

Development Management Sub Committee

Wednesday 20th February 2013

**Application for Planning Permission 12/04064/FUL
At 1 - 5 Baxter's Place, Edinburgh, EH1 3BD
Alterations and change of use of 1-5 Baxters Place to
licensed hotel, demolition of building at 2 Greenside Lane.
Construction of additional hotel accommodation and
associated facilities. Formation of access and car parking
(amendment to planning permission 08/03635/FUL)**

Item number

Report number

Wards

A11 - City Centre

Links

[Policies and guidance for this application](#)

CITE1, CITE3, CITE4, CITE5, LPC, CITE6, CITE7, CITE9, CITE15, CITE16, CITH8, CITEM5, CITR12, CITT1, CITT2, CITT3, CITT5, CITT7,

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Executive summary

Application for Planning Permission 12/04064/FUL At 1 - 5 Baxter's Place, Edinburgh, EH1 3BD Alterations and change of use of 1-5 Baxters Place to licensed hotel, demolition of building at 2 Greenside Lane. Construction of additional hotel accommodation and associated facilities. Formation of access and car parking (amendment to planning permission 08/03635/FUL)

Summary

The proposal complies with the development plan. The proposal is acceptable in this location and is of an appropriate scale, form and design. The height and massing of the proposal is an improvement on the previously consented scheme. The proposal will enhance the character and appearance of the New Town Conservation Area and the Edinburgh World Heritage Site. The category A listed building currently on the Building at Risk Register will be restored and utilised appropriately. The proposal offers positive benefits to the neighbouring residents over the previously consented scheme with regards to the elimination of outdoor spaces. With the use of conditions to mitigate against noise it will not result in an unreasonable loss of neighbouring amenity and an acceptable level of amenity will be awarded to future hotel residents. The proposal will not result in any traffic or road safety issues and will make a financial contribution to the Tram system. There are no other material considerations which outweigh this conclusion and approval is recommended.

Recommendations

It is recommended that this application be Granted subject to the details below (in section 3 of the main report).

Financial impact

The application is subject to a legal agreement for developer contributions.

Equalities impact

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

Sustainability impact

The application meets the requirements of the Edinburgh Standards for Sustainable Buildings.

Consultation and engagement

Pre-Application Process

The application was subject to pre-application advice.

A Proposal of Application Notice ref 12/02263/PAN was validated by CEC on 27 June 2012.

A public event took place on Thursday 20th September 2012 at 6.30pm - 9.00pm at Greenside Church Hall, Blenheim Place, Edinburgh .

Approx 1,700 leaflets were delivered to local residents.

Display boards were presented at MacDonald Road Library between 24-30 September 2012 and the lobby at the City Chambers Business Centre on 11 October 2012.

A Public Event took place at the Greenside Church Hall on 20th September 2012. Feedback from the meeting is provided in the Pre-Application Consultation Report. This is available to view on the Planning and Building Standards Online services.

A pre-application report on the proposals was presented to the Committee on 15 August 2012. The Committee requested that residential amenity is fully considered and that the hotel does not have external balconies or other features which may affect this.

Following discussion and receipt of comments, the following changes have been made to the proposal:

- the former cinema unit on the front of Baxter's Place has been deleted from the proposals.
- the massing of the rear new build element has been significantly reduced at the upper-most level
- the extent of plant on the roof has been reduced to a minimum

Publicity summary of representations and Community Council comments

The application was advertised on 30 November 2012. Three letters of representation were received, two objections and one support. The objections may be summarised as follows:

Material Representations

- concern regarding height resulting in loss of light
- increase noise and smell concerns to an area already suffering
- loss of amenity to neighbouring properties
- concern regarding compatibility of hotel with neighbouring commercial uses such as nightclub
- impact on traffic movements and road safety
- increased parking pressure

In support of the application

- the massing has been reduced to a level to respect privacy
- the wasteland will be regenerated and given a new lease of life.

Non Material Representations

- disturbance throughout construction
- not a demand for further hotels in Edinburgh

New Town and Broughton Community Council

- support the application
- removal of the salon cinema and reinstatement of the listed frontage welcome
- building at risk in the World heritage Site, hope the building work proceeds quickly
- upgrading of derelict backhands of Greenside is welcomed

A full assessment of all the representations can be found in the main report in the Assessment section.

Background reading / external references

- To view details of the application go to
- [Planning and Building Standards online services](#)

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1. Background

1.1 Site description

The application site lies on the east side of Baxter's Place and to the north of Greenside Lane. It consists of a row of Georgian townhouses dating from around 1798, and includes the land originally used for their gardens. To the rear of 1-2 Baxter's Place is a four storey 1970s office building that was developed at around the same time that the townhouse properties on Baxter's Place were converted to office use. The site slopes from Baxter's Place to Marshall's Court to the east, a fall of approximately 8.5m. Vehicular access to the modern office building is via Greenside Lane on the western side of the site.

Directly to the east of the modern office building is a tenement building. To the south is the service yard for the Playhouse Theatre. To the north and rear of 3 - 4 and 5 Baxter's Place is currently undeveloped ground with informal parking areas onto Marshall's Court. 4 Baxter's Place is in residential use.

The site lies within the World Heritage Site. Numbers 1 - 5 Baxter's Place are Category A listed, LB ref. number 28279 listed on 14 December 1970. 1-3 and 5 are currently empty and were last in use as office accommodation. The original interior of the building was removed in a previous refit of the premises.

The surrounding area is characterised by a mix of uses including residential, business development and commercial leisure uses. The site lies on a public transport corridor and main thoroughfare into and out of the city.

This property is located within the New Town Conservation Area.

1.2 Site History

1967 - planning permission granted in outline at 2-3 Baxter's Place Change of Use from Hostel to office application number 373/67.

20 February 1974 - planning permission refused for 1-5 Demolition of Listed Building 18/72 and erection of office building application number 26/172.

