

**Planning Permission 11/02696/FUL
at
40 - 44 Elm Row
Edinburgh
EH7 4AH**

**Development Management Sub-Committee
of the Planning Committee**

1 Purpose of report

To consider application 11/02696/FUL, submitted by LCPP (Mr Tim Attlee). The application is for: **Demolition of existing theatre, workshops and associated buildings. Erection of managed student accommodation and associated amenity and landscaping (as amended).**

It is recommended that this application be **GRANTED** subject to the conditions below.

2 The Site and the Proposal

Site description

The application site comprises the former Gateway Theatre and associated buildings which were part of Queen Margaret University College (QMUC) prior to their move to their new campus.

The buildings occupy the interior space of the triangular perimeter block of residential tenements that is formed by Elm Row to the north-west, Montgomery Street to the south and Brunswick Street to the east. It also includes the gap site at nos 29-33 Montgomery Street which is between terraces of unlisted tenements. It does not include the QMUC properties on the ground level under the tenements on the east side of Elm Row (numbers 40-44) where the theatre is accessed from, or the adjoining retail units to each

side. It does include the pedestrian pend to the north of the QMUC properties on Elm Row which provides access from Elm Row to the development site

The theatre is to the rear of the 4 storey tenement building on Elm Row designed by George Beattie and Sons, and dating from 1882 and which forms part of the listing. The building is category C(S) listed (listed on January 3, 1981, ref no. 28736) (Calton Ward). The main theatre space was formed by infilling in the courtyard of two Victorian brick ranges that were built as part of the veterinary college which once occupied this site and which are also part of the listed structures. These spaces are currently disused. An unlisted brick building is to the east of the theatre building and is also disused.

Access to the site is via the pedestrian pend off Elm Row and vehicular access is via the gap site on Montgomery Street.

There is a gradual slope from the Montgomery Street entrance down across the site to the north. There is an existing substation on the site.

The site, being located off Leith Walk, is on the route of the proposed tram.

This property is located within the New Town Conservation Area.

Site History

The site of the Gateway Theatre has historically accommodated a variety of uses. As well as being a veterinary college, it has also been used as a timber yard, cab and car hire firm and a funeral home.

In the early years of the 20th century it became used for leisure purposes, accommodating successively a billiard hall, skating rink (when the courtyard was infilled and covered over), picture palace and cinema. In 1945, the Church of Scotland acquired the site and it became the Gateway Theatre, the first theatre to be run by the church. In 1969, Scottish Television bought the buildings from the Church of Scotland and the buildings were converted to become TV studios. In 1988, Queen Margaret University College purchased the buildings to form part of their Drama School. The buildings are significant as much for the various roles that they have had in the community, as for their architectural value.

40-44 Elm Row History:

August 1988 - Consent granted for internal refurbishment and minor external work (1214/88/23).

October 1994 - Consent granted for part change of use from TV studio to educational purposes (94/01647/FUL).

February 1998 - Consent granted for downtaking, alteration and part new build and change of use (97/01294/FUL).

November 1998 - Consent granted for alterations to Elm Row façade (Nos 40, 41, 43, 44 & 49) (98/00706/FUL).

July 2007 - Consent granted for demolition of existing theatre, workshops and associated buildings; erection of 42 flats/townhouses; and reinstatement of ground floor retail use to Elm Row (as amended) (06/04670/FUL/LBC/CON). This consent is still extant.

29-33 Montgomery Street History:

November 1989 - Consent granted to demolish warehousing/workshop and build 18 houses and construct infill block of 11 flats (as amended) (1610/89/27).

There is a concurrent listed building consent application (11/02694/LBC) and a conservation area consent application (11/02695/CON) which are to be determined under delegated powers once the Committee has reached a determination on the planning permission.

Pre-Application Process

Pre-application discussions were held between the Council and the agent for the applicant prior to them lodging the application.

Description Of The Proposal

The application is for the demolition of the former Gateway Theatre and associated buildings and for the construction of student housing. 155 student units will be created. The overall square footage will be 4,874m², which is slightly less than the 5180m² of building that is currently on the site.

The proposed student housing will be built within the triangular space within the perimeter block that is formed by the tenements and in the gap site at 29-33 Montgomery Street.

The original listed brick wings of the veterinary college and the infilled courtyard which make up the theatre will be demolished. The unlisted buildings will also be demolished. The entire interior of the site, apart from the garden grounds that lie to the rear of the surrounding tenements will then be clear for the construction of the new student housing. The site will be accessible for vehicles from the gap site on Montgomery Street and via the pedestrian pend on Elm Row.

The development that will be built in the internal space will be in two sections, one running north-south and the other east-west. The section that runs east-west is divided into two blocks (B and C), each block to be accessed separately. The north-south block contains Blocks D,E and F. The gap site will consist of Block A. The footprint is approximately the same as the consented 2007 scheme.

Blocks B and C and D to F will range between 3-4 storeys. Blocks D to F steps down with the slope of the site. They will consist of simple forms, with concrete panels at ground level and 'oyster' coloured face bricks above. Each block will have its own access and associated glass stair tower.

The existing substation will be incorporated between Block D and E.

Block A will infill the existing gap on Montgomery Street with an elevation that is clad in stone to the eaves line of the tenement to the west and then has a step back to an additional floor at roof level which is a clad with zinc panels. There will be seven levels, including basement and roof. The adjacent traditional tenements contain five levels but the height of the roof of the new build does not exceed the ridge height of the lower tenement. This block contains a pend to provide vehicular access to the interior of the site. The pend is clad in timber against the new build and the stone of the neighbouring tenement is left exposed. To the rear, the block projects proud of the line of the rear of the tenements and is brick clad with concrete at the lower level.

