

Development Management Sub Committee

Wednesday 24 October 2018

Application for Planning Permission 18/01368/FUL At Site 30 Metres North Of 18, Pipe Lane, Edinburgh Application for 13 residential units and associated development.

Item number	7.2
Report number	
Wards	B17 - Portobello/Craigmillar

Summary

Whilst residential use is acceptable in principle, the proposal is contrary to Local Development Plan policies in respect of its failure to contribute to affordable housing provision, adverse impact on archaeology, unacceptable design in terms of spatial structure, scale, proportions, height, massing, layout and parking, inadequate amenity for future occupiers of the townhouses, inferior access for those with disabilities and impracticality of proposed cycle parking. The development does not preserve or enhance the character or appearance of the conservation area. The extant planning permission does not outweigh these material considerations.

Links

[Policies and guidance for this application](#)

LDEL01, LDES01, LDES02, LDES03, LDES04, LDES05, LDES06, LDES07, LDES08, LDES10, LDES11, LEN06, LEN08, LEN09, LEN13, LEN20, LEN21, LEN22, LHOU01, LHOU02, LHOU03, LHOU04, LHOU06, LTRA02, LTRA03, LTRA04, LTRA08, CRPPOR, DBPOR, NSGD02, NSMDV, NSLBCA,

Report

Application for Planning Permission 18/01368/FUL At Site 30 Metres North Of 18, Pipe Lane, Edinburgh Application for 13 residential units and associated development.

Recommendations

1.1 It is recommended that this application be Refused for the reasons below.

Background

2.1 Site description

The 0.11 hectare site is located at the western end of Portobello promenade. The site is flat and currently an area of under-utilised open space, with hardstanding and grass. Immediately to the north of the site are the promenade and the beach. The beach and foreshore are part of the Firth of Forth Special Protection Area (SPA). To the east is Pipe Lane, an area of hardstanding on the promenade, public conveniences and residential properties. To the south is a residential area and to the west are new residential flats and two pottery kilns. The kilns are approximately 12 metres in height and are of brick construction. The pottery kilns are Scheduled Monuments (ref: SM3317, designated 5th December 1973).

This application site is located within the Portobello Conservation Area.

2.2 Site History

15 August 2013 - planning permission granted for demolition of amusement arcade and erection of 73 flats with associated underground parking, amusement arcade and café with landscaped public and private gardens, at 1 Pipe Lane Edinburgh EH15 1BR (planning application reference: 09/00248/FUL). This planning permission was implemented on the adjacent site. The amusement arcade was demolished on site and the planning permission remains extant.

03 November 2017 - Non-material variation to planning permission 09/00248/FUL - minor alterations to the east block building, (Phase 2), comprising the internal layout and fenestration with a new gable wall on the east elevation (application reference 09/00248/VARY).

Main report

3.1 Description Of The Proposal

The proposal is for 13 residential units in the form of 11 flats and two townhouses and associated development.

The flats will be in one six storey block positioned on the northern boundary of the site. 11 three bedroom flats will be built, two on each storey with a penthouse on the top floor. The penthouse is set back from building edge at each side. The flats will have private balconies to the north and south with the penthouse flat having a 360 degree external roof terrace.

The two three storey semi-detached townhouses are curved in shape to the south of the application site. The houses will have integral garages and a communal hardstanding area to the north and a communal garden area to the south.

For both the flats and houses, the materials used will be off-white render, timber cladding, and reconstituted buff sandstone for the ground floor and an aluminium roof canopy. However the penthouse flat will be in zinc cladding for both elevations and roof.

Vehicle access is from Pipe Lane to the east. A car parking court would be provided to the rear of the flats accommodating 11 car parking spaces (including one accessible car parking space, one motorcycle space and one electric charging point space).

Pedestrian and cycle access is provide via the car park and adjacent path to ensure level access to the rear of the flatted block. There is also a double width fire escape only stepped entrance access to the Promenade.

A bin store and small areas of landscaping would also be provided. Basement cycle storage will be provided for 33 bicycles within the flatted block, accessed by a wheeled ramp on the communal stair.

The site would be surrounded by a boundary low level wall and railings. The materials used would be mainly concrete with some sandstone adjacent to the vehicle access and steel railings.

Affordable housing is not proposed on site.

Scheme 1

The applicant did not include any motorcycle car parking provision in Scheme 1. Scheme 1 showed the Promenade access with the steps to be an secondary access. In Scheme 2 it is proposed that this is a fire-door access only.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

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

Do the proposals 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?

3.3 Assessment

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

- a) the principle of development in this location is acceptable;
- b) the impact on historic assets, scheduled monuments, or areas of archaeological significance is acceptable;
- c) the proposals preserve or enhance the character and appearance of the conservation area;
- d) the proposed scale, design, materials and layout are acceptable;
- e) the proposal is detrimental to the amenity of neighbours;
- f) the proposal provides sufficient amenity for occupiers of the development;
- g) the proposal has impacts on infrastructure;
- h) the proposal affects road safety, cycle parking and accessibility;
- i) representations raise issues to be addressed; and
- j) other material considerations have been addressed.

a) Principle

The application site is identified within the Local Development Plan (LDP) as within the urban area. Policy Hou 1 (Housing Development) supports housing development on other suitable sites in the urban area, provided proposals are compatible with other policies in the plan.

The extant planning permission was for a mixed use development including residential. The fact that residential development has previously been granted and implemented means the principle of residential development is acceptable.

Policy Hou 2 requires a mix of house types and sizes to meet a range of housing needs. The proposed 11 three bed flats and two three bed townhouses all meet the minimum internal floor area requirements. The three bedroom flats are a minimum of 114 sq.m (GIA). The townhouses are also a minimum of 122 sq.m. Both are well above Edinburgh Design Guidance (EDG) threshold of 81 sq.m and acceptable under policy Hou 2.

Policy Hou 4 seeks an appropriate density of development on each site having regard to its characteristics, those of the surrounding area and the need to create an attractive residential environment and safeguard living conditions within the development. However proposals will not be permitted which result in unacceptable damage to local character, environmental quality or residential amenity.

The 13 properties gives a current density of 112 dwellings per hectare. This density is acceptable within the wider context where there is a mix of two storey housing and four/five storey flatted dwellings.

The previous amusement arcade has been demolished and the site is currently vacant. LDP policy Emp 9 (employment sites and premises) states that proposals to redevelop employment sites or premises in the urban area are acceptable provided they do not inhibit the activities of any nearby employment use, would contribute to the comprehensive regeneration and improvement of the wider area and include floorspace for a range of business users where the site area is larger than one hectare. The site is less than one hectare and there is no objection to the loss of the business use. The redevelopment of this site would make a contribution to the comprehensive regeneration and improvement of the area.

b) Impact on Historic Assets

Policy Env 8 (Protection of Important Remains) states that development will not be permitted which would adversely affect a scheduled monument or other nationally important archaeological remains, or the integrity of their setting; or which would damage or destroy non-designated archaeological remains which the Council considers should be preserved in situ.

Policy Env 9 (Development of Sites of Archaeological Significance) states that planning permission will be granted if it can be concluded from desk-based assessment and/or a field evaluation that no significant archaeological features are affected, or any such features will be preserved in situ or the benefits of allowing the proposed development outweigh the importance of preserving the remains in situ.

