



Decision by Karen Black, a Reporter appointed by the Scottish Ministers

- Conservation area consent appeal reference: CAC-230-2004
- Site address: 106-162 Leith Walk, Edinburgh, EH6 5DX
- Appeal by Drum (Steads Place) Ltd against the decision by the City of Edinburgh Council
- Application for conservation area consent 18/04349/CON dated 6 August 2018 refused by notice dated 4 February 2019
- The works proposed: complete demolition in a conservation area
- Date of site visit by Reporter: 9 October 2019

Date of appeal decision: 20 December 2019

Decision

I dismiss the appeal and refuse conservation area consent.

Preliminary matter

1. The site is the subject of both a planning permission appeal (PPA-230-2274) and this conservation area consent appeal. My decision on the planning permission appeal is contained in a separate decision notice. Although the address to which this appeal relates is referenced as 106-162 Leith Walk in both the council's committee report and decision notice, this conservation area consent appeal relates solely to the building located within the Leith Conservation Area at 106-154 Leith Walk.

Reasoning

2. In the determination of an appeal in respect of a conservation area consent, under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The determining issue in this appeal therefore is whether the proposed demolition of the unlisted buildings at 106-154 Leith Walk would preserve or enhance the character or appearance of the Leith Conservation Area.

3. Paragraph 134 of Scottish Planning Policy 2014 states that where the demolition of an unlisted building is proposed through conservation area consent, consideration should be given to the contribution the building makes to the character and appearance of the conservation area. Where a building makes a positive contribution, the presumption should be to retain it.

4. Historic Environment Policy for Scotland 2019 (HEPS), Managing Change in the Historic Environment 2010 guidance note on demolition, and policies Env 2 (Listed Buildings - Demolition) and Env 5 (Conservation Areas - Demolition of Buildings) of the 2016 Edinburgh Local Development Plan (LDP) are also material considerations in my determination of the appeal.
5. The Leith Conservation Area Character Appraisal published by the council in 2015 refers to the diverse pattern, building types and uses on the west side of the Leith Walk sub character area of the Leith Conservation Area, within which the building is located. It describes the development pattern, building types and uses on the west side as being more diverse, and less co-ordinated than other parts of the conservation area. Reference is made to tenements being the predominant form but showing a much greater variety in their design, heights, building lines, roofscapes and ages, with Georgian development and industrial buildings. I also note that Historic Environment Scotland and local community and heritage groups consider that the character of the sub-area cannot solely be defined by the tenement at this end of Leith Walk. The description above reflects my own perception of the character of the area.
6. The appellant's heritage statement refers to the 'intrusion' of the Leith rail line and goods yard in the early 20th century and this area of Leith Walk as having 'unresolved' character and appearance. I cannot agree with that assertion. The former railway bridge buildings directly adjacent to, and others opposite the appeal site clearly have an architectural and historical association with the buildings proposed for demolition. The overall character, as highlighted by Historic Environment Scotland reflects the influence transportation infrastructure and its railway heritage has had on the area, and this character is still evident.
7. The 2 storey 1930s red sandstone and granite building, on the Leith Walk frontage which is the subject of this conservation area consent appeal has an historical and architectural association with the former railway company. I agree that the intactness and external appearance of the building has been compromised, largely due to alterations to the shopfronts and windows, and boarding up of vacant units. Nevertheless, at my site visit, and viewing the appeal site from both the north and south, the building draws the eye and appears as a distinctive and in many ways a unique feature and landmark in the street, with diversity in its architectural style.
8. I have also been provided with a great deal of information on the evolution and design of the building. Historic Environment Scotland comment that the red sandstone ashlar frontage has a strong horizontal emphasis with a repetition of features on a symmetrical elevation. It has a far higher standard of architectural treatment when compared to the building's utilitarian brick rear. It also states that the strong horizontal emphasis, extends to the stone's coursing, with a general repetition of features along a symmetrical façade. Decorative features are used sparingly, a notable exception being the polished granite Doric pilasters dividing the individual bays at first floor, and corresponding to the individual shop units. Although assessed by Historic Environment Scotland and found not to be worthy of listing, I note that in response to the planning application Historic Environment Scotland comments that the building makes a positive contribution to the conservation area, but not a significant one. It also highlights that attempts should be made to retain the building.