Block A contains the reception area for the complex at ground level with a twin unit in the basement (36 square metres) and studio units in upper levels. The studio units range between 20 square metres and 28 square metres. Block B and C and D to F contain a combination of studio units (20-30 square metres) and some flats with shared kitchen/living facilities. All the blocks contain common rooms and study areas. Block D additionally contains a gym (40 square metres), a games room (40 square metres), and a cinema (20 square metres).

There will be communal grassed area and a paved courtyard. Three parking spaces for disabled people are provided and a bike store is built into the slope of the site on the southern section of the site. Visitor bike parking is provided by the Elm Row pend. The refuse and recycling bins are located to the rear of the Elm Row tenements.

The applicants have stated that it is their intention to develop high quality student accommodation aimed at the upper end of the student housing market and which will appeal to international and graduate students.

The applicants have submitted a Management Plan for the proposed development. Their site will be managed by CRM Students and there will be an on site concierge during working hours and wardens for issues that arise after hours as well as a 24 hours help desk. The two entrance points will be controlled by a fob entry system and CCTV cameras will cover these and other areas of the site. Local residents will be issued with phone numbers for the site management office and the 24 hour help desk.

A condition of the student tenancy is that they are not allowed to bring their own cars.

The QMU property on the ground floor of the Elm Row tenement, although part of the previous consent, is not included in the current application.

Previous Schemes:

The previous scheme presented an alternative treatment to the Montgomery Street elevation and a variation of the amended scheme for the internal courtyard development.

Supporting Statements:

The following documentation has been submitted in support of the proposals:

- A Conservation Plan has been submitted which gives a detailed description of the history and significance of the Gateway Theatre Site.
- A Planning Design Statement explains many of the design decisions behind the proposals. These statements are available in the Group Rooms.
- A Management Plan describes how the facilities will be run and administered.
- A Tree Survey assesses the potential impact of the development on existing trees on neighbouring properties.

These documents are available to view on the Planning and Building Standards Portal.

3. Officer's Assessment and Recommendation

Determining Issues

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

Do the proposals preserve the building or its setting or any features of special architectural or historic interest which it possesses? If not, there is a presumption against the granting of permission. 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?

ASSESSMENT

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

- a) the proposed use is acceptable in this location;
- b) the proposals have an adverse impact on the character or appearance of the conservation area;
- c) the proposals adversely affect the listed building or its setting;
- d) the proposals are detrimental to residential amenity;
- e) the proposals are detrimental to road safety;
- f) the proposals are detrimental to trees or wildlife; and
- g) the proposals will be designed to sustainable standards.

a) The proposals need to demonstrate they are consistent with the relevant policy criteria in ECLP Hou 10 (Student Housing) and the supplementary guidance on Student Housing and will support the growth of the city as a centre of learning, which is one of the key core aims of the Local Plan (para 2.10).

Firstly the proposals need to demonstrate that the location is appropriate in terms of access to public transport and university and college facilities. The site is located very close to the top of Leith Walk and is accessible to a range of buses, including ones going to various university campuses. The site is also within walking distance of University of Edinburgh buildings in the Old Town and Southside.

Secondly the application proposals must also not result in an excessive concentration of students in the area. The Non-statutory Guidance on Student Housing indicates that in locations with good access to university and college facilities by public transport or by walking or cycling, purpose built student housing will be acceptable provided it will not result in a student population of 30% or more in the locality. This application proposes 155 beds. Based on the student population in the 2001 census and the number of units approved since then, if the current application is built, then the student population for this area will be 25.89% of the overall population and so is within acceptable limits. On the basis that the proposed concentration does not exceed 30% within this data zone, the principle of this development can be supported.

The Edinburgh Local Plan identifies the particular need for purpose built managed student housing rather than the conversion of existing residential units, and this development will help to provide that need. One of the core aims of the Edinburgh City Local Plan is to, 'support the growth of the city as centre of learning and higher education'. The amount of bed spaces granted

planning permission for purpose built student accommodation has not kept pace with need. Student housing provision has led instead to loss of family residential units with associated problems.

The applicant has provided a statement on how the property is to be managed. The on site concierge and 24 hour help line are there, in part, to minimise disruption to the local community and to assist in controlling any anti-social behaviour. CCTV cameras will also be used to monitor communal facilities.

Objectors have complained that there has been no community consultation process associated with this application. However, as the proposals are not a major development, there is no statutory pre-application consultation.

The Theatre's Trust has objected to the loss of the theatre space in this part of the city. However the previous 2007 consent granted permission for its demolition after the Council's Department of Culture and Leisure confirmed that the redevelopment of the Assembly Rooms and new space at the QMU will make up for the loss of the Gateway. Consultation with Culture and Leisure for the current application has not revealed any change to that response. The development plan has no specific provision to safeguard against the loss of theatre space.

The proposed use as student housing is acceptable within the Edinburgh City Local Plan policy Hou 10 and the Non-statutory Guidance on Student Housing and is supported by the recognition that there is a specific need to increase the provision of purpose built student housing. The proposed use is acceptable in this location.

b) The southern half of the site is part of the New Town Conservation Area. The Conservation Area Character Appraisal describes the spatial structure of the New Town:

The principal building form throughout the New Town is the hollow square, residential, tenemental block consisting of a sunken basement area with three to four storeys above.