Scheduled Monuments

There are two bottle kilns (dated 1906 & 1909) immediately to the west of the site that are scheduled monuments. These form part of the industrial heritage associated with the nationally significant Portobello (Rathbone) Potteries. The North-West Portobello Development Brief states the kilns are in important link to the area's historical past and requires an improved setting which increases their visibility and links them directly to the Promenade. The proposal is adjacent to the two brick kilns.

The current proposal is not closer to the Kilns than the extant 2009 scheme. It retains the public realm and access around the kilns whilst increasing the range of views from the promenade to the kilns. It is concluded that it does not have a significant impact upon their setting. Therefore, subject to conditions securing an engineering mitigation strategy and monitoring of the kilns during construction, no objection is proposed due to impact on the kilns under policy Env 8.

Archaeological significance

The site overlies an area of archaeological significance in terms of industrial heritage associated with the nationally significant Portobello (Rathbone) Potteries, soap works and harbour. An assessment of the results of previous archaeological work in the area and recent excavations immediately adjacent to the site demonstrated that the Potteries and 18th century harbour has survived along with remains and artefacts dating back to the 18th century origins of the potteries. The remains of this early harbour due to their significance were preserved beneath the new development and the results written up for publication.

Given the results from these excavations, it is clear that this development site will contain archaeological remains associated with the potteries requiring recording and preservation in-situ. This site was operating as an amusement arcade at the time of the original application and therefore was not available for evaluation at this time. Development of the site must be regarded as having a potential significant adverse impact on remains that will necessitate preservation in situ e.g. harbour and early kilns/workshops, the former, due to the 2013 excavations, are now expected to have survived across the site.

A written scheme of investigation implemented prior to determination in line with policy Env 9 is required in order to accurately determine the scale of the potential impacts caused by the proposed development upon the buried archaeological resource, inform any engineering solutions required to ensure preservation in situ and inform what mitigation measures will be required to fully excavate, record, analyse and publish the results from any remains affected where preservation may not be a solution. 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.

In May 2018, a written scheme of investigation was agreed for this evaluation. The applicant is not prepared to authorise that it is undertaken prior to determination. The applicant is requesting that this issue is dealt with by condition. The applicant states that this approach is unnecessary and disproportionate and would delay the decision-making process when it could be addressed by planning condition.

Without the empirical results of an archaeological evaluation to inform the impacts of this proposal and in the absence of an agreement on a multi-staged approach which allows for investigation, recording and mitigation measures that allow preservation of significant remains in-situ, it is not possible to secure compliance with local plan policies.

Therefore, this application is contrary to policy Env 8 as the proposals would damage or destroy non-designated archaeological remains which should be preserved in situ. Furthermore, this application is contrary to policy Env 9 where permission will only be granted if information derived from a field evaluation can allow for any significant archaeological features to be preserved in in situ (policy 9b) and if the benefits of allowing the proposal outweigh the importance of preserving the remains in situ, then appropriate provision for archaeological excavation, recording and analysis and publication of results before development starts, all to be in accordance with a programme of works agreed with the Council (policy 9c) is required.

c) the proposals preserve or enhance the character and appearance of the conservation area

Policy Env 6 (Conservation Areas Development) states that development within a conservation area or affecting its setting will be permitted, which preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant character appraisal, preserves features positively contributing to the character of the area, and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The Portobello Conservation Area Character Appraisal (2016) was approved and extended the boundaries of the conservation area to include the application site as an important element of Promenade, beach and foreshore in 2016.

The character appraisal states, "Portobello retains the character of a small town with a distinct town centre, an exceptionally high quality residential hinterland, a shoreline setting and a long sea-front promenade. The architectural form and character of Portobello is rich and varied, with many fine Georgian and Victorian historic buildings. The building materials are traditional: stone, harling, slate, pantiles, timber windows and doors."

The character of Portobello retains a heritage of fine buildings from all stages of its history, most notably the elegant Georgian terraces and the complementary fringe of Victorian and Edwardian buildings. The layering of high quality development from different eras makes a major contribution to the character of the Conservation Area. The town retains a recognisable seaside character with its long promenade, reclaimed and improved beach, cafes and amusement arcade.

The character appraisal identified in 2016 that the north western edge of the conservation area is an important element of Promenade, beach and foreshore that signifies the approach and entrance to the conservation area and includes the two surviving historic kilns. The key character elements of this area include open views to the sea, predominance of stone built properties many with front doors to the Promenade and slate roofs, stone boundary walls and easy access from side streets to the seaside attractions including the promenade and beach.

This proposal introduces two disparate elements of design. The six storey flatted block is positioned fronting onto the Promenade, its building line slightly forward of the adjacent block and extending beyond it to the rear. Whilst it addresses the Promenade, it does not provide the strong building edge characteristic of the area. The overall massing is less in keeping with the urban grain of the conservation area.

The two curved three storey semi-detached townhouses are positioned at the southern end of the site but face the car park not the adjacent street nor the historic kilns nearby. They bear little relation to the current proposals, or the remainder of the extant scheme as built. They do not preserve nor enhance the extant 'set piece' focused on kilns nor relate to the building frontages in Pipe Lane or Bridge Street. Instead, the relationship between the two buildings relies on the similar building materials and shared car parking area linking them.

The scale and proportions are out of keeping with the character of the conservation area. The scale and layout would appear incongruous in the current urban grain of continuous frontages of buildings on perimeter urban blocks. The inclusion for two semi-detached townhouses separated by car parking from the rest of the built form, does not respect the historic layout, street patterns or existing land form.

The promenade itself is a rich mix of building styles fronting or slightly set back from the Promenade. Building heights vary from single storey houses to four storey tenements and five storey new developments. The proposed height of the flatted block at 6 storeys is significant higher than the adjoining flats of 4 storeys along the Promenade, and two storeys along Pipe Lane and significantly higher than other buildings along the Promenade or in the vicinity of the application site.

The streets and lanes leading to the Promenade offer views of the sea from the High Street. The Promenade itself provides panoramic vistas to the coasts of Fife, as well as back towards the City and Leith and towards East Lothian. Therefore the building would be unduly prominent in the promenade townscape and by reason of its height, and massing, would interrupt these key views to and from the Promenade of Portobello Conservation Area.

As rationale for the increased height, the applicant has submitted images of the proposed development in context looking west along the beachfront. This illustrates that the proposal is higher than the other buildings along the Promenade. Other buildings along the Promenade that are 5 storeys include mixed use developments and active ground floor frontages as they are destinations on the Promenade or are of substantial height due to being a seaside attraction like Portobello Baths.

The sixth storey 'pop-up' floor or roof top set back, whilst set back on all sides introduces a new feature to the character and appearance of Portobello which is highly visible and detracts from the appearance of the conservation area.

In conclusion, it is considered that the proposed development, by reason of its height, size, siting, massing and layout would not preserve or enhance the character and appearance of the conservation area. Therefore the proposed development is contrary to Policy Env 6.

d) the proposed scale, design, materials and layout are acceptable

In assessing the scale and design of the proposal, policies Des 1 to Des 8 and Des 10 provide a robust framework for assessing design quality. Policy Des 10 (Waterside Development) also sets out criteria for proposals on the coastal edge and Policy Des 11 considers Tall Buildings Skyline and Key Views.

Policy Des 1 (Design Quality and Context) states that design should be based on an overall design concept that draws upon the positive characteristics of the surrounding area. Planning permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area around it, particularly where this has a special importance.

The North West Portobello Development brief specifically highlights the promenade frontage as an important urban edge, a high profile feature of the city.

