

Development Management Sub Committee

Wednesday 25 April 2018

Application for Planning Obligation 17/05746/OBL At Land Adjacent To, New Street, Edinburgh To discharge various obligations in S75 agreement (2013)

Item number	4.18
Report number	
Wards	00 - No Ward Number

Summary

It is confirmed that the 2013 legal obligation has been superseded by the 2014 legal obligation and that the applicants' request for the discharge of the 2013 obligation can therefore be accepted.

Links

[Policies and guidance for this application](#)

Report

Application for Planning Obligation 17/05746/OBL At Land Adjacent To, New Street, Edinburgh To discharge various obligations in S75 agreement (2013)

Recommendations

1.1 It is recommended that this application be accepted and the agreement be discharged

Background

2.1 Site description

The site comprises the Caltongate/New Waverley development an overall area of some 2.35 hectares.

It is bounded to the North by Calton Road, to the East by Tolbooth Wynd, to the South by the Canongate and to the West by New Street and Cranston Street.

A number of the elements of this overall development have now been completed including the hotel fronting Canongate, the two hotels on East Market Street and the redevelopment of the Arches fronting Jeffrey Street and East Market Street.

The site is within the Edinburgh World Heritage Site and the Old Town Conservation Area.

2.2 Site History

The relevant site history is:

2013 Obligation

22 May 2013 - Development Management Sub Committee were minded to grant planning permission subject to an appropriate legal obligation and for the renewal of application number 07/01287/FUL (the PA3 permission) for the development of the land to the east of New Street for offices and residential development (application numbers 13/00088/FUL and 13/00095/FUL).

22 May 2013 - Development Management Sub Committee were minded to grant planning permission subject to an appropriate legal obligation and for the renewal of application number 07/04400/FUL (the PA4A permission) for the development of the land to the east of New Street for offices and residential development (application number 13/00090/FUL and 13/00096/FUL).

22 May 2013 - Development Management Sub Committee were minded to grant planning permission subject to an appropriate legal obligation and for the renewal of application number 07/01237/FUL (the PA5 permission) for the development of the land to the north of East Market Street and south of Canongate for hotel development (application number 13/00091/FUL).

22 May 2013 - Development Management Sub Committee were minded to grant planning permission subject to an appropriate legal obligation and for the renewal of application number 07/01288/FUL (the PA6 permission) for the development of the land to the north of East Market Street and east of Jeffrey Street for hotel development (application number 13/00092/FUL).

22 May 2013 - Development Management Sub Committee were minded to grant planning permission subject to an appropriate legal obligation and for the renewal of application number 07/01241/FUL (the PA7 permission) for the development of the arches to the north of East Market Street for retail development (application number 13/00093/FUL).

22 May 2013 - A single legal obligation was concluded and planning permission granted for all of the above developments.

2014 Obligation

29 January 2014 - Development Management Sub Committee were minded to grant planning permission subject to an appropriate legal obligation for development on the southern part of the wider Caltongate/New Waverley development (the PA5, PA6 and PA7 applications) (application number 13/03406/FUL).

29 January 2014 - Development Management Sub Committee were minded to grant planning permission subject to an appropriate legal obligation for development on the northern part of the wider Caltongate/New Waverley development (the PA3 and PA4A applications) (application number 13/03407/FUL).

27 March 2014 - A single legal obligation, replacing that concluded on 22 May 2013, was concluded and planning permission granted for both of the above Caltongate applications.

Main report

3.1 Description Of The Proposal

The application seeks to discharge the planning obligation, made under the provisions of section 75 of the Town and Country Planning (Scotland) Act 1997, regarding the development of the Caltongate/New Waverley and concluded with the Council on 22 May 2013.

3.2 Determining Issues

Section 75A(1)(a) of the Town and Country Planning (Scotland) Act 1997 states - A planning obligation may not be modified or discharged except, by agreement, between the planning authority and a person against whom that obligation is enforceable.

In determining such an application for the modification or discharge of a planning obligation, the specific provision should be considered against the five policy tests set out in Planning Circular 3/2012. These tests relate to: necessity, planning purpose, relationship to the proposed development, relationship to scale and kind and reasonableness.