Within the blocks traditional mews building's provided accommodation for stabling and coaches usually associated with the town houses on the streets that they lay behind. They are usually one and a half stories high, with a carriage entrance and sometimes a hayloft, both on the lane side. They were usually built with a formal high quality design facing the house and an informal rubble elevation facing the lane of the mews.

The proposed buildings will occupy the internal triangular site that is formed by the perimeter block of the surrounding tenements. The area is characterised by the mews lanes which are accessed by a pend through the tenemental street elevation. The principle of development in these areas is therefore clearly established.

Furthermore there are already large buildings on the site now, some of which have been there for a number of years. The proposed development will not mimic the traditional mews form and will be higher than their traditional 1 ½ storey height. However the existing buildings are large and the proposed buildings in most instances will be lower than the existing ones. The only case where the proposed buildings are higher than the existing situation is on the most northern section of Blocks D to F and a very small section of blocks B and C. In many instances the new build will be lower than the existing buildings. Although the scale of the development is not that of a traditional mews development, it is appropriate in relation to the size of the existing buildings.

The infill block on Montgomery Street will be built to a height that lines up with the adjacent tenements.

The proposed design of Blocks B and C and D to F will be of a simple, modern design. The materials will be to a high specification and will be of good quality. There is a precedent for brick on the site. The rear of the listed buildings to 40- 44 Elm Row is brick, as is a non-listed QMU building currently on the site. The concrete panel will be smooth finished and will complement the colour of the brick. The materials will be graffiti resistant. As a condition of the consent further information on the detailing of the building will need to be submitted. The courtyard blocks will be well designed contemporary additions to the conservation area which use appropriate materials and are in scale with their surroundings.

The new build in the gap site on Montgomery Street will be clad in stone on the front elevation up to eaves level. On the rear elevation it will be clad in brick, although in colour that will be more sympathetic to the sandstone of the adjacent tenements. The design will be a contemporary addition to the street. It does not overtly mimic the design of the traditional tenements but will respect them in the verticality of the elevation, the size and proportion of the windows, the continuation of the eaves line and the relationship of the entrance to the street via a platt over a sunken basement area. The proposal represents a well designed, high quality elevation that, in design, scale and materials, is appropriate to the character and appearance of the conservation area. It will be a considerable improvement over this vacant site which does not add to the quality of the surrounding area.

The landscape proposals are a combination of grass and paving. A paved open courtyard will be formed in front of Blocks B and C and D to F with grass around the perimeter of the site. There will be limited car parking and cycle parking will be located discreetly within the slope of the site. The majority of the site that is not built on will be of good quality, usable landscaping and represents a considerable improvement over the current situation which is almost entirely occupied by buildings. The proposed landscape is of an appropriate design within the context of the area.

The proposals represent a good quality development on a brown field site and will enhance the character and appearance of the conservation area.

c) The assessment of the impact of the development on the listed building is dealt with under the concurrent listed building consent application to this planning application, as is the proposed demolition of the Gateway Theatre. The loss of the collection of ad hoc QMU buildings to the rear of 40-44 Elm Row will be of benefit to the listed buildings as it will allow the buildings to have the space behind them that respects their integrity.

The proposed replacement of these buildings will be of high quality (as assessed in paragraph (b)) and there will be no adverse effect on the remaining part of the listed building.

The proposals will have a positive effect on the setting of the listed building.

d) In order to protect privacy the Non-statutory Guidelines on Daylighting, Privacy and Sunlight stipulate that generally there should be 18m separation between opposite windows of new development and existing development although the. In this proposal, the minimum distance of 18m between elevations is generally respected and in some respects is exceeded. In one instance (the north end of Blocks D to F), the distance between the rear of the tenement and the new build is approximately 16.6m from the window but because of the angle, the window does not directly face the rear of the tenement. At the western side of Blocks B and C the new build will be close to the rear of the tenements. However, in this instance, the new building is replacing the existing structure of the theatre building which is currently built up to the rear of the tenements. Therefore, there is no worsening of the current situation.

The existing structures take up the majority part of the site and are large. The new buildings will be mostly lower than the existing structures, and there should be no loss of sunlight, daylight and in many instances these conditions will improve. The architects have submitted drawings that show that the buildings will comply with the 45 degree test. Only in the north part of the Block D to F is the new build substantially higher than the existing building. Overall, the new development should provide an improved outlook and the new build will be lower than the majority of what is there now.

Neighbours are concerned by the possibility of additional noise being generated by the development. The applicants have submitted a Management Report which outlines measures to control any anti-social behaviour which may arise. The on site concierge, the wardens and the 24 hour helpline should all contribute to the management of any noise problems which may arise. Many neighbours have objected to the facility's cinema and gym. However, the cinema is to all intents and purposes a TV room and is only 20 square metres and the gym is 40metres square. It is not intended that it attract any users from outwith the complex, and the scale of these facilities are not designed to permit this. The presence of these facilities should encourage relatively quiet activities rather than the contrary.

Environmental Assessment has noted that there is not any likelihood of an increase in the ambient noise level in the neighbourhood and that the fact that the complex will be actively managed (as described in the management plan) will serve to control any potential noise issues.

A condition is attached requesting further information about any lighting in the landscaping in order to reduce light spillage while allowing a safe level of lighting in the public courtyard.

The development of housing in the courtyard should provide more opportunity for passive surveillance than already exists and should reduce the chance of vandalism and break-ins to the rear of existing tenements.