The current proposal is for the corner block to the Promenade and two townhouses at the rear of the site. The townhouses do not relate well to the proposed flats nor the adjacent streetscape including the kilns. They provide little frontage to Pipe Lane. The Pipe Lane and Promenade junction is a key connection. The cumulative impact of these proposals at this prominent location is a surface level car park, with minimal landscaping behind the boundary wall and railings which does not result in an attractive frontage to Pipe Lane. The proposals do not respect the height and form of the wider townscape nor its scale and proportions. The spatial structure of the proposal and position of the buildings on site, results in two disparate elements which do not relate well to each other nor the neighbouring properties. This does not draw upon the positive characteristics of the surrounding area and is therefore contrary to policy Des1.

Policy Des 4 (Development Design Impact on Setting) sets out criteria to ensure that proposals have a positive impact on its surroundings, including the character of the wider townscape and impact on views having regard to height and form.

The proposal does not reflect the scale and proportion of the neighbouring properties, with different floor to ceiling heights, elevational details and window treatments. It introduces an overhang at eaves level which would be 30 cm above the neighbouring buildings and dominant in the street scene. The submitted aerial image of the proposed development in situ confirms it is forward of the building line achieved by the adjacent flats. It does not reflect the existing architectural detailing and would be read as a stand-alone unit, two storeys above the neighbouring buildings on one site and four storeys above the neighbouring properties on Pipe Lane. This does not draw upon the positive characteristics of the surrounding area.

Policy Des 7 (Layout Design) requires safe and convenient access and movement in and around the development having regard especially to the needs of people with limited mobility or special needs and links to the Equalities Act 2010.

The layout of the site is predominantly car focused with most of the site area being level access car parking. Walking and cycling are restricted as there is no direct access onto the Promenade other than the fire door stepped access. The Promenade stepped access is 5m from the Promenade. The rear access is 50 metres distance to the Promenade by way of a walk way between the car park and bin store and utilising a pedestrian gate onto Pipe Lane. Therefore the design does not provide for the needs of those with protected characteristics (people with disabilities) who cannot use stairs. This is not considered acceptable in making reasonable provision for wheelchair users or those people with limited mobility or special needs and is contrary to Policy Des 7.

Policy Des 8 considers public realm and landscape design. Landscaping is limited to residual areas around the car parking. The proposal does include boundary treatments of boundary wall and railings to delineate the space which is coordinated between the different elements of the proposal. The materials, render, timber and zinc cladding for the overhang and sixth storey are coordinated within the development itself. On balance, there is no objection under policy Des 8.

Policy Des 11 (Tall Buildings Skyline and Key Views) sets out criteria for proposals which raise about the prevailing building heights, including, creating of a landmark that enhances the skyline and surrounding townscape and is justified by the proposed use, the scale of the building is appropriate in its context and there would be no adverse impact on important views of the landscape setting of the city, including the Firth of Forth.

Building heights will largely derive from the general height of the existing adjacent buildings and the surrounding urban grain. Sunlight, overshadowing and daylighting studies will be required to assess the impact of new development on neighbouring buildings, internal courtyards and streets, and adjacent open space and the Promenade. The proposed flats at six storeys are significantly higher than the neighbouring flats and the surrounding townscape including the traditional tenemental style properties of the Promenade. When viewed from Portobello beach, this proposal would be one of the tallest on the promenade and out of keeping with the prevailing building heights. Whilst the 6th storey is set back on all sides it would be clearly visible in views towards and along the Promenade. It would also be visible in key views towards the Promenade not only from the local area, but also as it is within a protected view cone, from the wider city. The building is wholly residential, it is not a visitor destination and its use does not justify its increased height. It could not be considered a landmark building or destination where the scale would be appropriate to context and use. This proposal would raise the prevailing building height of the promenade out of keeping with the character and appearance of the area. The proposal would adversely impact on the promenade and Firth of Forth landscape setting of the city contrary to Policy Des 11.

Policy Des 10 (Waterside Development) requires development on coastal edge sites to provide an attractive frontage to the Promenade, beach and sea. What makes an attractive frontage is the cumulative impact of its design, its coordination with neighbouring developments and townscape, incorporation and enhancing of existing and potential features, impact on setting, amenity, sustainable buildings, layout design, public realm and landscape design, and impact on views. The current proposals have been assessed against the LDP design policies and are in conflict with policies Des1, Des 4, Des 7, and Des 11. Therefore the cumulative impact of these conflicts with the other design policies is conflict with policy Des 10 as it would not provide an attractive frontage to the Promenade and beach.

e) the amenity of neighbours

Policy Des 5 provides criteria to assess the impact of proposals on amenity of neighbouring developments, including amenity, privacy and daylight. The proposal is 6 storeys high fronting onto the Promenade and three storey townhouses at the rear of the application site.

The proposed townhouses would not adversely affect the amenity of neighbours in relation to sunlight, daylight overlooking and loss of privacy. The relationship between the townhouses and flats results in overlooking between the properties, however at a minimum window distance of 24m this is considered acceptable. The applicant has submitted additional sections to show that there would be no significant loss of daylight from the townhouses to the neighbouring properties on the Promenade, Bridge Street, Pipe Lane or between the current proposals.

The proposed flats are substantial in height at six storeys with a large canopy projecting at five storey eaves height. They would not result in a loss of daylight, sunlight, privacy or immediate outlook to the neighbouring properties including the townhouses, on nor the properties to the rear on Bridge Street. The flats are a minimum of 14m from the adjacent dwellings on Pipe Lane at an angle. Taking into account the extant scheme, the impact onto the neighbouring properties in Pipe Lane is considered acceptable in terms of overlooking, daylight, sunlight and privacy.

The development brief suggested that the height of any development should minimise the overshadowing of the Promenade and beach and suggested any proposals should be three to four storeys to ensure that the levels of sunlight and daylight afforded to the Promenade are acceptable. The proposal, due to the height and overhang at 5 storey eaves level, would result in increased overshadowing of both the promenade and beach. Whilst there is an adverse impact and additional overshadowing to the beach, it is not considered that this is of such significance to justify refusal and therefore, on balance, the proposal is acceptable under policy Des 5 (a) in terms of amenity for neighbours.

f) the amenity of occupiers

Policy Des 5 (Development Design Amenity) assesses the future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook. Policy Des 5 sets out the criteria to assess whether proposals will create or contribute towards a high quality, sustainable living environment. Developments must be designed to fulfil its function effectively, and meet the needs of users and occupiers.

The proposals include a disabled persons' access to the rear of the flatted block only, reducing the accessibility to the Promenade and ground floor flats for a protected characteristic group disabled people or young people in buggies. The entrance onto the Promenade is relegated to a fire door with stepped access which would not meet any residents needs for easy direct access onto the promenade. The lack of entrance onto the promenade also results in a less active frontage to the flats and less natural surveillance over this important footpath.

Portobello is characterised by a number of open spaces and the site is in close proximity to amenities including the beach and promenade. However it is also characterised by houses with private garden space. The proposed townhouses have very limited outdoor space consisting of balconies and a communal garden area fronting onto Bridge Street. There is insufficient outdoor space and their outlook is largely overlooking a car park with minimal landscaping.

The refuse and recycling facilities are provided externally at level access and require pedestrians to walk around them to go from the flats to the Promenade which is not considered a sensitive design integration of these facilities.