1 December 1976 - planning permission granted for Office Development application number 76/528.

16 July 2003 - planning permission granted for the demolition of rear extensions at 1 - 5 Baxter's Place application number 03/02635/CON

16 July 2003 - planning permission granted for the refurbishment of existing offices at 1-5 Baxter's Place application number 03/02635/FUL.

16 July 2003 - listed building consent granted for the refurbishment of existing offices at 1-5 Baxter's Place application number 03/02635/LBC.

3 April 2007 - planning application withdrawn for Alterations and change of use from class 2 (office, financial, professional) to student residential accommodation (class1) at 1-3 Baxter's Place application number 07/01246/FUL.

3 April 2007 - application for listed building consent withdrawn for Alterations and change of use from class 2 (office, financial, professional) to student residential accommodation (class1) at 1-3 Baxter's Place application number 07/01246/LBC.

31 March 2009 - planning permission granted for Alterations and change of use of the building at 1-5 Baxter's Place to licensed hotel (Class 7), change of use from cinema (Class 11) to retail (Class1) at 5 Baxter's Place; demolition of building at 2 Greenside Lane and construction of additional hotel accommodation and associated facilities, creation of pedestrian access link, landscaping access, car parking and associated works application number 08/03635/FUL.

31 March 2009 - listed building consent granted for Alterations and change of use of the building at 1-5 Baxter's Place to licensed hotel (Class 7), change of use from cinema (Class 11) to retail (Class1) at 5 Baxter's Place; demolition of building at 2 Greenside Lane and construction of additional hotel accommodation and associated facilities, creation of pedestrian access link, landscaping access, car parking and associated works application number 08/03635/LBC.

20 November 2012 - application for listed building consent for Demolition of existing modern extensions to the front and rear of 1-5 Baxter's Place, alterations to building and construction of pedestrian link to new hotel block to rear application number 12/04076/LBC.

5 Baxter's Place (in isolation)

Change of Use from cinema to theatre restaurant at Salon Cinema 5 Baxter's Place application number 74/860

Demolition of cinema building and Listed Building consent for the removal of front projections application number 76/1950

Change of Use cinema to lounge bar Refused on grounds of licensed premises below residential (application number 1751/80).

1 June 1983 - planning permission refused for the Change of Use cinema to shop on the grounds of amenity (application number 618/81).

1 June 1983 - planning permission refused for the Change of Use cinema to shop on the grounds of amenity (application number 1579/82).

13 February 1985 - planning permission granted for five years for the Change of Use cinema to betting office (application number 2048/84).

7 March 1988 - planning application withdrawn for Change of Use to amusement centre with restaurant catering facilities (application number 110/87).

6 February 1991 - planning permission granted to Alter and extent derelict building to form Class 2 office (application number 56518816/90/20) .

12 May 1993 - planning permission granted for the Change of Use from office (class2) to restaurant Class 3 (application number 02010/92).

26 January 1994 - planning permission granted for Alterations to form restaurant (application number 02396/93).

9 September 1998 - planning permission granted for a Variation to planning consent to create restaurant (application number 00292/98)

18/11/99 - Application made for a refreshment licence in respect of a restaurant at 5 Baxter's Place for 102 square metres at ground floor level and 120 square metres at basement level

Dec 1999 - Complaints re condition of vacant building.

April 2000 - It was considered that last lawful use was cinema, issue of abandonment and implementation of class 3 would require a new planning application to be submitted.

Adjacent Site

6 Baxter's Place

09/01279/FUL - Planning permission was granted on appeal for a three storey dwelling which will sit next to the application site. In determining the appeal the reporter observed that there was an outstanding planning permission for a major development at 1-5 Baxter's Place. He concluded that the character or appearance of the New Town Conservation as well as the settings of neighbouring listed buildings will not be adversely affected by the development. On the contrary he concluded that, " the development of this unkempt and apparently disused parking area as proposed should enhance this depressing backwater".

2. Main report

2.1 Description Of The Proposal

The application proposes the demolition of the existing modern office block to the rear of Baxter's Place and redeveloping the site with a large hotel extension and internal alterations to the Baxter's Place frontage building. A total of 239 bedrooms would be formed. The new build will take the form of a U-shaped block with an external

courtyard, inaccessible to hotel residents. It would be linked by a glazed bridge to the existing building and a corridor at ground floor level.

The proposed new building is multi layered . At its maximum it would be 7 storeys in height dropping down to two and three storeys to the northern Blenheim Place side. A series of flat sedum roofs are proposed, inaccessible to hotel residents. The new building would be finished with facing brick with the top floor being finished in predominately glazing panels and zinc cladding.

Number 5 Baxter's Place, the empty shop unit/former cinema entrance at the front of the property, will be removed and will be restored to a terrace in front of the residential properties at 4 Baxter's Place. External treatment of wall and railings will match the existing. The terrace to the front of 1-4 Baxter's Place will provide an external seating area and the building facade will be upgraded with the existing lamp standards repaired. The improvements to the Grade A listed building are set out in the listed building application reference 12/04076/LBC. New stone walls will be erected to the rear of the pavement line and new railings, all to match the existing, will be installed to recreate the original design intent.

The existing building would accommodate a bar for the use of hotel residents and the public.

The service entrance to the building is provided at the rear accessed from Marshall's Court. Plant is provided on the roof of the new build which accommodates lift overrun, and corridor smoke extract. Kitchen ventilation is to a flue terminating on the rear roof plane of the existing building.

In support of the application the applicant has submitted the following documents which can be viewed on the Planning and Building Standards Online Services;

Design and access statement, and 3D visuals;
Planning statement;
Daylight analysis report;
Sustainability statement report;
Bat Survey.

2.2 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 consent.

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 consent. 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?