The proposals comply with Non-statutory Guidelines on Daylighting, Privacy and Sunlight, should not cause undue noise issues and will not have a detrimental impact on residential amenity.

e) No resident parking will be provided and a condition of the tenancy will be that owning a car locally will not be permitted. There should therefore be no adverse impact on the local parking situation. However a contribution towards the City Car Club will form part of a legal agreement.

Storage for 50 bikes is provided. A travel plan to be submitted after one year of the site being occupied in order to monitor whether more cycle provision will be required.

There will be no adverse impact on road safety or parking

f) The agents have submitted a tree survey to ascertain if any existing trees will be affected by the proposed development. All trees are outwith the site and in the gardens to the rear of the tenements. The survey indicates trees that should be removed for structural and physiological defects or pruned. As these trees are not on land owned by the applicant, it is not proposed that any work be done to them. The report states that the roots should not extend into the application site. Therefore the proposed buildings should not adversely affect any of the existing tree stock. Consequently any impact on wildlife should also be limited.

g) The proposed buildings will have to conform to the latest building regulations relating to energy efficiency and sustainable construction. There are no overt carbon reducing features to the building apart from the gas fire CHP and the fact that showers only will reduce energy consumption. However, the proposals will provide living accommodation in a car free development that is in a city environment. The proximity of the development to the city centre will foster the use of car free travel and the use of cycling, buses and walking as an alternative. The owning of a car locally will also be specifically not allowed in the tenancy agreement.

The car free nature of the site and its location contribute to the development being a sustainable addition to the city fabric.

In conclusion, the proposals comply with the development plan and non-statutory policies, have no adverse effect on the character or appearance of the conservation area or the setting of the listed building, and have no detrimental impact on residential amenity or road safety, will have no detrimental impact on trees or wildlife and will be a sustainable addition to the city's built environment.

There are no material planning considerations which outweigh this conclusion.

It is recommended that the Committee approves this application, subject to conditions which pertain to amenity, materials, detailed designs, landscaping, amenity, trams, cycle parking and the recording of the buildings which are to be demolished and subject to the completion of legal agreements for a contribution of £149,469 to the construction of the tram system and associated public realm, £7,000 towards provision of a car club space, and £2,500 to promote an Order to control disabled parking spaces if required. A draft Travel Plan shall be submitted prior to first occupation of the site and a final Travel Plan within one year of that date.

REASON FOR DECISION

The proposals comply with the development plan and non-statutory policies, have no adverse effect on the character or appearance of the conservation area or the setting of the listed building, and have no detrimental impact on residential amenity or road safety, will have no detrimental impact on trees or wildlife and will be a sustainable addition to the city's built environment.

Contact/tel	Barbara Stuart on 0131 529 3927
Ward affected	A12 - Leith Walk
Local Plan	Edinburgh City Local Plan
Statutory Development Plan Provision	Urban Area
Date registered	18 August 2011
Overall Expiry Date	16.09.2011
Drawing numbers/ Scheme	1-7, 8a, 9b, 10a, 11b, 12a, 13a, 14a, 15a, 16a, 17-24 Scheme 3

Advice to Committee Members and Ward Councillors

The full details of the application are available for viewing on the Planning and Building Control Portal: www.edinburgh.gov.uk/planning.

If you require further information about this application you should contact the following Principal Planner,
Jenny Bruce on 529 3510. Email: jenny.bruce@edinburgh.gov.uk.

If this application is not identified on the agenda for presentation, and you wish to request a presentation of this application at the Committee meeting, you must contact Committee Services by 9.00a.m. on the Tuesday preceding the meeting. Contact details can be found in the Committee Agenda papers.

Application Type	Planning Permission
Application Address:	40 - 44 Elm Row Edinburgh EH7 4AH
Proposal:	Demolition of existing theatre, workshops and associated buildings. Erection of managed student accommodation and associated amenity and landscaping (as amended).
Reference No:	11/02696/FUL

Consultations, Representations and Planning Policy

Consultations

Culture and Sport

No comments. There have been no material changes from the 2007 applications.

Archaeology

Further to your consultation request I would like to make the following comments and recommendations concerning these related applications (listed building Consent, Full Planning and Conservation Area Consent) for the demolition of the existing theatre, workshops and associated buildings and erection of managed student accommodation and associated amenity and landscaping.

This historic former theatre is considered to be of archaeological significance and this application must therefore be considered under terms of the Scottish Government's Scottish Planning Policy (SPP), PAN 2/2011 and Scottish Historic Environment Policy (SHEP) and also CEC's Edinburgh City Local Plan (adopted 2010) policies ENV2, ENV5, 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.

As stated in my earlier response to the 2006 planning application (06/04670/FUL), the Conservation Statement undertaken by Simpson & Brown Architects and resubmitted in support of this application gives an extremely good historical appraisal of the development of the site and analysis of the significance and impact of the proposed development. Accordingly it essential that the proposed 8 conditions set forth on page 38 of this document are adopted as the archaeological mitigation strategy for the redevelopment of the site, requiring a combination of archaeological

excavation and historic building recording, analysis and reporting and on site interpretation.

If consent is granted it is recommended that these programme of works be secured using the following revised condition based upon CEC model condition as follows;

'No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, historic building survey, Interpretation, reporting and analysis & 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.

Historic Scotland

*We have considered your consultation and comment as follows:
In 2006, following site visits and submitted documentation, the principle for the demolition of the buildings to the rear of Elm Row was accepted and consent granted for the erections of 42 flats / townhouses (06/04670/LBC). Whilst the loss of the older buildings were regrettable, sizable alterations had been made and their condition was a cause for concern.*

The new proposed scheme sees again the demolition of the rear buildings and a similar block plan layout to that already consented and an in-fill building to Montgomery Street, which is presently scaffolded following the collapse of a tenemented section.