Cumulatively, these issues mean that the proposal would result in an unacceptable level of amenity for occupiers of the townhouses and is contrary to Policy Des 5 (Development Design Amenity).

Policy Hou 3 Private Green Space requires adequate provision for green space to meet the needs of future residents based on a standard 10 square metres per flat and a minimum of 20% of the total site area should be useable greenspace. The Edinburgh Planning guidance sets out that standards to ensure that well defined, functional, good quality private gardens to all houses and ground floor flats.

This proposal includes private north facing balconies to the flats of at least 10 square metres. The townhouses are not provided with private gardens, only private balconies. The townhouses have a communal garden area, a maximum 5.4 metres wide fronting Bridge Street, and a communal hardstanding area at the front. Private first floor balconies are provided of 2.8 sq.m and 3.6 sq.m to the townhouses.

The proposal has utilised the balconies, narrow strips of landscaping around the car parking area and the communal garden area around the townhouses to achieve, in the applicant's assessment, a total 28% of the total site area. However it is not considered that the balconies nor the landscaping areas are useable greenspace. Excluding these areas, the communal greenspace is 89 sq.m. (7.6%). This is below the guidance standard and therefore the proposal is deficient in greenspace.

Edinburgh Design Guidance states that where it is difficult to achieve the areas normally required for private open space, because of a need to adhere to a spatial pattern in the area, the inclusion of balconies or roof terraces may be seen as a mitigating measure. It is acknowledge that there is open space at the promenade and beach within the vicinity.

The design does not represent the spatial pattern of area with backlands providing open areas for landscaping and planting whether public or private space as achieved on the extant scheme. Instead the site area is almost wholly taken up with surface level car parking and a small bin storage area with residual site area of 12% given over to landscaping of which only 7.6% is usable green space. On balance, this proposal is contrary to policy Hou 3 as it fails to provide adequate private green space for the townhouses.

g) the proposal has impacts on infrastructure

Waste

The proposed bin store will include sliding doors which do not obstruct the pavement and is acceptable.

Education

This site falls within Sub Area P1 of the Portobello Education Contribution Zone. No education infrastructure actions have been identified for this part of the Zone, as set out in the Action Programme and Supplementary Guidance. Although the proposal will be expected to generate one additional primary school pupil, additional education infrastructure is not required to mitigate its impact. No contribution towards education infrastructure is therefore required.

Environmental Protection

The proposed development is on a currently vacant site, historically part of the potteries within Portobello, therefore Environmental Protection has concerns that this historic use of the site may have resulted in ground contamination. A condition is recommended to ensure the site is suitable for the proposed use if all other aspects are acceptable.

Affordable Housing

Policy Hou 6 (Affordable Housing) states that residential development consisting of 12 or more units should include the provision for affordable housing amounting to 25% of the total number of units proposed. For developments under 20 units, on site provision may not be required.

Enabling and Partnerships state that there will be a requirement for 3 homes if provided on site. However, a payment of a commuted sum in lieu of on-site provision is acceptable and would be 25% of 13 units, therefore the payment requirement is for 3.25 units. The sum payable will be based upon a valuation for commuted sum undertaken by a District Valuer and will be payable on the commencement of development as defined in the Planning Act. The applicant would be required to enter into a Section 75 legal agreement to this effect but has declined to do so on the basis of previous permissions.

Therefore, this planning application makes no provision for affordable housing. This is a new full planning application and is determined in accordance with the Local Development Plan unless material considerations indicate otherwise. There is a requirement to include 25% affordable housing within this application either on site, or payment of a commuted sum as outlined above. Therefore the proposal is contrary to adopted local plan policy Hou6 (Affordable Housing).

Flooding

The site lies adjacent to the promenade currently protected by sea defences and the shore to the north. As this application is for 13 units, and now a local development, Flood Prevention have no further comment to make.

h) the proposal affects road safety, cycle parking and accessibility

Policy Tra 3 states that proposed cycle parking and storage provision needs to comply with standards set out in Council guidance. The guidance reflects the Council's commitment to increase cycling's share of travel through the provision of high quality cycle parking, including secure storage in terms of long stay and short stay including visitors. Developers should include cycle parking consistent with the design details in Cycling by Design (by Transport Scotland) which also details storage facilities. Cycling by Design requires cycle parking to be convenient, visible, accessible and convenient and easy to use.

The proposed 33 spaces cycle parking are at basement level accessed from the building rear using a wheeling ramp turning 360 degrees. There is no cycle access from the Promenade. The proposed 33 spaces are acceptable. However, the basement location, necessitating rear access to the flats and the use of a wheeling ramp within a communal stair, is not considered accessible or convenient or easy to use. The proposal for basement cycle parking is not accessible nor acceptable in both layout and design. It would not be easily utilised for short periods or by visitors and is contrary to Policy Tra 3.

Policy Tra 4 sets out criteria for off-street car parking provision and states that creating an attractive frontage onto the street, and providing open space should be preferred even if it necessitates car parking at basement level. Where surface level car parking is proposed it should include structural planting, and not compromise pedestrian safety and assist their safe movement.

The proposal is for a surface level car park of eleven spaces including one disabled person's car parking space serving the flats and one electric charging space. Integral garages are provided for the townhouses with a shared hardstanding area. The amended plan includes motorcycle parking provision.

The surface car parking provision is to the detriment of the provision of open space on site and level cycle storage as discussed below. An attractive frontage to Pipe Lane is not achieved and this is a key route to the Promenade from the High Street. Basement provision has been provided at the neighbouring flats and the character of the area includes backlands as open space rather than car parks. The rear of the flats is considered the main entrance to the building which is only able to be accessed through the car park. This reduces pedestrian safety as the walkway requires a 45 metre detour around car parking spaces and bin stores to reach Pipe Lane and impedes pedestrian movement. This is contrary to policy Tra 4.

i) representations raise issues to be addressed

Material Representations - Objection

Transport

- Traffic, increased volume, noise and pollution and impact on roads in vicinity (assessed in 3.3 (i) above).
- Transport, visibility reduced due to bin store (assessed in 3.3 (i) above).
- Road safety, due to route to school and proximity to school (assessed in 3.3 (i) above).
- Car parking at surface level unacceptable, 100% car parking excessive, should be lower, or in basement (assessed in 3.3 (i) above).
- Bicycle Storage, in basement is inappropriate with narrow staircase access and difficult to use (assessed in 3.3 (i) above).

Housing

- density, reduction in units from consent (assessed in 3.3 (d) above).
- too many flats (assessed in 3.3 (d) above).

Uses

- Should be mixed use including commercial space (assessed in 3.3 (a) above).
- Loss of commercial unit and café on the ground floor (assessed in 3.3 (a) above).

