

Development Management Sub Committee

Wednesday 25 April 2018

Application for Planning Obligation 17/05747/OBL At Land Adjacent To, New Street, Edinburgh To discharge various obligations in S75 agreement (2014)

Item number	4.19
Report number	
Wards	00 - No Ward Number

Summary

The proposed modified clauses are acceptable and the applicants' request for the modification of the 2014 planning obligation can therefore be accepted.

Links

[Policies and guidance for this application](#)

Report

Application for Planning Obligation 17/05747/OBL At Land Adjacent To, New Street, Edinburgh To discharge various obligations in S75 agreement (2014)

Recommendations

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

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:

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 the modification of 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 27 March 2014.

A number of the obligation clauses have been complied with and there are clauses that have been overtaken by events, relating to the development of the site. Accordingly, the developer seeks a formal discharge of the following matters:

Clauses 6.1 to 6.4 relating to works for the provision of a pedestrian Toucan Crossing in the Canongate and pedestrian crossing in East Market Street.

Clause 6.5 relates to the provision of real time bus information in the proposed public square.

Clauses 7.1 to 7.5 require the developer to pay the Junction Works of £40,000 towards the improvement of the junction of St Mary's Street, Jeffrey Street, Canongate and High Street.

Clauses 7.6 to 7.7 requires a road traffic regulation order (TRO) to make New Street, from its junction with East Market Street to its junction with Canongate, one way in a southerly direction; and a redetermination of a section of New Street, from its junction with East Market Street to Canongate, to change to a shared surface over the full length.

Clause 11 requires the re-use of stone from the demolished vehicle depot at East Market Street to be made available for Council use.

Clause 14 requires the developer to make the Tram contribution payment.

Schedules Part 4, Part 5 and Part 6 each required public realm and education contributions to be made to the Council.

All other clauses and schedules are to remain in force.

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 modification 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 Modification of the Obligation is Acceptable

The Council's planning records confirm that:

Clauses 6.1 to 6.4: The pedestrian Toucan Crossing in the Canongate and pedestrian crossing in East Market Street have been completed in full.

Clause 6.5: The Council officers have confirmed to the developer that the provision of real time bus information in the proposed public square is no longer required.

Clauses 7.1 to 7.5: The financial contribution towards the junction improvements has been paid in full; 8 December 2016.

Clauses 7.6 to 7.7: The TROs for the road works have been paid in full and those works undertaken.

Clause 11: The stone from the demolition of the vehicle depot at East Market Street has been made available for Council use.

Clause 14: The Tram contribution payment has been paid in full; 29 July 2016.

Schedules Part 4, Part 5 and Part 6: Public realm and education contributions. The related permissions have lapsed without being implemented. Accordingly, those clauses have fallen.

Accordingly, it is appropriate for the proposed modification, to delete these specific clauses from the 2014 planning obligation is appropriate. Therefore this request 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

All of these payment clauses and work requirements, subject of this application, have been fulfilled by the developer or the permissions to which they relate have lapsed. Accordingly, there would be no financial implications to granting these modifications to the 2014 obligation.

Conclusion

In conclusion, the applicants' request for these modification to the 2014 legal obligation for the development of this site are accepted and accordingly this application should be approved.

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

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

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:

All of these payment clauses and work requirements, subject of this application, have been fulfilled by the developer or the permissions to which they relate have lapsed. Accordingly, there would be no financial implications to granting these modifications to the 2014 obligation.

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

The application, to modify and discharge an obligation, is required to be notified to any other parties to the original agreement, in accordance with the provisions of Regulation 5 of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010.

The necessary notifications were carried out under the Regulations and no representations have been 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

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David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

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Links - Policies

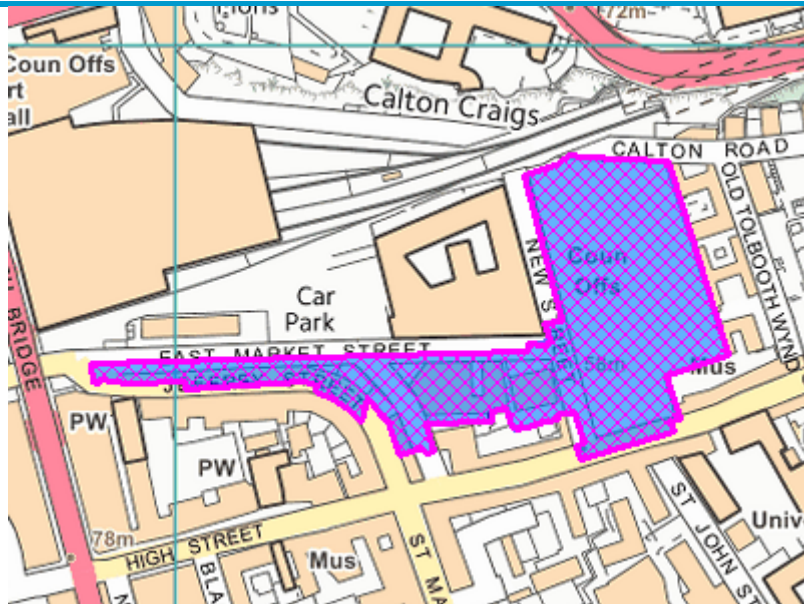
Appendix 1

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Consultations

No consultations undertaken.

Location Plan



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