There were a number of conditions accompanying the granting of consent for the 2006 proposals which would still be appropriate, for example – the scheme of investigative archaeological work agreed with your Council's City archaeologist and the Royal Commission on the Ancient and Historical Monuments of Scotland accessing and recording the site.

We are content that the proposals will have no effect on the category A listed structures on Haddington Place, given that all downtakings are behind the tall tenement buildings opposite on Elm Row.

Notwithstanding our comments above, we confirm that your Council should proceed to determine the application without further reference to us.

Transport

I have no objections to the application subject to the following being included as conditions or informatives as appropriate:

Consent should not be issued until the applicant enters into a suitable legal agreement to:

- 1. contribute the sum of £149,469 towards the Edinburgh Tram (based on 4,874m² residential institution in Zone 1). Please see note below;*
- 2. contribute the sum of £7,000 towards provision of a car club space in the vicinity of the site;*
- 3. submit a draft Travel Plan to the satisfaction of the Director of City Development prior to first occupation of the site and submit a final Travel Plan within one year of that date;*
- 4. contribute the sum of £2,500 to promote an Order to control disabled parking spaces if required (see Note below).*

Conditions:

- 1. 3No. disabled parking spaces to be provided within the development (see note below);*
- 2. 50No. cycle parking spaces to be provided in a secure and undercover location. Stands to be 'Sheffield' style racks, minimum spacing of 1 metre centres.*

Notes:

- It is understood that tram contributions may have already been agreed and paid. Any such sums should be deducted from the above amount;*
- The applicant should note that residents of the proposed development will not be eligible to apply for a residents' parking permit;*
- The Disabled Persons Parking Places (Scotland) Act 2009 places a duty on the local authority to promote the proper use of parking places that are designated or provided for use only by disabled persons' vehicles. The applicant should therefore advise the Head of Transport if they wish the disabled persons' parking places to be enforced under this legislation;*
- The applicant should contact the Area Roads Manager at an early opportunity to discuss site access arrangements for construction. The applicant should note that temporary works may be required to protect Nos. 35 to 39 Montgomery Street and the relocation of the existing on-street refuse bins at the Montgomery Street access.*

Environmental Assessment (Services for Communities)

The application proposes to erect managed student housing on the site of an existing theatre. The site is surrounded by a triangle of streets with residential tenements making up the majority of the properties on Montgomery Street and Brunswick Street. The Elm Row façade consists of a number of commercial premises with residential properties above.

The application premises are situated within the centre of a triangle of residential tenements with ground floor commercial properties on Elm Row. Entrance to and exit from the premises will occur via Montgomery Street and Elm Row. This Department has received noise complaints from student residences in the past however the agent for the application has confirmed that the premises will be actively managed on a 24 hour basis to ensure noise, both externally and internally, is adequately controlled. The existing use of the site is a theatre which can also have intermittent noise and disturbance associated with its operations. Thus, it is not anticipated that this proposal will significantly increase the ambient noise of the surrounding area within the triangle of tenements any more than can presently occur. Outwith the triangle of tenements on Elm Row and Montgomery Street, the ambient noise levels are reasonably high and so this application is unlikely to create any additional noise impacts from occupants exiting and entering the site or in the near vicinity.

A gym and cinema are proposed within the development. The agent has confirmed that noise and vibration mitigation measures will be implemented within the development to ensure that occupants of the premises are not detrimentally affected. The agent for the application has confirmed that the gym and cinema will be for the use of the residents only.

The premises are being built around an existing substation. Therefore a condition will be recommended to ensure that noise from the substation does not affect the application residences by way of noise.

Therefore, Environmental Assessment has no objections to this proposed development subject to the following conditions:

Site in General

1. *Prior to the commencement of construction works on site:*

A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Head of Planning, 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

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

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 to the satisfaction of the Head of Planning.

- 2. The design, installation and operation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.*
- 3. The design, installation and operation of the lift shall be such that any associated noise complies with NR20 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.*
- 4. The development shall be designed and constructed so that any noise associated with the electrical substation complies with NR20 when measured within any nearby living apartment with the windows open for adequate ventilation.*

Gym and Cinema Rooms

- 5. The sound insulation properties or sound transmission characteristics of the structures and finishes shall be such that no impact or airborne noise from the normal operations within the application premises is audible in any neighbouring living apartment.*
- 6. All music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises.*

The Theatres Trust

Thank you for consulting The Theatres Trust on the above planning application for the demolition of the existing theatre, workshops and associated buildings and the erection of managed student accommodation and associated amenity and landscaping, at the Gateway Theatre, Edinburgh. The Trust objects to the application. Please see our detailed advice and suggested condition below.

Remit: The Theatres Trust is The National Advisory Public Body for Theatres. Established by The Theatres Trust (Scotland) Act 1978 'to promote the better protection of theatres'. Regulation 25 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, Schedule 5, paragraph 11, sets out the requirement of all planning authorities, before determining an application for planning permission for development

that they must consult The Theatres Trust 'where the development involves any land on which there is a theatre as defined in the Theatres Trust 1976.' This applies to all theatre buildings, old and new, in current use, in other uses, or disused. It also includes ciné-variety buildings or structures that have been converted to theatre, circus buildings and performing art centres. Our main objective is to safeguard theatre use, or the potential for such use, but we also provide expert advice on design, conservation, property and planning matters to theatre operators, local authorities and official bodies.