Design

- Height, out of keeping with Conservation Area, surrounding area, 6 storeys highest in area, should be same as neighbouring development (assessed in 3.3 (c) above).
- Height unbalanced effect when viewed from south, existing flats viewed as a single entity and corner focal points needs to be of equal height (assessed in 3.3 (d) above).
- Scale (assessed in 3.3 (d) above).
- over development (assessed in 3.3 (d) above).
- Impact on setting of kilns (assessed in 3.3 (b) above).
- Townhouses, overdevelopment and out of keeping and change character, appearance, density of proposal (assessed in 3.3 (d) above).
- Gap to neighbouring building needs to be clarified (assessed in 3.3 (d) above).
- Includes PVs on roofs which is ok but not on elevations as not allowed elsewhere in the Conservation Area (assessed in 3.3 (c) above).
- Impact on promenade (assessed in 3.3 (e) above).
- Popup term is misleading term for the top floor (assessed in 3.3 (d) above).
- Overhang will not shelter balconies and will shade top floor flats (assessed in 3.3 (d) above).
- Disharmony with adjacent block (assessed in 3.3 (d) above).
- Layout insufficient amenity space to meet policy and guidance (assessed in 3.3 (d) above).
- Windows do not match proportions or harmonise with existing window design (assessed in 3.3 (d) above).
- Too much car parking, too little open space (assessed in 3.3 (d) above).
- Exterior treatment, materials are substandard compared to neighbouring building and discordant effect not viewed as complete entity (assessed in 3.3 (d) above).

Amenity

- Overlooking from townhouses (assessed in 3.3 (e) above).
- Unacceptable levels of overlooking and negative impact on outlook from existing properties on Pipe Lane and Bridge Street (assessed in 3.3 (d) above).
- Loss of daylight from neighbouring property (assessed in 3.3 (d) above).
- Overshadow beach/block sunlight from busy part of Promenade and beach (assessed in 3.3 (d) above).
- Garden space inadequate useable garden space for flats (assessed in 3.3 (d) above).
- Garden space, houses have no defined garden area (assessed in 3.3 (d) above).
- Reduce car parking for more green space (assessed in 3.3 (d) above).
-

Historic Assets

- Park would protect kilns views and allow access (assessed in 3.3 (b) above).

Key Views

- Loss of views - of Kilns from Promenade, loss of sea views from vicinity (assessed in 3.3 (d) above).
- Would destroy views from the South (assessed in 3.3 (d) above).

Infrastructure

- Education - schools at capacity (assessed in 3.3 (g) above).

Non-material representations

- No bin store included for Phase 2 residents.
- Phase 2 residents need to give permission.
- Phase 2 basement includes car parking which is now unnecessary.

Material representations - Support

- Quality development will reinvigorate the local area, change the appearance of Portobello, add to attractive promenade, fits in with area (assessed in 3.3 (d) above).
- Site is an eyesore now (assessed in 3.3 (d) above).
- Support housing development in principle and includes family living 3 bed flats, shortage of new homes in Edinburgh (assessed in 3.3 (a) above).
- Reuse of gap site with quality flatted accommodation (assessed in 3.3 (d) above).
- Good quality design, better design than neighbouring flats (assessed in 3.3 (d) above).

j) Other material considerations

Sustainability criteria

The proposal is for 13 units and complies with policy Des 6 Sustainable Buildings.

Equalities or human rights impact

An integrated impact assessment has been undertaken for this proposal. The access to the flatted block at the rear only for pedestrians and cyclists is not considered acceptable. The promenade stepped entrance whether a fire door only or secondary access would not allow disabled access. The integrated impact assessment recommended refusal of this application due to the inadequate provision for people with protected characteristics (disabled people) or young people needing buggies etc.

The extant consent

The applicant has submitted supporting information in relation to the 'fall back' position resultant from the implementation of the 2009 planning permission. This information has been given careful consideration. This permission which has been partially built is capable of implementation. As such, the 2009 planning permission (09/00248/FUL) granted in 2013 and varied in 2017 (09/00248/VARY) is a material consideration.

The current application is for full planning permission in its own right. It is therefore, treated as a 'de novo' application. This means that Section 25 of the Town and Country Planning (Scotland) Act 1997 applies, "where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise."

The question of how much weight should be attached to other material considerations lies with the decision-maker. This is important, particularly in relation to matters concerning affordable housing provision and archaeology.

With respect to the requirement for affordable housing, the Council as planning authority is entitled to consider the application against the current LDP policy. As narrated above, Policy Hou 6 requires the provision of affordable housing. The change in circumstances since the 2009 application relates to the status of the affordable housing policy. The policy was previously in the form of non-statutory guidance whereas the requirement is now enshrined in development plan policy. The development plan policy has more significant weight than non-statutory guidance as a material consideration.

Turning to archaeology, it is accepted that preliminary investigations have been carried out on the portion of the site which has been built. The condition attached to the 2009 permission has not, however, been purified. In addition, investigations reveal the significance of archaeological remains. It is entirely reasonable that these issues are given fresh consideration and it follows that greater weight is attached to archaeology as a material consideration in relation to the current application. In the absence of agreement on a multi staged approach which allows for investigation, recording and mitigation measures that allow preservation of remains in-situ, it is not possible to secure compliance with development plan policy.

In conclusion, the weight which can be attached to the 2009 planning permission does not outweigh the consideration of the application against development plan in terms of compliance with the policy on affordable housing and protection of archaeology.

Conclusion

Whilst residential use is acceptable in principle, the proposal is contrary to Local Development Plan policies in respect of its failure to contribute to affordable housing provision, adverse impact on archaeology, unacceptable design in terms of spatial structure, scale, proportions, height, massing, layout and parking, inadequate amenity for future occupiers of the townhouses, inferior access for those with disabilities and impracticality of proposed cycle parking. The development does not preserve or enhance the character or appearance of the conservation area. The extant planning permission does not outweigh these material considerations.

It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons/informatives

Reasons:-

1. The proposal is contrary to Policy Hou 6 (Affordable housing) as it does not include 25% affordable housing provision on site nor is the applicant willing to enter into a legal agreement to secure a commuted sum for affordable housing equivalent to 25% provision.
2. The proposed development is contrary to Policies Env 8 and Env 9 as it would damage or destroy non-designated archaeological remains which should be preserved in situ. Furthermore this application is contrary to policy Env 9 as no field evaluation has been undertaken and no agreement reached on a multi-staged approach to provide the information essential to form the conclusion that any significant archaeological features will be preserved in situ. As a consequence, the proposal does not comply with the requirements of policy Env 9 in terms of appropriate provision for archaeological excavation, recording and analysis and publication of results before development starts, all to be in accordance with a programme of works agreed with the Council.
3. The proposed development by reason of its design, spatial structure, scale, proportions, height, massing and layout is contrary to policies Des1, Des 4, Des 7, Des 10 and policy Des 11 of the LDP. As a result, it would not preserve or enhance the character or appearance of the conservation area, contrary to Policy Env 6.
4. The layout of development, the dominance of car parking area, the inadequate provision of open space and lack of private gardens would result in a detriment to the residential amenity of the occupants of the townhouses and is contrary to Policy Des 5 and Policy Hou 3.
5. The proposal is contrary to Local Development Plan Policy Tra 3 Private Cycle Parking and Policy Tra 4 Design of Off-street Car and Cycle Parking. Cycle parking within the basement accessed only by the rear door and communal stair with wheeled ramp is not accessible, convenient or easy to use. The proposal provides a walkway requiring significant detours for pedestrians which does not assist their movement to and from the promenade.

Financial impact

4.1 The financial impact has been assessed as follows:

The proposal does not include provision for affordable housing in line with the Local Development Plan Policy Hou 6 (affordable housing) nor is the applicant willing to enter into a legal agreement to provide the commuted sum as set out in the assessment section. Therefore this would result in a financial loss to the Council.

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:

An Integrated Impact Assessment was undertaken for this application. This recommended refusal of the application due to inadequate provision for people with protected characteristics (disabled people) or young people needing prams, buggies etc.

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

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 13 April 2018 and 42 letters of representation were received including 23 objections, 17 letters of support and 2 representations.