2.3 Assessment

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

- a) hotel development and a restaurant/bar is acceptable in this location,
- b) the proposals have any detrimental impact on the Outstanding Universal Value of the World Heritage Site,
- c) the development respects the constraints of the site, and preserves the character and appearance of the New Town Conservation Area,
- d) the proposed development would have any adverse effect upon the character and setting of the listed building;
- e) whether the proposal is acceptable in design, scale and massing;
- f) there would be any adverse effect upon neighbouring amenity, or the development would prejudice the development of the adjacent sites,
- g) the proposal will have any traffic or road safety issues
- h) the sustainability standards are satisfied
- i) the proposal would have a detrimental impact upon the natural habitat
- j) public comments
- k) the proposal has any equalities or human rights impact

a) Acceptability of the Proposal in this Location

The site lies immediately adjacent to the Central Area as defined in the Edinburgh City Local Plan where uses such as licensed hotel are acceptable in principle. The proposal is situated on a main approach road to the city centre and will be accessible by Tram Line 1, currently proposed to stop at York Place. It will ensure the reuse and upgrading of the grade A listed building and include the welcomed removal of a long redundant salon cinema/retail unit at ground floor level. It will upgrade an area of backland which has been sorely neglected. Subject to the protection of the amenity of neighbouring occupiers therefore, the hotel development proposed accords with Local Plan policy Emp 5 and is acceptable in principle.

The application includes a small hotel bar of less than 25 square metres with six stools principally for hotel residents but with access to the public. The restaurant at 100 square metres has fifty covers and it is envisaged that this would be available to both hotel residents and external customers. There will be some overspill onto the front external terrace which is considered acceptable in this location, adding to the vibrancy of this part of the City.

The loss of the shop unit is acceptable in this location and the positive enhancements to this group of grade A Listed Buildings in the World Heritage Site are favoured.

The proposed use of the site as a hotel incorporating restaurant is acceptable.

b) Impact on the Outstanding Universal Value of the World Heritage Site

The Outstanding Universal Value of the World Heritage Site is expressed in the Statement of Significance adopted by the World Heritage Committee of UNESCO.

The site sits in a valley between Calton Hill and Leith Walk/Baxter's Place. It can be seen clearly from Calton Hill. The proposed development has taken this into consideration and the height respects the topography of the area. The proposed hotel extension will be lower than the existing building on Baxter's Place and the adjacent Playhouse Theatre and will continue stepping down in height to four storeys siting lower than the Playfair Buildings on Blenheim Place; responding to the more domestic scale and character of nearby buildings both existing and that proposed at the rear of 6 Baxter's Place, fronting onto Marshalls Court.

In this regard, the proposed development will respect the site context and historic townscape. It is considered that there will be no adverse effect upon important views to and from Calton Hill.

The proposed development does not involve a substantial net increase of development over previously consented schemes and is not considered to affect spatial arrangements in the locality. It is considered that the proposal will not have a detrimental impact upon the Outstanding Universal Value of the World Heritage Site.

c) Impact on the Character and Appearance of the Conservation Area

The character of the New Town Conservation Area is characterised as a planned urban concept of European significance, the New Town has an overriding character of Georgian formality. The application site lies next to Calton Hill which holds a miscellaneous collection of monuments which has enhanced Edinburgh's identity as the Athens of the North. Playfair's buildings on the northern side of the site provides a set piece entrance to this part of the Conservation Area.

As it offers little visual interest, the removal of the existing 1970's office building to the rear of 1-3 Baxter's Place will have no adverse effect upon the character and appearance of the conservation area. The demolition of this rear extension is dealt with in the Listed Building Application. Conservation Area Consent is not required in this instance.

The site has been identified as occurring within an area of potentially high archaeological significance but to-date no excavation works have taken place on this site. Due to the historical importance of the area, and that the site lies either on or close to the site of the late medieval Carmelite Friary at Greenside, there is a likelihood that there will be archaeological remains on site. Archaeology has no objections subject to a programme archaeological historic building survey (level 2:annotated plans/elevations, photographic and written survey) of the existing building is undertaken prior to and during construction works, a condition to this affect is therefore recommended.

In terms of the detailed design, the proposed development is modern and follows many of the principles and form of development approved under planning permission reference 08/03635/FUL. The development would take the form of a u-shaped block which will step down to the north as it approached Blenheim Place, and an interesting series of roofs will be formed. Large sections of the roof will be sedum planted which will assist the building in integrating with the surrounding landscape of Calton Hill and reduce its visual impact on the conservation area.

The loss of the redundant unit at the front of the building and the upgrading and enhancing of the front terrace is a positive contribution to the character of the conservation area. The proposed development will respect the character of the area in terms of its spacing, height and massing. As it will be of high quality, using a combination of quality traditional and modern materials where appropriate, the development will preserve the character of the New Town Conservation Area and will enhance its overall appearance.

d) Impact on the character and appearance of the Listed Building

The proposed development includes the refurbishment of a category A listed building which is on the Buildings at Risk Register. Historic Scotland indicated a preference for the previous scheme 08/03655/FUL to be scaled down. The current scheme shows a revision in massing and scale from both the consented scheme and the scheme tabled at the pre application stage and the PAN stage. In this regard Historic Scotland welcome the improvements and the enhanced views to the back of the building that will be revealed through the revised scheme. The proposed new development would be connected to the listed building by only one glazed link at the rear and a low level corridor. The minimal contact to the listed building is seen as an improvement over the consented scheme. On balance, the scheme by virtue of its design, scale and siting is considered to provide a greater enhancement of the grade A listed building than the existing extension or that approved under previous permissions for office development and hotel development.

The removal of the unit at 5 Baxter's Place is supported by Historic Scotland as a major conservation gain for the buildings, returning the elevation to its original intent.