Advice/comment: The Edinburgh Gateway Theatre features on the Trust's top 5 most endangered Theatre Building's at Risk (TBAR) register in Scotland. The Theatres Trust objects in principle to the demolition of the Edinburgh Gateway Theatre as the Trust considers that every effort should be made to retain theatre facilities within the catchment area. The Theatres Trust has previously objected to a planning application (planning reference 06/04670/FUL) to demolish the Gateway because at that time the Trust believed that there was a recognised requirement for the theatre facilities offered by the venue in the area. We continue to be disappointed that a Need and Impact Assessment for the loss of theatre use in the catchment area has not been undertaken. Whilst we understand Queen Margaret College (QMC) is adapting a church as a new performance facility in Morningside, this is not in the same catchment area, and we therefore maintain our previous objection. However, the Trust has given full consideration for demolition of the Gateway as argued within the written submission in support of application of Listed Building Consent to demolish the theatre. We understand that the building has stood derelict since 2006, and all possible attempts to convert the building or find a viable use for the building, have not been successful. The Theatres Trust would therefore like to refer you to the Historic Scotland guidance notes for Listed Building Consent to demolish the building, as referred to in the written submission. The guidance notes state that 'there should be a presumption against the demolition of a listed building unless it is demonstrated that every effort has been exerted by all concerned to find realistic ways of keeping it (4.8).' Test A states that 'it should be demonstrated that the building is not of special interest.' The Category 'C' listing is based on the exterior value of the building of 'Elm Row' by architects 'Beattie and Sons'. The Theatres Trust is therefore surprised that there is no Heritage Statement submitted with the application justifying the loss of the theatre in architectural and heritage terms.

Test B is an assessment of whether the building is incapable of repair. The Trust understands that the building was vacated by QMU in 2005 partially due to the health and safety concerns. The 2005 survey reported major failures in the fabric of the building, services and operational management was considered unacceptable. Of course, the argument that the building has deteriorated since becoming redundant in 2006 should not be considered as part of the economic viability of the Gateway as due care should be given for the upkeep of a Listed Building. The Trust would therefore like confirmation that although the building has been deemed unfit for purpose on health and safety grounds, that all options to restore the building have been considered in its present condition, as required in NPPG18. The Trust also refers to

NPPG18 in requesting that the 2005 condition survey and detailed plans of the Gateway are made available.

The Theatres Trust does not wish to pass comment on the proposed new building, but the benefits to economic growth or the wider community as a result of redevelopment will in no doubt enhance the area with benefits to local shops, bars and restaurants. However, The Theatres Trust believes that a mixed use scheme, retaining a cultural venue, would have much more wider reaching benefits to the area and local community.

In conclusion, The Theatres Trust objects in principle to demolition of the Gateway Theatre because of the loss of a cultural asset within the catchment area with no replacement facility. We are disappointed that no Needs and Impact assessment for the loss of theatre use has been submitted as part of the application. We are also surprised that there is no Heritage Statement justifying the loss of special architectural and historic interest and why it could not be practicably repaired. The Trust would have preferred to see a cultural venue secured on the site. Certainly, the Council should be satisfied that as an existing cultural asset, that the Gateway is surplus to cultural, community and tourism requirements before granting permission for demolition. However, if the Council is minded to approve the application, the Trust requests that a full photographic record of the Gateway Theatre is undertaken before the commencement of works, as previously conditioned in application 06/04670/FUL.

Leith Central Community Council

Leith Central Community Council is pleased to note progress on this development site and believes that student accommodation, properly managed, would be appropriate in this location. We also believe that this proposal would be of great benefit to local businesses on Leith Walk and the surrounding area. However although we support this application in principle there are some design details we feel could be improved. These are as follows:

- 1. There would appear to be deficiencies in the refuse disposal and collection system. We would favour the alternative plan both of relocating the storage facilities for litter further away from the existing tenements and having the pick-up and emptying of these containers take place through the Montgomery Street entrance, since the pend here is of an adequate height to admit fire tenders. We believe that the proposed presentation for collection through the Elm Row pend is not practical and would cause an unacceptable level of on-street clutter. The pick-up would also cause traffic congestion at a busy junction. Given the nature of the client group for whom the accommodation is intended, a properly situated bottle bank should also be provided*

2. We found the (initial) drawings of the Montgomery Street frontage unsatisfactory in several ways, indeed the back elevation is more successful than the front in that it relates better to the existing surrounding buildings. Where the front elevation is concerned it was of little architectural merit and also fails adequately to reference the surrounding buildings on Montgomery Street. The fenestration was over-large and poorly executed and the double height glass curtain walling excessive. We also think that the introduction of timber veneer composite panels here was completely unnecessary, indeed introduction of non structural timber details on the facade of buildings is becoming an undesirable architectural cliché in Edinburgh. However a later revision (Block A Front and Rear Elevation - drawing no.PL-A (20) 01 Revision a) was considered to be much more successful, although we feel that the fenestration would benefit by further simplification.

3. We are concerned that neighbours will be disturbed by noise, for example from students returning home late at night. We would therefore suggest that some form of acoustic attenuation treatment should be included, in particular to mitigate noise in the pends

4. We find the provision of only 50% covered bicycle storage inadequate for this type of development

5. Although it is not material to the present application, we are concerned about the condition of the empty shop unit to the right of the pend onto Elm Row We would hope, should the present application for student accommodation go ahead, that this will be marketed, restored and put back into commercial use.

