV2 provides criteria for the demolition of listed buildings, which this building is not. In my view, policy ENV2 is not relevant to this consideration of this application.

13. Policy ENV 5 – ‘Conservation Areas - Demolition of Buildings’ states that proposals for the demolition of an unlisted building within a conservation area, which is considered to make a positive contribution to the character of the area, will only be permitted in exceptional circumstances and after taking into account the considerations set out in Policy ENV 2. I have concluded that the building does not make a significant positive contribution to the conservation area. The policy also provides that proposals for the demolition of any building within a conservation area, whether listed or not, will not normally be permitted unless a detailed planning application is submitted for a replacement building which enhances or preserves the character of the area, and here such alternative proposals have been approved. The policy requires a condition that demolition may not begin until evidence has been given that contracts have been let for the approved replacement development. I therefore conclude that the demolition proposal complies with policy ENV 5.

14. I therefore conclude that the demolition of the building would comply with the development plan.

15. Turning to other considerations, Policies ENV2 and ENV5 in the emerging local development plan are in identical terms to the same policies in the adopted plan, and so I draw the same conclusions, and find that demolition would accord with emerging development policy.

16. Applicable national policy on demolition of an unlisted building in a conservation area is contained in the Scottish Historic Environment Policy (2011) (SHEP) and in the guidance issued by Historic Scotland (now Historic Environment Scotland) in their note on demolition. Essentially, there is a strong presumption in favour of retention of any such building. The question of whether a building could be demolished turns on the contribution the building makes to the conservation area, and the acceptability of any alternative proposals.

17. The council refers to ‘four tests’ for acceptability in national policy in their reasons for refusal. It appears this is a reference to the tests in SHEP paragraph 3.50. These must be applied when demolition of a listed building is under consideration, but this is not a listed building. The SHEP makes a cross reference to these tests when laying out national policy on the demolition of unlisted buildings in conservation areas, but I do not consider that the policy can be interpreted as imposing exactly the same criteria as for listed buildings. However, if I have misinterpreted the policy, and the four tests are directly applicable to this case, the first test is whether the building is of ‘special interest’, or makes an important contribution to the area. I have found that it is not and does not. The three further tests are framed as alternatives, so it is unnecessary to consider them if one of the tests is met.

18. Other relevant material considerations include the substantial body of strongly expressed local opinion against the loss of the building. However, many of the views expressed are actually objections to the alternative development proposals, which has already been approved by the council. I have noted and taken account of the strong expressions of support for the current situation, but many elements of these have not been relevant to the central question before me, which concerns the importance of the building to the conservation area.

19. I have considered all other matters raised by the council and by objectors, but have not found any circumstances which would alter my decision.

20. I have imposed the condition originally suggested by the council's planning service relating to the need for an archaeological investigation. I have also imposed a further condition to comply with the requirements of development plan policy ENV 5 that demolition may not commence until the council has been shown evidence that contracts have been let for the construction of the replacement proposals.

Frances M McChlery

Reporter

Conditions

1. Before any work takes place on site, a programme of archaeological investigation of the site prepared by a suitably qualified organisation or person shall be submitted to the planning authority for written approval, and thereafter the approved programme shall be carried out to the satisfaction of the planning authority.

Reason: to safeguard archaeological heritage and support the historic interest of the conservation area.

2. Before any work takes place on site in implementation of this permission the completed contracts for the implementation of planning permission council reference number 09/00830/FUL shall be exhibited to the planning authority, and no work shall proceed until the planning authority has indicated that it is satisfied with the information provided.

Reason; to protect the character and appearance of the conservation area by avoiding the possibility of a vacant site without the approved alternative development.

Advisory note

The length of the consent: This conservation area consent will last only for three years from the date of this decision notice, unless the demolition has been started within that period. (See Sections 16(1) and 66(3) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended).)