There will be no adverse impact upon the character or setting of the adjacent listed buildings. Indeed, the proposal will result in an improvement over the existing situation and the approved application which could be implemented.

e) Scale, form and design

As with the approved hotel scheme, the design concept clearly differentiates the new section of the hotel physically from the existing buildings. This approach respects the integrity of the category A listed buildings and retains views to and from the rear facade of the existing building. The series of sedum roofs provides a green relief connecting the building to Calton Hill and the domestic gardens of Blenheim Place.

The proposed massing places the bulk of the accommodation to the south of the site along Greenside Lane, dropping in height respecting the scale of Blenheim Place. This approach provides greater relief to the rear of Baxter's Place. The massing of the rear extension is, on the whole, reduced from the approved scheme. On Marshall's Court elevation the end building is proposed at one storey higher than approved. It is considered that whilst there will be glimpses of this corner from Regent Terrace and

London Road, the increase in bulk over the approved scheme will have a marginal impact. The proposed scale and massing of the new extension is therefore considered acceptable in this location.

The architectural detailing of the elevations respects the existing feu pattern and window detailing of the surrounding buildings. The dropping of the building across the site allows for maximum relief of the tower detail of the listed buildings and reduces the mass of the building to a domestic scale close to Blenheim Place residential properties. On Marshall's Court the ground floor windows will bring surveillance to the street, enhancing security.

Subject to approving a brick detail which provides a high degree of colour variation, the proposed brick finish to the new building is supported in this location. The right brick should sit comfortably between the light stonework of the listed building and the darker tone of the surrounding landscape. The use of green roofs will ensure that the building will sit comfortably within the World Heritage Site next to Calton Hill, whilst respecting the Grade A status of the neighbouring buildings. The use of zinc at upper level is supported.

Subject to a condition to agree full material details it is considered that the design, scale and massing of the proposed new building is acceptable.

f) Neighbouring Amenity

The application site is in a vibrant part of the City Centre, in a transitional position between commercial uses such as theatres, bars and restaurants and residential properties. The use of the premises as a hotel is considered appropriate in this location subject to management of the operation and appropriate acoustic installation to protect hotel residents. It should be noted that the only public entrance to the building is from Baxter's Place, and there is no access to the external spaces provided at the rear of the building.

The applicant has submitted a Daylight Analysis with the application. The impact of the proposed hotel development on Sunlight and Daylight available to adjacent properties is assessed relative to the guidance in CEC documents including the draft Edinburgh Design Guidance. Comparisons are made to both the existing situation and the previously consented scheme. In summary, the report concludes that when compared with the previously consented office development the impact of the proposed development is no greater in terms of loss of sunlight or daylight to the adjacent properties in Baxter's Place, Blenheim Place and Marshall's Court. The proposed development will sit one storey higher at the corner close to Blenheim Place. This corner will sit adjacent to a proposed new dwelling and therefore will not result in a detrimental impact on Daylighting at that location.

The windows to the new hotel building have been orientated such that they will not give rise to overlooking of neighbouring properties. The penthouse suite has windows in excess of 18 metres from Blenheim Place. On Marshall's Court the new build will sit on an established street line and as such the window to window distance is therefore acceptable.

The proposed external spaces, to the rear of Baxter's Place, will not be accessible to hotel residents. To the front of the building the use of the terrace will be managed by the hotel operator to ensure that both hotel residents and neighbouring residential

properties are not disturbed. It is observed that Baxter's Place is a well trafficked and noisy thoroughfare during the day and night and thus any additional terrace activity and noise is unlikely to be significantly noticeable above the existing noise climate. In this regard Environmental Assessment have raised no objection.

The removal of the shop/cinema unit to the front of the building and its change to terrace is supported on the grounds that it will not be utilised by the bar or restaurant and will be a private terrace. A condition to secure this is therefore recommended.

It is recommended that a condition be imposed to ensure that the party wall between the proposed restaurant and the residential properties at number 4 Baxter's Place is acoustically insulated to ensure that that noise from the restaurant is inaudible within the adjacent premises. The kitchen will be ventilated to the roof level and will comply with the ventilation requirements of Environmental Assessment.

Servicing of the building is to the rear from Marshall's Court. In order to ensure minimal disturbance to neighbours a condition is recommended which restricts the hours of deliveries and collections.

It is concluded that subject to the conditions recommended above in respect of noise mitigation, that the proposal will not detrimentally impact upon the amenity of neighbouring residents nor lead to conflict with the longstanding established uses in this location.

g) Traffic or Road Safety Issues

Existing access arrangements will be maintained. The application site is located on the Tram route and as such the developer will be required to make a financial contribution to the Edinburgh Tram project. This will be secured by a legal agreement.

Transport has advised that £332,246 is required under the terms of the tram policy. However, the applicant has advised that at this level the contribution will render the project undeliverable and have offered to make a contribution of £26,800. The financial appraisal for this project has been provided to the Council and assessed by the Council's surveyors. They have reviewed and have accepted the figures that have been provided. On this basis, it is considered acceptable to agree to the reduced level of contribution in the interests of project viability. The reduced level shall be paid provided that development is commenced within 18 months. This is in accordance with the Council's Economic Resilience Action Plan.

In accordance with Council Transport policy, conditions are recommended to ensure the provision of cycle stands, realtime bus information and reinstatement of dropped kerbs where appropriate.

h) Sustainability

The applicant has submitted a sustainability statement in support of the application. The application includes air source heat pump (VRV) technology for guestroom heating and cooling to meet carbon reduction, in compliance with section 6 (energy) of the 2010 Building Standards. The application site is prime for sustainable transport including Tram and bus route and is in close proximity to Waverley Railway Station.