Representations

The proposals were advertised on the 26th of August and have attracted 67 letters of representation. There have been 64 letters of objection, 2 letters of support and 1 letter of comment. All letters have been from neighbours except for letters of objection from Cllr Lang, Mark Lazorowicz MP and Malcolm Chisholm MSP. The letter of comment was from the Access Panel.

The material points of objections relate to:

a) Issues of procedure and principle, taken account of in assessment a.

- The proposed student housing use is inappropriate to the area and will cause a nuisance to neighbours
- Proposed use is anti-social
- Over development
- Contrary to Hou 10
- Already an over provision of student housing – including HMOs

- No community benefit in scheme
 - No pre-application discussions with the community held.
- b) Conservation and Design issues, taken account of in assessment b and c.
- The design of proposed new build is inappropriate to the area.
 - The design of proposed new build is inappropriate and out of character with the conservation area.
 - The listed building should not be demolished.
 - Too large for a mews type development.
 - Materials are of poor quality.
 - Too much hard landscaping, there should be more green space.
 - The landscape design is fragmented.
- c) Residential amenity issues, taken account of in assessment d.
- Students are inclined to be noisy and have anti-social hours
 - Noise at the rear of building will particularly affect people who sleep to the rear of their flats to avoid street noise.
 - Loss of light.
 - Loss of privacy.
 - Overlooking.
 - Light pollution.
 - The bins for waste will attract vermin including seagulls, which are already a problem, and cause smells.
 - Waste collection will cause noise.
 - The location of bins is difficult to access for collection and this will cause more noise than necessary.
 - Proposed 'gym' and 'cinema' will cause noise nuisance.
 - Security to the rear of the tenements will be compromised.

d) Transport issues, taken account of in assessment e.

- additional residents will worsen parking situation
- Proposals will exacerbate traffic problems
- inadequate cycle parking

e) Issues relating to trees and bio-diversity, taken account of in assessment f.

- Development will cause loss of trees
- There will be loss of biodiversity

f) Issues of sustainability, taken account of in assessment g.

- the proposals will not be built to sustainable standards.

The letters of support supports the scheme for the following reasons:

- New development will be preferable to disused buildings which are an eyesore.
- Students will be good for local businesses.
- The redevelopment of brownfield sites and residential densification is good from an environmental point of view.
- A well run student housing development could be less disruptive than other types of tenants.
- The infill in the Montgomery Street site is desirable.

The letter of comment from the Access Panel expressed a desire for accessible facilities.

Full copies of the representations made in respect of this application are available in Group Rooms or can be requested for viewing at the Main Reception, City Chambers, High Street.

Planning Policy

The site is located within the Edinburgh City Local Plan, in Urban Area. Elm Row is on a route to be safeguarded for the proposed tram and is a Primary Shopping Frontage.

Relevant Policies:

Relevant policies of the Edinburgh City Local Plan.

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

Policy Des 3 (Development Design) sets criteria for assessing development design.

Policy Des 4 (Layout Design) sets criteria for assessing layout design.
Policy Des 5 (External Spaces) sets criteria for assessing landscape design and external space elements of development.

Policy Des 6 (Sustainable Design & Construction) sets criteria for assessing the sustainable design and construction elements of development.

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

Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

Policy Env 4 (Listed Buildings – Alterations & Extensions) identifies the circumstances in which alterations and extensions to 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.

Policy Env 6 (Conservation Areas Development) sets out criteria for assessing development in conservation areas.

Policy Hou 8 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

Policy Hou 10 (Student Housing) supports provision of student housing on suitable sites.

Policy Tra 2 (Planning Conditions and Agreements) requires, where appropriate, transport related conditions and/or planning agreements for major development likely to give rise to additional journeys.

Policy Tra 3m (Tram Contributions) requires contributions from developers towards the cost of tram works where the proposed tram network will help address the transport impacts of a development.

Policy Tra 4 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in supplementary planning guidance, and sets criteria for assessing lower provision.

Policy Tra 6 (Design of Off-Street Car and Cycle Parking) sets criteria for assessing design of off-street car and cycle parking.

Relevant Non-Statutory Guidelines

Non-statutory guidelines on 'QUALITY OF LANDSCAPES IN DEVELOPMENT' sets detailed design principles for hard and soft landscaping, including the retention of existing features, and relates these principles to different types of development.

Non-statutory guidelines on 'MOVEMENT AND DEVELOPMENT' establish design criteria for road and parking layouts.

Non-statutory guidelines 'DAYLIGHTING, PRIVACY AND SUNLIGHT' set criteria for assessing proposals in relation to these issues.

Non-statutory guidelines on the 'SETTING OF LISTED BUILDINGS' supplement local plan conservation and design policies, providing guidance for the protection and enhancement of the setting of listed buildings.

Non-statutory guidelines 'The Edinburgh Standards for Sustainable Building' sets principles to assess the sustainability of major planning applications in Edinburgh.

Non-statutory guidelines Student Housing Guidance interprets local plan policy, supporting student housing proposals in accessible locations provided that they will not result in an excessive concentration.

Non-statutory guidelines Provides guidance on siting of commercial waste containers.

Other Relevant policy guidance

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

Appendix B



Application Type Planning Permission
Application Address: 40 - 44 Elm Row
Edinburgh
EH7 4AH

Proposal: Demolition of existing theatre, workshops and associated buildings. Erection of managed student accommodation and associated amenity and landscaping (as amended).

Reference No: 11/02696/FUL

Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that this application be **GRANTED** subject to the conditions below.