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

Community consultation was undertaken by the applicant. Between summer 2017 and February 2018 the applicant undertook various public consultations including setting up a website on proposals, a public exhibition to which more than 200 local stakeholders were invited and attending a Portobello Community Council meeting to explain their initial proposals.

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

Date registered 3 April 2018

Drawing numbers/Scheme 01-16,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Catriona Reece-Heal, Senior Planning Officer
E-mail: catriona.reece-heal@edinburgh.gov.uk Tel: 0131 529 6123

Links - Policies

Relevant Policies:

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) identifies the circumstances in which developer contributions will be required.

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

LDP Policy Des 2 (Co-ordinated Development) establishes a presumption against proposals which might compromise the effect development of adjacent land or the wider area.

LDP Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) supports development where it is demonstrated that existing and potential features have been incorporated into the design.

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

LDP Policy Des 6 (Sustainable Buildings) sets criteria for assessing the sustainability of new development.

LDP Policy Des 7 (Layout design) sets criteria for assessing layout design.

LDP Policy Des 8 (Public Realm and Landscape Design) sets criteria for assessing public realm and landscape design.

LDP Policy Des 10 (Waterside Development) sets criteria for assessing development on sites on the coastal edge or adjoining a watercourse, including the Union Canal.

LDP Policy Des 11 (Tall Buildings - Skyline and Key Views) sets out criteria for assessing proposals for tall buildings.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Env 8 (Protection of Important Remains) establishes a presumption against development that would adversely affect the site or setting of a Scheduled Ancient Monument or archaeological remains of national importance.

LDP 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.

LDP Policy Env 13 (Sites of International Importance) identifies the circumstances in which development likely to affect Sites of International Importance will be permitted.

LDP Policy Env 20 (Open Space in New Development) sets out requirements for the provision of open space in new development.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

LDP Policy Env 22 (Pollution and Air, Water and Soil Quality) sets criteria for assessing the impact of development on air, water and soil quality.

LDP Policy Hou 1 (Housing Development) sets criteria for assessing the principle of housing proposals.

LDP Policy Hou 2 (Housing Mix) requires provision of a mix of house types and sizes in new housing developments to meet a range of housing needs.

LDP Policy Hou 3 (Private Green Space in Housing Development) sets out the requirements for the provision of private green space in housing development.

LDP Policy Hou 4 (Housing Density) sets out the factors to be taken into account in assessing density levels in new development.

LDP Policy Hou 6 (Affordable Housing) requires 25% affordable housing provision in residential development of twelve or more units.

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

LDP Policy Tra 4 (Design of Off-Street Car and Cycle Parking) sets criteria for assessing design of off-street car and cycle parking.

LDP Policy Tra 8 (Provision of Transport Infrastructure) sets out requirements for assessment and mitigation of transport impacts of new development.

The Portobello Conservation Area Character Appraisal emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high quality architecture, and the predominant use of traditional building materials

The North West Portobello Development Brief sets out planning and design principles to provide a framework and guide to co-ordinate development, improvements to road layout and public realm in North West Portobello.

Non-Statutory guidelines Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

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

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

Appendix 1

Application for Planning Permission 18/01368/FUL At Site 30 Metres North Of 18, Pipe Lane, Edinburgh Application for 13 residential units and associated development.

Consultations

Communities and Families - 4 April 2018

The Council has assessed the impact of the growth set out in the LDP through an Education Appraisal (January 2018), taking account of school roll projections. To do this, an assumption has been made as to the amount of new housing development which will come forward ('housing output'). This takes account of new housing sites allocated in the LDP and other land within the urban area.

In areas where additional infrastructure will be required to accommodate the cumulative number of additional pupils, education infrastructure 'actions' have been identified. The infrastructure requirements and estimated delivery dates are set out in the Council's Action Programme (January 2018).

Residential development is required to contribute towards the cost of delivering these education infrastructure actions to ensure that the cumulative impact of development can be mitigated. In order that the total delivery cost is shared proportionally and fairly between developments, Education Contribution Zones have been identified and 'per house' and 'per flat' contribution rates established. These are set out in the draft Supplementary Guidance on 'Developer Contributions and Infrastructure Delivery' (January 2018).

Assessment and Contribution Requirements

Assessment based on:

11 Flats

2 Houses

This site falls within Sub-Area P-1 of the 'Portobello Education Contribution Zone'.

No education infrastructure actions have been identified for this part of the Zone, as set out in the Action Programme and Supplementary Guidance.

Although the proposal will be expected to generate one additional primary school pupil, additional education infrastructure is not required to mitigate its impact.

No contribution towards education infrastructure is therefore required.

Scottish Water - 5 April 2018

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

Water

There is currently sufficient capacity in the Glencorse Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

Foul

There is currently sufficient capacity in the Edinburgh PFI Waste Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

Infrastructure within boundary

According to our records, the development proposals impact on existing Scottish Water assets. There is a 90mm PE water main within this site boundary and also a service pipe. I can confirm that I have made our Asset Impact Team aware of this proposed development

however the applicant will be required to contact them directly at service.relocation@scottishwater.co.uk. The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.

Scottish Water Disclaimer

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not normally accept any surface water connections into our combined sewer system. There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges. In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections department at the above address. If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude. Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer. The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed. Please find all of our application forms on our website at the following link

<https://www.scottishwater.co.uk/business/connections/connecting-yourproperty/new-development-process-and-applications-forms>

Next Steps: 10 or more domestic dwellings:

For developments of 10 or more domestic dwellings (or non-domestic equivalent) we require a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals. Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

If you are in any doubt as to whether or not the discharge from your premises is likely to be considered to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found using the following link

<https://www.scottishwater.co.uk/business/ourservices/compliance/trade-effluent/trade-effluent-documents/trade-effluent-noticeform-h>. Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off. For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains. The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on 0800 389 0379 or at planningconsultations@scottishwater.co.uk.

Archaeology

20 September 2018

I would like to restate my position as outlined in my earlier response (attached) in regards to the archaeological significance of the site and the potential significant adverse impact that this development may have upon the site's potentially nationally significant Industrial Pottery heritage.

As discussed the sites archaeological significance has been highlighted by the 2013 excavations carried out by AOC in relation to Phase 1 of the proposed redevelopment of the site, which demonstrated that the 18th century harbour has survived along with remains and artefacts dating back to the 18th century origins of the Potteries at Portobello. The remains of this early harbour due to their significance were preserved beneath the new development and the results written up for publication.

Given the results from these excavations it's is clear that this development site, which originally occurred under an operating amusement arcade at the time of the original application, will contain archaeological remains requiring recording and preservation insitu. Therefore as stated in my response of the 4th April, development of the site must be regarded as having a potential significant adverse impact on remains that will necessitate preservation in situ e.g. harbour and early kilns/workshops, the former due to the 2013 excavations are now known to have survived.

Therefore this application is contra to Policy ENV8 (B) which states development will not be permitted which would b) damage or destroy non-designated archaeological remains which the Council considers should be preserved in situ. Furthermore Policy ENV 9 states development should only be granted if as requested (see my 4th April response) that information derived from a field evaluation can allow for preservation insitu (9b) and appropriate mitigation for excavation recording etc (9c)

As such without the empirical results of an archaeological evaluation to inform the impacts of this proposal and assess if preservation can be achieved I have no other recourse other than to recommend refusal of this application as it stands as it will be clearly in breach of these policies.