The proposal has been classed as a major development and has been assessed against Part B of the standards. The points achieved against the essential criteria are set out in the table below:

Essential Criteria	Available	Achieved
Section 1: Energy Needs	20	20
Section 2: Water conservation	10	10
Section 3: Surface water run off	10	10
Section 4: Recycling	10	10
Section 5: Materials	30	30
Total points	80	80

The proposal meets the essential criteria. In addition the applicants have provided a commitment to further sustainability measures such as the inclusion of the green roofs in the development will provide at source treatment and attenuation of rainwater.

i) Impact on Natural Heritage

The development site has minimal ecological interest. The proposed development would have minimal impact upon the trees in the adjoining site. The applicant has commissioned a Bat survey on the building element to be demolished. The survey assessed the building as having limited potential for use by bats and concluded that no bats were found to be using the building. Therefore, no European protected species will be affected by the proposal.

j) Public Comments

Material representations

Amenity

- loss of light - this is addressed in section 2.3f)
- noise and smell - this is addressed in section 2.3f)
- conflict with neighbouring uses - this is addressed in section 2.3f)

Design

- height - this is addressed in section 2.3 e)

Traffic

- movement and road safety - this is addressed in section 2.3g)
- car parking - this is addressed in section 2.3g)

Non material representations

- disturbance throughout construction (addressed by other legislation)
- not a demand for further hotels in Edinburgh (not a planning consideration)

Community Council Comments

- Support the application
- removal of the salon cinema and reinstatement of the listed frontage is welcomed - this is addressed in section 2.3d)
- building at risk in the World Heritage Site, hope the building work proceeds quickly - this is addressed in section 2.3d)
- upgrading of derelict backlands of Greenside is welcomed - this is addressed in section 2.3a)

k) Equalities and Human Rights Impact

The proposal is a public building and therefore the access for people with physical disabilities has been addressed and will meet with current building standards. Issues with respect to protecting neighbouring amenity has been addressed in section 2.3 f). An Equalities and Rights Impact Assessment has been completed.

CONCLUSIONS

In conclusion, the proposal complies with the development plan. The proposal is acceptable in this location and is of an appropriate scale, form and design. The proposal is an improvement on the previously consented scheme. The proposal will enhance the character and appearance of the New Town Conservation Area and the Edinburgh World Heritage Site. The category A listed building on the Building at Risk Register will be restored and utilised appropriately.

There are no material considerations which outweigh this conclusion. It is recommended that the Committee approves this application subject to conditions in relation to materials, archaeology, noise mitigation, restriction of new terrace, deliveries and waste collection, ventilation, transport and a section 75 Legal Agreement in respect of Tram contribution.

3. Recommendations

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

3.2 Conditions/reasons

1. No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The work would 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.

2. (i) The kitchen shall be ventilated by a system capable of achieving 30 air changes per hour, and the cooking effluvia shall be ducted to roof level as agreed with the Planning Authority to ensure that no cooking odours escape or are exhausted into any neighbouring premises.
(ii) The ventilation system shall be installed, tested and operational prior to the use hereby approved being taken up.
3. No development shall take place until a scheme to protect the adjacent residential properties at 4 Baxter's Place from noise from the hotel restaurant has been submitted to and approved in writing by the Head of Planning; all mitigation works which form part of the approved scheme shall be completed to the satisfaction of the Head of Planning before any part of the development is occupied.
4. The proposed terrace at 5 Baxter's Place [shown in drawing L(--)-105 Rev B and replacing the existing retail unit] should be used for maintenance and access purposes only and not for use by patrons of the application premises.
5. 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.
6. 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.
7. All music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises.
8. Deliveries and collections, including waste collections, to be restricted to 0700 – 1900 hours Monday to Sunday.
9. 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.
10. Four cycle stands to be located close to the front entrance, for the use of visitors. The location, type and layout to be to the satisfaction of the Director of City Development.
11. A 'real time' bus information PC based unit is to be located in the Hotel Foyer, for the use of guests.
12. Any existing vehicle accesses/dropped kerbs no longer required to serve the developments shall be reinstated back to footway, to the satisfaction of the Director of Services for Communities.
13. The existing stonework shall be repaired, and missing sections replaced, using natural stone carefully chosen to match in all respects the existing stonework, all to the satisfaction of the Head of Planning.

14. 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 and Building Standards before work is commenced on site; Note: samples of the materials may be required.

15. The construction details and external finishes shall be reserved, and shall be submitted to and approved in writing by the planning authority before work is commenced on site; Note: samples of the materials may be required.

16. Prior to the commencement of works on site, details of access to and space for waste management facilities, including recycling, shall be submitted to and approved in writing by the Head of Planning and Building Standards. Thereafter, the requirements agreed shall be implemented to the satisfaction of the Head of Planning and Building Standards, prior to the occupation of the development hereby approved.

17. 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 and Building Standards before work is commenced on site.

18. 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.

Reasons:-

1. In order to retain and/or protect important elements of the existing character and amenity of the site.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.
3. In order to safeguard the amenity of neighbouring residents and other occupiers.
4. In order to safeguard the amenity of neighbouring residents and other occupiers.
5. In order to safeguard the amenity of neighbouring residents and other occupiers.
6. In order to safeguard the amenity of neighbouring residents and other occupiers.
7. In order to safeguard the amenity of neighbouring residents and other occupiers.
8. In order to safeguard the amenity of neighbouring residents and other occupiers.
9. In order to safeguard the amenity of neighbouring residents and other occupiers.
10. In order to satisfy the Council's parking standards.
11. In support of the Council's policies to encourage sustainable transport modes.
12. In the interests of pedestrian amenity.

13. In order to safeguard the character of the statutorily listed building.
14. In order to enable the planning authority to consider this/these matter/s in detail.
15. In order to enable the planning authority to consider this/these matter/s in detail.
16. In order to enable the planning authority to consider this/these matter/s in detail.
17. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
18. In order to ensure that the approved landscaping works are properly established on site.