9. Although the building is not referenced specifically in the character appraisal, I find that its highly visible red sandstone and distinctive long frontage adds interest to the streetscape and conservation area, and to this part of Leith Walk. I also agree with local community and heritage groups that the building is in many respects iconic with its low lying nature and scale being not only consistent with, but also reinforcing the character of this part of Leith Walk. For all these reasons, I conclude that the existing building makes a positive contribution to the character and appearance of the area.

10. I now consider the additional relevant tests to be applied when considering the demolition of an unlisted building in a conservation area as established in HEPS and related demolition guidance. Considerations include the condition of the building, whether repair is economically viable, alternative sources of finance, marketing of the property, whether there has been a positive attempt to achieve its retention or restoration and the wider public benefits arising from redevelopment. Policies Env 2 and Env 5 in the local development plan largely replicate such considerations. The policies also specify that demolition of any building within a conservation area will only be permitted in exceptional circumstances and that any replacement building should enhance or preserve the character of the area.

11. A structural survey of the existing building has been provided by the appellant. Although access to roof and floor voids was not available, I note that the survey does not identify any areas of structural concern and that the masonry is generally in good condition. On my site visit I was also able to view the interior of the vacated office units on the first floor. Generally, these units appeared to be wind and water tight, in reasonable decorative order, with no obvious structural issues.

12. Notwithstanding these findings, the applicant states that the building fabric is in need of substantial repair and maintenance. As I note above, the external appearance of the building has deteriorated over recent months and alterations to shop fronts have also resulted in the removal of original features, including doors and windows. Consequently, I acknowledge that although the building is structurally sound, it will require repair and maintenance if it is to be retained. The applicant however, states that the cost of repair and maintenance is disproportionate to the commercial value of the property.

13. Various options to reconfigure and retain the existing building have been assessed by the appellant. The assessment concludes that retention of the existing building without substantial addition is neither practical nor viable. Indicative costs have been provided in support of this argument. The appellant's summary financial appraisal indicates that the net development value of the retained building would be just under £3 million, leaving a deficit of almost £7 million which the appellant states would require to be recouped through development of the appeal site as proposed.

14. Historic Environment Scotland comment that the options for retention of the building appear to be based on achieving a pre-agreed quantum of development on the site, and the guidance in the council's 2008 Stead's Place/Jane Street Development Brief which suggests that demolition may be acceptable provided the replacement building enhances or preserves the character of the area. Overall however, in respect of refurbishment costs I have no evidence to dispute the costs suggested.

15. The appellant also contends that the future flexibility of the structure to form open plan areas within the units is limited due to all existing walls being clay brick and load

bearing. The requirement for supporting columns would also render the space commercially unattractive and make provision of an active frontage difficult to provide. I note however that the appellant's structural survey does not indicate that repair and restoration cannot be achieved and that the building's structural condition does not appear to preclude its re-use.

16. Some representations also suggest that there is scope to both redevelop the site and retain the current building, to create a mix of uses in alternative ways that would be imaginative and contribute positively to the needs and desires of the local community. Reference is made to the refurbishment of the old tram depot opposite the appeal site which has been converted to offices. It may be that works to improve the existing façade of the building to create an architecturally attractive front elevation, perhaps through a shop front enhancement scheme could also be implemented, and may prove attractive to potential leaseholders. However I have no evidence to suggest that would be possible. The appellant also suggests the use of conditions if consent was granted to require retention of the existing façade of the Leith Walk buildings and incorporate that into the new development while still preserving or enhancing the conservation area. However, I must concern myself with the effects of the development as proposed and it is not in my remit to consider any alternative schemes to the proposal before me.