I've also attached for your information an email with Lesley stating that the condition attached to the adjacent development should not be fully discharged as work was still to be undertaken on this site which at the time of the granting of permission was unavailable for field evaluation as it was an ongoing business concern.

14 May 2018

Just looked over your proposed WSI covering this pre-app evaluation and happy to confirm acceptance. As you state will need to see/agree trench locations which are subject to service info as you mention. Can you give a timescale for when you hope to get on site?

9 April 2018

It has been re-assessed based upon the results of the previous excavations and the requirements as stated in my response for information to ensure preservation insitu, therefore empirical evidence is needed. It should also be noted that this part of the site was not available for evaluation at the time of the earlier application as it was occupied by the Amusement Arcade which was still in operation.

5 April 2018

Site 30m North of 18 Pipe Street Portobello

I would like to make the following comments and recommendations concerning the above planning application for 13 residential units and associated development.

The site overlies the remains associated with the nationally significant Portobello (Rathbone) Potteries. The site has a rich and complex history with industrial activity in this location known from as early as the 1760's when a Mr Jamieson established his brick-works here. Potteries on the site were soon established certainly by the early 1770's, with Anthony Hellcoat establishing a pottery on the site c.1786. By Wood's Plan of 1824 the site had developed significantly with a contemporary map showing the development site as overlying both these early-Industrial Potteries. Portobello Soap-works and also a harbour constructed to service them.

The Portobello Potteries expanded throughout the 19th and early 20th centuries under various owners most notably A W Buchan, undergoing various name changes along route finally ending as the Thistle Pottery, which closed in 1972. All that remains today above ground are the two scheduled bottle-kilns (dated 1906 & 1909) immediately to the west of the site. The site's 18th century harbour, the remains of part of which were excavated by AOC in 2013 and preserved under the adjacent flatted development (see Fig. 2), can also be seen, depending on the movement of sand and tide on Portobello Beach.

Fig. 1: Portobello Potteries site c.1824

The site occurs across an area regarded as being of potentially nationally archaeological significance in terms of Scotland's Industrial Pottery industry dating back to the mid-18th century. Accordingly, this application must be considered under terms of Scottish Planning Policy (SPP), PAN 02/2011 and Edinburgh Local Development Plan (2016) Policies ENV 8 & 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. 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.

An assessment of the results of previous archaeological work in the area and recent excavations by AOC immediately adjacent to the site, has led to the conclusion that this development will potentially have significant adverse impacts upon the expected underlying archaeological deposits and remains associated with the Portobello Potteries and associated 18th century harbour. These remains although unscheduled are considered to be nevertheless to be of archaeological significance potentially nationally important. Accordingly, the application has been assessed as having a potential significant adverse impact and as may be contra to Policies ENV8 (b).

It is therefore essential that the site is evaluated prior to determination in line with policy ENV 9. This is required to accurately determine the scale of the potential impacts caused by the proposed development upon the buried archaeological resource, inform any engineering solutions required to ensure preservation in situ including the 18th century harbour known to occur across the site and inform what if mitigation will be required to fully excavate, record, analysis and publish the results from any remains affected where preservation may not be a solution.

In addition an engineering mitigation strategy must be submitted which will seek to protect these nationally important kilns during construction, taking into account any possible affects construction methodologies may have (vibrations from piling etc.) upon the foundations of these fragile brick structures. This will include monitoring of the structures throughout the process.

The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.

Environmental Services - 9 April 2018

The proposed development is on a currently vacant site surrounded by newly built residential properties to the north-west, public conveniences to the south-west and established residences to the south. Historically this area was part of the potteries within Portobello, therefore Environmental Protection has concerns that this historic use of the site may have resulted in ground contamination. A condition is recommended to ensure the site is suitable for the proposed use.

Environmental Protection has no objection to the application, subject to the following condition:

Prior to the commencement of construction works on site:

(a) A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Head of Planning, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and

(b) Where necessary, a detailed schedule of any remedial and /or protective measures, including their programming, must be submitted to and approved in writing by the Head of Planning. Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the satisfaction of the Planning Authority.

Flooding

6 September 2018

I note that there is no Certificate B1 for an independent consultant's check. If this is classed as a major development under planning then this is required. However if it is classed as a local development under planning then we are happy for this to be determined with no further comment from Flood Prevention.

8 May 2018

Thanks for forwarding I would still ask for the information requested in my email attached to be provided prior to determination otherwise it does not comply with our self-certification process.

The FRA and certificates covering it are sufficient following Sheila Hobbs' email (17/04/18) however, the drainage strategy and certificates covering that (A1 and B1) are still required.

10 April 2018

Pipe Lane

The applicant has noted that this is in effect an part of a previously approved and constructed application (09/00248/FUL). This part of the site was not taken forward however. I note that you say the proposed development is different. They are using this as a reason for not complying with the existing CEC Flood Prevention guidelines in terms of self-certification. I looked on the portal for a previous drainage layout and drainage design basis statement but cannot see one. Therefore there is no previous package for me to review.

Flood Prevention would request that they do comply with the guidelines as this site has not been constructed and updated design standards should be reflected in the design. Particularly since they were advised pre-application that the information should be provided, they have not approached us to discuss the matter.

As a result please can you request that they comply with the self-certification scheme. I have reviewed the FRA and this is ok however the certification A1 and B1 covering both the SWMP and the FRA should be provided together with the other information requested as part of the guidelines available at the link in my signature.

Waste Services - 23 April 2018

Waste and Cleansing services takes no stance either for or against the proposed development but as a consultee would make the following comments.

Waste Management Responsibilities

The Waste and Cleansing Services will be responsible for managing the waste from households.

It would be the responsibility of any third party commercial organisations using the site to source their own trade waste uplifts. Architects should however note the requirement for trade waste producers to comply with legislation, in particular the Waste (Scotland) Regulations which require the segregation of defined waste types to allow their recycling. This means there would need to be storage space off street for segregated waste streams arising from commercial activities.

Any appointed waste collection contractors, appointed to manage commercial waste, could be expected to have similar requirements to the Council in terms of their need to be able to safely access waste for collection.

Compliance with Waste Strategy (Domestic Waste Only)

The provision of a full recycling service is mandatory in Scotland. Developers must make provision for the full range of bins: landfill waste, mixed recycling for paper and packaging, glass and food.

Developers can either source their own bins in line with our requirements, or can arrange for us to do so and recharge the cost- this will probably be most convenient for them.

It is imperative that adequate provision is made for the storage of waste off street, and that cognisance is taken of the need to provide adequate space for the storage of segregated waste streams in line with the Waste (Scotland) Regulations.

The waste collection teams will require safe and efficient access to these from the earliest occupation. Developers need to ensure that services are accessible so that collection crews can provide the service in a safe and efficient manner, taking account of turning circles, length and width of vehicles, distance bins must be pulled, surfaces, slopes and so on.

Waste Strategy and Letter of Agreement

For the 13 high density properties, we would recommend communal waste containers, for: landfill waste, mixed recycling for paper and packaging, glass, and food.

Bin provision as per below:

2 x 1280L residual waste bins

2 x 1280L mixed recycling bins

1 x 360L glass bin

1 x 240L food waste bin

Dimension of the bins can be found in the Architects Instructions draft document attached to this email.