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. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. Consent shall not be issued until a suitable legal agreement, including those requiring a financial contribution payable to the City of Edinburgh Council, has been concluded in relation to transport infrastructure.

4. Transport Notes:

The lane at Marshall Street is adopted over some of its length. Beyond that, the lane should be brought up to an adoptable standard along the frontage of the development, and for a length sufficient to provide a suitable turning area for service vehicles.

Any areas of new prospectively adoptable footway/carrageway will require to be subject to application for Road Construction Consent.

The Traffic Regulation Order is to be applied to that section of Marshall's Court which is to be brought up to an adoptable standard, to prevent indiscriminate parking. The application to be made on commencement of development to ensure timely process of the application prior to development opening

5. This consent is for planning permission only. Work must not begin until other necessary consents, e.g. listed building consent, have been obtained.

Statutory Development**Plan Provision**

The proposal is subject to the policies of the Edinburgh City Local Plan adopted 28 January 2010.

Date registered

19 November 2012

Drawing numbers/Scheme

1- 21

David R. Leslie

Acting Head of Planning and Building Standards

Links - Policies

Relevant Policies:

Policy Env 1 (World Heritage Site) protects the quality of the World Heritage Site and its settings.

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.

Relevant policies of the Edinburgh City Local Plan.

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

Policy Env 7 (Historic Gardens & Designed Landscapes) establishes a presumption against development that would be detrimental to Historic Gardens and Designed Landscapes.

Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

Policy Env 15 (Sites of Local Importance) identifies the circumstances in which development likely to affect Sites of Local Importance will be permitted.

Policy Env 16 (Species) sets out species protection requirements for new development.

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 Emp 5 (Hotel Development) sets criteria for assessing sites for hotel development.

Policy Ret 12 (Food and Drink Establishments) sets criteria for assessing the change of use to a food & drink establishment.

Policy Tra 1 (Major Travel Generating Development) supports major travel generating development in the Central Area, and sets criteria for assessing major travel generating development elsewhere.

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 5 (Private Cycle Parking) requires cycle parking provision in accordance with levels set out in supplementary guidance.

Policy Tra 7 (Tram) prevents development which would prejudice tram safeguards or identified tram routes.

Appendix 1

Consultations

Archaeology

Further to your consultation request I would like to make the following comments and recommendations concerning the above planning application alterations and change of use to licensed hotel, demolition of building at 2 Greenside lane, construction of additional hotel accommodation, associated facilities, access and car-parking.

The site lies at the north-western foot of Calton Hill, placing it within the limits of designated UNESCO World Heritage site covering both Edinburgh's medieval old towns and the New Town. The buildings occupying the front of the site (1-5 Baxter's Place) are A-listed Georgian Townhouses constructed around 1798 as part of the expansion of the New Town.

Historically the site occurs immediately to the north of Edinburgh' medieval town along the main medieval road linking Edinburgh with its port at Leith. The proposed development site also lies either on or close to the site of the important late medieval Carmelite Friary at Greenside (NMRS Ref; NT27SE 36). This monastery was established between 1518 & 1526 by the Order on the site of the earlier Rude Chapel, founded in 1456 by James II for the tournaments undertaken at Greenside. In 1591 the chapel was converted into a Leper Hospital and appears to have been demolished before the 18th century. During Tram related works in 2008-9 a group of 10 inhumations in association with the remains of a boundary wall were recovered on the northern corner of the junction of Elm Row and London Road. These remains have been identified as being associated with this Chapel/hospital site.

Accordingly this site has been identified as occurring within an area of archaeological potential in particular relating to the late medieval Greenside Chapel/Leper Hospital and the development of the Georgian New town. This application must be considered therefore under terms the Scottish Government Historic Environment Policy (SHEP), Scottish Planning Policy (SPP), PAN 02/2011 and also Edinburgh City Local Plan (2010) policy ENV4 & 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 2008 application (08/03635/FUL) and to the 2012 PAN (12/02263/PAN) it is considered that on current information this proposal scheme is regarded as having a low-moderate archaeological impact both in terms of the historic buildings occupying the site and any buried archaeological remains.

Ground-breaking works associated with demolitions and construction of the new development could as stated disturb significant remains (including possibly human remains) associated with the former late-medieval Chapel and Hospital. Accordingly it is recommended that a programme of archaeological work is undertaken which will

require the affected areas to be stripped under archaeological control and any significant remains fully excavated and recorded. Furthermore, as stated the proposals will have an impact upon the fabric of A-listed Georgian Townhouses comprising 1-5 Baxter's Place. Accordingly as part of the archaeological mitigation strategy for the site it is essential that a programme archaeological historic building survey (level 2: annotated plans/elevations, photographic and written survey) of the existing building is undertaken prior to and during construction works.

It is therefore recommended that the following condition be attached consent to ensure that a programme of archaeological works is undertaken prior to construction.

'No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The work would 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.

Scottish Water - response dated 27/11/2012

Scottish Water has no objection to this planning application. Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections.

In terms of planning consent, Scottish Water does not object to this planning application. However, please note that any planning approval granted by the Local Authority does not guarantee a connection to our infrastructure. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received.

Due to the size of this proposed development it is necessary for Scottish Water to assess the impact this new demand will have on our existing infrastructure. With any development of 10 or more housing units, or equivalent, there is a requirement to submit a fully completed Development Impact Assessment form. Development Impact Assessment forms can be found on our website.

Glencorse Water Treatment Works that serves the proposed development may be able to supply the new demand.

The water network has limited capacity available for new demand. The Developer should discuss their development directly with Scottish Water.

Water Network

Our initial investigations have highlighted there may be a requirement for the Developer to carry out works on the local network to ensure there is no loss of service to existing customers. The Developer should discuss the implications directly with Scottish Water.

Edinburgh Waste Water Treatment Works may have capacity to service this proposed development.

The waste water network that serves the proposed development may be able to accommodate the new demand.