Conditions

1. No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, historic building survey, Interpretation, reporting and analysis & publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
2. The Royal Commission on the Ancient and Historical Monuments of Scotland shall be given access to the site, at any reasonable time in a period of at least three months from the date of this consent, for the purposes of recording the building, structure or other item of interest.
3. 3 disabled parking spaces shall be provided on the site prior to the commencement of occupation of the development.
4. 50 cycle parking spaces shall be provided on the site in a secure and undercover location prior to the commencement of occupation of the development. Stands to be 'Sheffield' style racks, minimum spacing of 1 metre centres.
5. Prior to the commencement of construction works on site:

A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Head of Planning, 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

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

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 to the satisfaction of the Head of Planning.

6. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.
7. The design, installation and operation of the lift shall be such that any associated noise complies with NR20 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.
8. The development shall be designed and constructed so that any noise associated with the electrical substation complies with NR20 when measured within any nearby living apartment with the windows open for adequate ventilation.
9. With respect to the gym and cinema rooms, the sound insulation properties or sound transmission characteristics of the structures and finishes shall be such that no impact or airborne noise from the normal operations within the application premises is audible in any neighbouring living apartment
10. With respect to the cinema and gym all music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises
11. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Head of Planning before work is commenced on site;
Note: samples of the materials may be required.

12. Details of wall sections at 1:10 shall be submitted to and approved in writing by the Head of Planning & Strategy before work is commenced on site.
13. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and all planting, shall be submitted to and approved in writing by the Head of Planning before work is commenced on site.
14. The approved landscaping scheme shall be fully implemented within six months of the completion of the development, and thereafter shall be maintained by the applicants and/or their successors to the entire satisfaction of the planning authority; maintenance shall include the replacement of plant stock which fails to survive, for whatever reason, as often as is required to ensure the establishment of the approved landscaping scheme.
15. Details of the lighting in external spaces shall be submitted to and approved in writing by the Head of Planning & Strategy before work is commenced on site.

Reasons

1. In order to safeguard the interests of archaeological heritage.
2. In order to safeguard the interests of archaeological heritage.
3. In order to safeguard the interests of road safety.
4. To ensure that an appropriate level of cycle parking provision.
5. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.
6. In order to safeguard the amenity of neighbouring residents and other occupiers.
7. In order to protect the amenity of the occupiers of the development.
8. In order to protect the amenity of the occupiers of the development and neighbours of the development.
9. In order to protect the amenity of the occupiers of the development and neighbours of the development.
10. In order to protect the amenity of the occupiers of the development and neighbours of the development.

11. In order to enable the planning authority to consider this/these matter/s in detail.
12. In order to enable the planning authority to consider this/these matter/s in detail.
13. In order to enable the planning authority to consider this/these matter/s in detail.
14. In order to ensure that the approved landscaping works are properly established on site.
15. In order to enable the planning authority to consider this/these matter/s in detail.

INFORMATIVES

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. Consent should not be issued until the applicant enters into a suitable legal agreement to:
 - a. contribute the sum of £149,469 towards the Edinburgh Tram (based on 4,874m² residential institution in Zone 1).
 - b. contribute the sum of £7,000 towards provision of a car club space in the vicinity of the site;
 - c. submit a draft Travel Plan to the satisfaction of the Director of City Development prior to first occupation of the site and submit a final Travel Plan within one year of that date;
 - d. contribute the sum of £2,500 to promote an Order to control disabled parking spaces if required.
3. A condition of tenancy for the students is that they will have no right to apply for a parking permit.

End

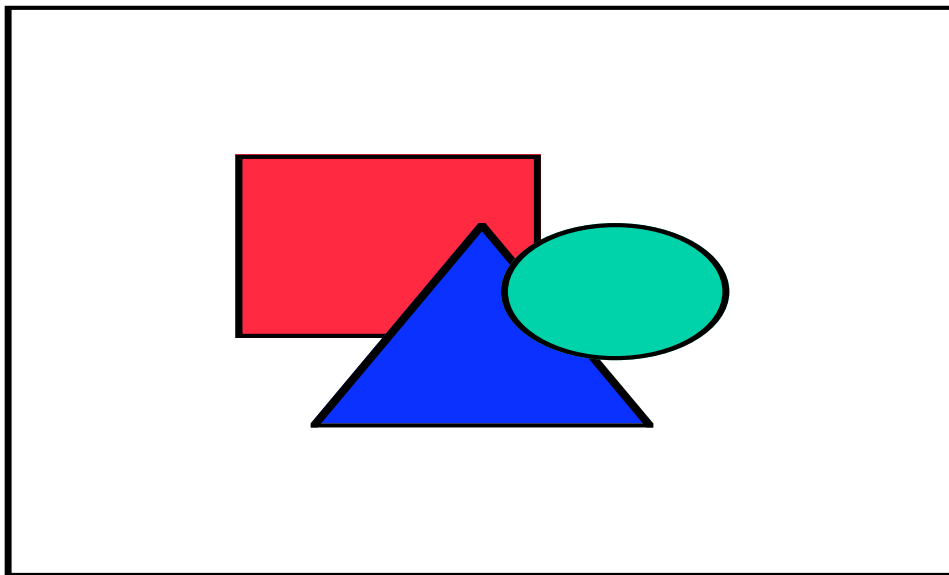
Appendix C



Application Type Planning Permission

Proposal: Demolition of existing theatre, workshops and associated buildings. Erection of managed student accommodation and associated amenity and landscaping (as amended).

Reference No: 11/02696/FUL



Location Plan

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