3.3 Assessment

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

- (a) the discharge of the obligation, as proposed, is considered to be acceptable;
- (b) the proposals have any equalities or human rights impacts;
- (c) comments raised have been addressed; and
- (d) finance implications of the decision.

a) The Discharge of the Obligation is Acceptable

The Council's planning records confirm that the 2013 grants of planning permission for the redevelopment of the Caltongate/New Waverley site, and their associated section 75 obligation, were superseded in full by the subsequent grants of planning permission for the development of the same site, together with their separate section 75 obligation, by the same developer on 27 March 2014.

Accordingly, the proposed discharge of the planning obligation is appropriate and can be agreed in this instance.

b) Equalities and Human Rights Impacts

This application has no impact in terms of equalities or human rights.

c) Public Comments

No representations were received concerning this proposal.

d) Finance

If the 2013 obligation is discharged there would be no financial implications to that decision. Those same provisions, together with additional clauses, were incorporated into the superseding 2014 legal obligation associated with the redevelopment of this site.

Conclusion

In conclusion, the applicants' request for the discharge of the 2013 legal obligation for the development of this site is accepted and accordingly the application should be approved.

It is recommended that the planning obligation to which this application refers is discharged.

It is recommended that this application be accepted and the agreement be discharged

3.4 Conditions/reasons/informatives

Informatives

It should be noted that:

1. Please submit an engrossed Discharge or Minute of Variation (as appropriate) in accordance with the terms of this Decision Notice for execution and registration by the City of Edinburgh Council along with the required registration forms and registration fee. Submissions should be sent to The City of Edinburgh Council, Legal Services, 4 East Market Street, Edinburgh, EH8 8BG.

Financial impact

4.1 The financial impact has been assessed as follows:

If the 2013 obligation is discharged there would be no financial implications to that decision. Those same provisions, together with additional clauses, were incorporated into the superseding 2014 legal obligation associated with the redevelopment of this site.

Risk, Policy, compliance and governance impact

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

Equalities impact

6.1 The equalities impact has been assessed as follows:

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

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

All the parties required to be notified in accordance with the provisions of Regulation 5 of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 have been notified and there has been no further correspondence received.

Background reading/external references

- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development
Plan Provision**

Edinburgh Local Development Plan - Urban Area.

Date registered

7 December 2017

Drawing numbers/Scheme

,

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

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Links - Policies

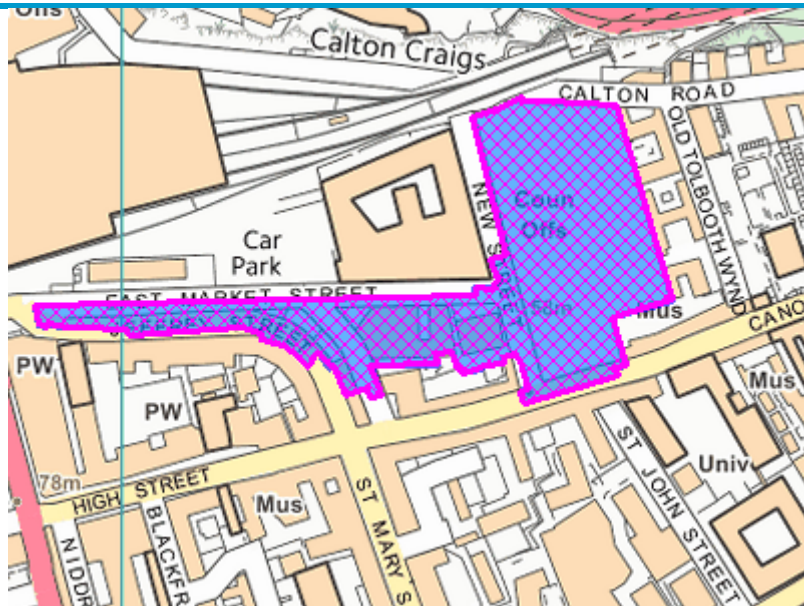
Appendix 1

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Consultations

No consultations undertaken.

Location Plan



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