Wastewater Network

Our initial investigations have highlighted there may be a requirement for the Developer to carry out works on the local network to ensure there is no loss of service to existing customers. The Developer should discuss the implications directly with Scottish Water.

In some circumstances it may be necessary for the Developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure, etc the Developer will be required to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.

A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.

Appropriately sized grease traps must be installed on all drainage outlets from food preparation areas. No substance may be discharged to the public sewerage system that is likely to interfere with the free flow of its content, have detriment to treatment / disposal of their contents, or be prejudicial to health.

An appropriate water storage system Water storage equivalent to 24 hours usage is recommended for commercial premises. Details of such storage installations must be forwarded can be discussed to Scottish Water's Customers Connections department at the above address.

*Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, .
If the developer requires any further assistance or information on our response, please contact me on the above number or alternatively additional information is available on our website.*

Historic Scotland

Nos 1-5 Baxter's Place was designed in the 1790's as an early palace fronted development within the city. the current rear extension to the building was presumably part of the development which cleared later shopfronts from the front of the building and facade-retained the block.

We wrote substantial comments on the previous planning (and listed building consent) application (08/03655/FUL) granted in March 2009. These comments acknowledged the undoubted increase in bulk and scale on the rear elevation and suggested

conservation improvements. reduced views of the rear of the restored listed building from Calton Hill were a major concern at this stage.

We realised that the current scheme has been revised since our joint meeting with the applicants in October, and welcome the improvements. The initially presented scheme would have obscured more of the rear elevation (than the consented scheme) in views from Calton Hill, and the revisions reduce this coverage.

Importantly, the current scheme allows for the removal of the derelict shop unit at No.5 Baxter's Place. In the list description for the terrace the shops are described as "unfortunate" and that "restoration is desirable". We feel this is a major conservation gain for the buildings.

Bearing in mind the extant planning permission we have no concerns with the current proposals and welcome the conservation benefits to the important front elevation.

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

New Town and Broughton Community Council

1) Following a constructive and unbiased Pre-application Consultation, we readily support this proposal.

2) The removal of the vestige of the Salon cinema and reinstatement of the lower part of the listed frontage to No.5 are particularly welcome.

3) As Baxter's Place is currently the building most at risk in the World Heritage Site - at least in its New Town component we hope that building work will proceed as quickly as possible if the application is granted.

4) The derelict backlands of Greenside are of continuing concern to us, and we expect this project to be an initial and important contributor to their upgrading.

Environmental Health

The application proposes the change of use of offices to a hotel. An existing office extension to the rear is proposed to be demolished and replaced with additional hotel accommodation. Across Greenside Lane to the south-west is a bar with a car park and a theatre to the south. Offices and residential properties are situated to the south and south-east on Marshall's Court. Residential properties are situated next door to the north at 4 Baxter's Place with windows facing to the north-west and south-east. The entrance to 4 Baxter's Place intersects the existing front terrace from a newly proposed terrace at 5 Baxter's Place. Commercial premises with residential properties above continue to curve round Baxter's Place onto Blenheim Place where residential properties look out onto the application premises to the south.

Noise

The existing front terrace on Baxter's Place is proposed to be utilised by patrons of the hotel and restaurant and is situated a few metres from the nearest residential property at 4 Baxter's Place. It is likely that this terrace could be used for external drinking,

dining and smoking which can cause noise and disturbance to the occupants of residential properties. However, Baxter's Place is a well trafficked and noisy thoroughfare during the day and night and thus any additional terrace activity and noise is unlikely to be significantly noticeable above the existing noise climate.

The application proposes to replace the existing retail unit at 5 Baxter's Place, situated to the northern corner of the application site, with a new external terrace. Therefore, this terrace will be immediately in front of the residential windows of a flat at 4 Baxter's Place. The entrance to 4 Baxter's Place will also separate the existing hotel terrace from the newly proposed terrace should this application be consented. The existing terrace is proposed to be used for patrons of the hotel and restaurant and can be used 24 hours a day as it also forms the entrance to the property. It is therefore likely that the existing external terrace will be used for dining, drinking and smoking. This Department would be concerned if the newly proposed terrace at 5 Baxter's Place was to be used by patrons of the hotel or restaurant as it is immediately outside residential windows. It is therefore likely that the amenity of the residential property could be significantly affected by noise from patrons eating, drinking or smoking. However, the agent for the application has confirmed that this new level five terrace will not be used by the restaurant or bar and will be a private terrace for maintenance access for activities like window cleaning. Therefore, any support for this application from Environmental Assessment is based upon this terrace not being used as an external terrace for patrons of the restaurant or hotel. A condition is recommended to that effect.

An external courtyard and roof terrace are proposed centrally within the development on level one and level five respectively. The agent has confirmed that the courtyard and terrace are enclosed landscaped spaces for maintenance and will not be available for use by patrons of the application premises.

A restaurant is proposed which shares a party wall with the residential properties at 4 Baxter's Place. It is recommended that the shared party wall be acoustically insulated to ensure that noise from the restaurant is inaudible within the adjacent premises. A condition is recommended which requires appropriate mitigation works to be implemented prior to occupation of the application premises.

Deliveries to the premises are likely to occur from the east service entrance on level 1 situated to the rear of the premises. Delivery vehicles will be required to access the service area via Greenside Lane and Marshall's Court passing residential properties in the process. The area to the rear of the application premises is relatively quiet at night and early morning and therefore deliveries at this time may cause disturbance and impact upon the amenity of the local residential properties. Therefore a condition is recommended which restricts deliveries to the application premises to daytime hours only.

Kitchen Ventilation

The agent for the application has confirmed that the kitchen ventilation will be vented to roof level and will comply with the ventilation requirements of Environmental Assessment.