17. The appellant has also provided evidence in relation to marketing of the existing buildings. The marketing strategy included internet publicity and marketing boards on the buildings. Since 2009 the commercial letting agent was instructed to offer lease terms at lower market rates, with rent free periods reflecting the location outwith recognised office districts and trade parks and the condition of the buildings. The agent also advises that leases were offered at a maximum 2 years or longer with mutual break options until such time as site redevelopment was initiated. The offices were rarely fully occupied and turnover and voids of office and retail occupiers was relatively high. Furthermore rent growth was not sufficient to invest in the buildings. All of these matters are clearly commercially driven decisions and it may be that the short term leases on offer, combined with the knowledge that the site may be redeveloped in the future may act as a disincentive to potential occupiers and leaseholders. Overall, however I accept that the property has been marketed for a reasonable period as set out in the managing change guidance.

18. In the related appeal against refusal of planning permission I conclude that the proposed uses would be acceptable and that the appeal proposal has the potential to generate economic benefits as a result of construction, operation of commercial uses and the additional spending in the area created by new households if fully developed. However when weighed against the impact of the loss of the existing building proposed for demolition and my concerns about the impact of the proposed new development on the character of the conservation area, I have not identified any wider public benefits likely to arise from the proposed redevelopment of the site that would outweigh that harm. I also note that the guidance highlights that wider public benefits would normally arise from nationally or regionally significant developments.

19. In summary, I accept the appellant's argument that repairing the building would not on its own, be viable. The internal structure of the building would also be likely to make it more challenging to redevelop. However, I am not satisfied that all options for retention of the building along with some additional development, possibly involving grant assistance as suggested in the managing change guidance, have been explored. I acknowledge that

there would be potential economic benefits, however, given my dismissal of the related appeal against the refusal of planning permission, there is no basis for me to conclude that sanctioning the demolition of building would deliver such benefits. Furthermore, I have no available evidence that such benefits could not be secured by a scheme that did not require the demolition of the building.

20. Taking all these matters into account, I consider that the existing building at 106-154 Leith Walk makes a positive contribution to the conservation area. Historic Environment Policy for Scotland 2019 and Scottish Planning Policy outline a presumption in favour of retention of buildings that make a positive contribution to conservation areas. The 2010 managing change guidance also states that proposals for demolition in a conservation area should be considered in conjunction with a full planning application for a replacement development, and that consideration is to be given to the potential contribution that the replacement building may make to the area's character and appearance. It also highlights that gap sites could be harmful to the character of an area if allowed to lie undeveloped for a significant time between demolition and redevelopment.

21. I have considered the merits of the proposed replacement buildings in the parallel planning appeal decision. I concluded that planning permission should be refused as the replacement buildings would not preserve or enhance the character and appearance of the conservation area, in contravention of the relevant statutory tests and development plan policies. It follows that there is currently no acceptable redevelopment proposal that might justify demolition. Consequently, I consider that the absence of an acceptable redevelopment proposal at this time and being mindful of the potential harmful effects of a subsequent vacant site on the character and appearance of the conservation area, adds further weight to my view that demolition of the existing building is not justified.

22. For all these reasons, I therefore conclude, that the proposed demolition does not meet the statutory tests of the Act. It would also be contrary to policies Env 2 and Env 5 of the LDP. Furthermore it does meet the terms of Scottish Planning Policy 2014 and Historic Environment Policy for Scotland 2019 related demolition guidance.

23. I have also had regard to the matters raised in respect of the building's condition, viability of retention of the existing building and marketing information. I have not identified any exceptional reasons why demolition of the building would be acceptable. Consequently there are no considerations that outweigh my findings in terms of the statutory and policy provisions above and would cause me to reach a different conclusion.

Karen Black

Reporter