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

1. *No development shall take place until a scheme to protect the adjacent residential properties at 4 Baxter's Place from noise from the hotel restaurant has been submitted to and approved in writing by the Head of Planning; all mitigation works which form part of the approved scheme shall be completed to the satisfaction of the Head of Planning before any part of the development is occupied.*
2. *The proposed terrace at 5 Baxter's Place [shown in drawing L(--)-105 Rev B and replacing the existing retail unit] should be used for maintenance and access purposes only and not for use by patrons of the application premises.*
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 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.*
5. *All music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises.*
6. *Deliveries and collections, including waste collections, to be restricted to 0700 – 1900 hours Monday to Saturday.*
7. *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.*
8. *(i) The kitchen shall be ventilated by a system capable of achieving 30 air changes per hour, and the cooking effluvia shall be ducted to roof level as agreed with the Planning Authority to ensure that no cooking odours escape or are exhausted into any neighbouring premises.
(ii) The ventilation system shall be installed, tested and operational prior to the use hereby approved being taken up.*

Should you wish to discuss the above, please do not hesitate to contact me on 0131 469 5802.

Addendum

As stated above, Environmental Assessment has no objections to the approval of the application subject to the recommended condition being attached to any consent.

NB. However, should the above condition not be applied to any consent, Environmental Assessment will require to review the recommendation. In such event, it is imperative that this is notified immediately to the Environmental Assessment case officer.

Scottish Natural Heritage

Thank you for consulting us on the above development proposal.

We note that the proposal lies within 100 meters of the boundary of the Calton Hill section of Arthur's Seat Volcano Site of Special Scientific Interest (SSSI).

We do not anticipate any adverse impacts from the proposed development upon the special features of this SSSI, despite the proximity of the two sites. Therefore SNH does not object to this proposal.

Transport - response dated 17/12/2012

Consent should not be issued until the Developer enters into a suitable legal agreement to contribute a sum of £386,832 (based on 239 bed hotel £719,078 less existing use 3609m² offices £332,246 Zone 1) towards the Edinburgh Tram Project, a sum of £3,500 towards the promotion of a Traffic Regulation Order for the purpose of introducing loading and waiting restrictions on Marshall's Court (see note 3 below) and a legal agreement to secure the provision of two coach parking spaces at a suitable commercial vehicle parking site within the City of Edinburgh Council boundary. Reason: to prevent on street coach parking in vicinity of the development. Further, a section 75 legal agreement be secured to being the currently unadopted section of Marshall's Court up to adoptable standard, subject to being within the Developers control (see note 1 below)

I have no objections to the application subject to the following conditions being applied.

Conditions:

- 1. Four cycle stands to be located close to the front entrance, for the use of visitors. The location, type and layout to be to the satisfaction of the Director of City Development.*
- 2. A 'real time' bus information PC based unit is to be located in the Hotel Foyer, for the use of guests.*
- 3. All external doors adjacent to the public footway must open inwards to the property (no outwards as shown on the plans).*
- 4. Any existing vehicle accesses/dropped kerbs no longer required to serve the developments shall be reinstated back to footway, to the satisfaction of the Director of Services for Communities.*

Reasons:

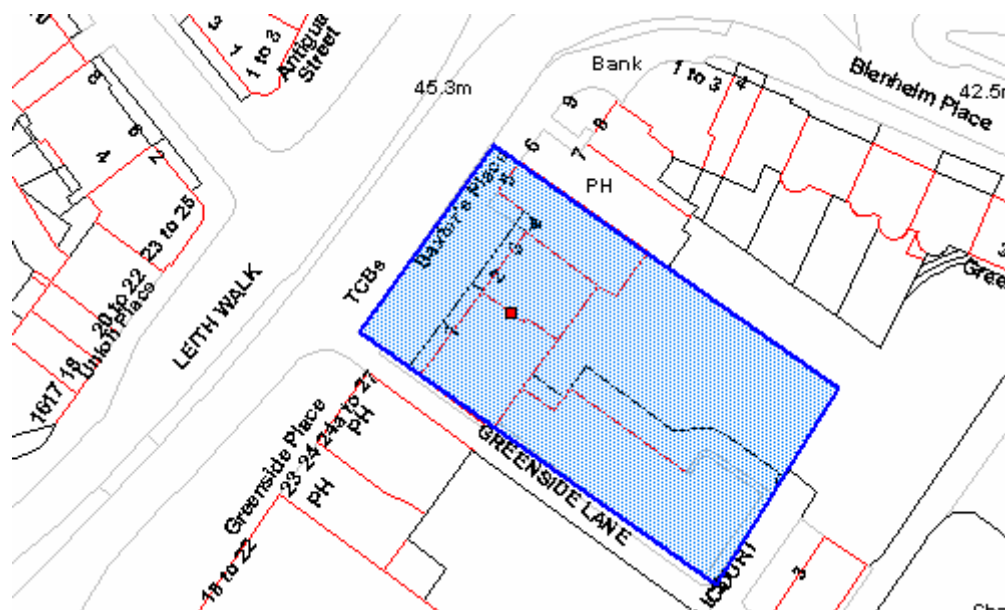
- 1. To meet the Council's parking standards.*
- 2. In support of the Council's policies to encourage sustainable transport modes.*
- 3. To meet the Council's design standards.*
- 4. In the interests of pedestrian amenity.*

Notes:

- 1. The lane at Marshall Street is adopted over some of its length. Beyond that, the lane should be brought up to an adoptable standard along the frontage of the development, and for a length sufficient to provide a suitable turning area for service vehicles.*
- 2. Any areas of new prospectively adoptable footway/carriageway will require to be subject to application for Road Construction Consent.*

3. The Traffic Regulation Order is to be applied to that section of Marshall's Court which is to be brought up to an adoptable standard, to prevent indiscriminate parking. The application to be made on commencement of development to ensure timely process of the application prior to development opening

Location Plan



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