From the information presented in the planning application the bin store do not seem to be big enough to store all bins in order to move each waste and recycling stream without moving the others ones. There are separate types of material in each bin store and adequate space is to be allocated to ensure that the bins in the rear of the bin stores can be brought out without all the other bins being taken out.

Further information would need to be provided to confirm that bin store requirements as per Architects Instructions are met. Most relevant key features are indicated below:

- Doorways must be a minimum of 1600mm wide to ensure the largest container can be moved in and out the store. Doorways must be wide enough for the easy passage of wheeled containers; we require a minimum 300mm either side of the largest container.*
- drop kerbs will be provided where needed to ensure the collection crews can empty the bins in a safe manner. Dropped kerbs to be provided when transporting containers from vehicle to bin storage area, these should be protected with the use of white line*
- the maximum straight pull of 10 metres walking distance from bin storage area to the vehicle is respected. A straight pull of 10 metres is the maximum walking distance from bin storage area to the vehicle, (a bin full of glass is heavy), and bins will only be wheeled over, and lifted from, hard standing surfaces.*
- Where locks are fitted to bin store doors, the standard "Budget Lock" must be fitted*

It would be useful to be provided with the vehicle swept path analysis to ensure vehicles will have enough space to service the properties safely and also be provided with clarification on how the waste and recycling bins will be collected by CEC vehicles.

- the roads that will be used by vehicles to collect waste and recycling from the properties should be to adoptable standard and able to withstand the Gross Vehicle Weight (GVW) of the collection vehicle of up to 26 tonnes.*
- Direct vehicle access is required to all refuse storage locations; aim to provide vehicle access within 5 metres.*
- Maximum distance a vehicle will reverse along an access road is 15 metres where a turning area is not provided Hammerheads or turning areas are required for dead ends.*
- Yellow line marking (hatching) must be provided to stop people parking and causing access problems at the hammerhead. It will be the architect's responsibility to contact the Roads Department if line markings or pavement blisters are required to ensure access from the bin storage area to the collection vehicle, (this applies both within developments and externally)*

To agree the Waste Strategy and provide a Letter of Agreement I would need to be provided with further information as per above i.e. swept path analysis, doorways width, drop kerbs provision.

In view of these factors the developer must contact me, Erica Manfroi on 0131 529 3210 or email Erica.Manfroi@edinburgh.gov.uk as soon as possible to ensure adequate provision of segregated household waste bins and provision of suitable access for the waste and recycling collectors as well as safe access for vehicles.

SEPA - 25 April 2018

We have no objection to this planning application. Please note the advice provided below.

1. Flood risk

1.1 We have reviewed the SEPA Flood Map which indicates that the site lies outwith, but immediately adjacent to, the 0.5% annual probability (or 1 in 200-year) flood extent and may therefore be at medium to high risk of flooding. The risk of flooding is from both coastal and fluvial sources. A Flood Risk Assessment (FRA) (Kaya, March 2018) has been provided in support of this application.

1.2 The FRA makes reference to other FRAs carried out on behalf of City of Edinburgh Council for the Braid Burn (Faber Maunsell, 2007) and wave overtopping (HR Wallingford, 2007). The Braid Burn study was carried out to inform the Flood Prevention Scheme (FPS) and the results indicate that the watercourse will not overtop the banks between the High Street and the site during the 1 in 200-year flood event prior to the scheme being built. Following scheme completion the flood levels are indicated to be lower at this location. Further analysis on the downstream culvert indicates that some overtopping may occur due to incapacity and that water would flow south toward the site. However, site levels are higher than surrounding ground levels and water will preferentially flow toward the sea.

1.3 Given the site levels and proposed finished floor levels we are satisfied that the development is not at fluvial or surface water flood risk and that any overland flow will preferentially flow to the promenade and into the sea.

1.4 The predicted extreme still water level at this location is 3.97mAOD (+/- 0.3m) as calculated by the Coastal Flood Boundary Method. The FRA provides further information of the risk due to sea level rise with climate change and wave overtopping. The extreme still water level predicted in 2080 is 4.47mAOD at this location. A conservative estimate of wave overtopping was considered and estimated that at the development site there could be up to 3.27l/s/m which could increase to 6l/s/m with climate change. It is anticipated that the overtopping rates on the promenade will mean there is no safe pedestrian access along the front. However, the main access/egress for the development is to the landward side where there is no expected flooding.

1.5 The beach in Portobello is a subject of concern for the Council and a beach recharge scheme has been implemented in recent years. This will likely require ongoing works and the Council should consider the sustainability of this if they are proposing further development along the sea front in this area. There is a sea wall defence along this section of coast although no information has been provided on the standard of protection offered.

1.6 Given the 1 in 200-year predicted still water levels, with an allowance for climate change, are 4.47mAOD and the site levels range from 4.7 - 5.2mAOD and proposed finished floor levels are 5.95mAOD we have no objection to the development. Given the risk of wave overtopping in the future there is a residual risk at the site and we support the recommendations for mitigation measures as outlined in the FRA, including water resistant and strengthened glass for properties facing the sea and protective balustrades on the ground floor terraces.

2. Flood risk

2.1 The SEPA Flood Maps have been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km² using a Digital Terrain Model (DTM) to define river corridors and low-lying coastal land. The maps are indicative and designed to be used as a strategic tool to assess flood risk at the community level and to support planning policy and flood risk management in Scotland.

2.2 Please note that we are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.

2.3 The advice contained in this letter is supplied to you by SEPA in terms of Section 72 (1) of the Flood Risk Management (Scotland) Act 2009 on the basis of information held by SEPA as at the date hereof. It is intended as advice solely to the City of Edinburgh Council as Planning Authority in terms of the said Section 72 (1). Our briefing note entitled: "Flood Risk Management (Scotland) Act 2009: Flood risk advice to planning authorities" outlines the transitional changes to the basis of our advice in line with the phases of this legislation.

3. Waste water drainage

3.1 The planning application details that the proposed development will be utilising the public sewer for foul drainage. The applicant should consult with Scottish Water to ensure a connection to the public sewer is available and whether restrictions at the local sewage treatment works will constrain the development. If the proposals should change we would wish to be consulted at the earliest opportunity.

Regulatory advice for the applicant

4. Regulatory requirements

4.1 Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).

4.2 Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

4.3 You may need to apply for a construction site licence under CAR for water management across the whole construction site. These will apply to sites of 4ha or more in area, sites 5 km or more in length or sites which contain more than 1ha of ground on a slope of 25 degrees or more or which cross over 500m of ground on a slope of 25 degrees or more. It is recommended that you have pre-application discussions with a member of the regulatory team in your local SEPA office.

4.4 Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office

Affordable Housing - 26 April 2018

1. Introduction

Place have developed a methodology for assessing housing requirements by tenure, which supports an Affordable Housing Policy (AHP) for the city.

o The AHP makes the provision of affordable housing a planning condition for sites over a particular size. The proportion of affordable housing required is set at 25% (of total units) for all proposals of 12 units or more.

o This is consistent with Policy Hou 6 Affordable Housing in the Edinburgh Local Development Plan 2016.

2. Affordable Housing Requirement

This proposal consists of 13 residential homes and as such there will be an AHP requirement for 3 homes of approved affordable tenures if provided on site. In terms of the AHP, the payment of a commuted sum in lieu of on-site provision is acceptable on sites of less than 20 units and this would apply in this case. The AHP states that where a commuted sum is to be employed, a direct percentage of 25% should be applied. Therefore, in this instance there will be a requirement of a payment for 3.25 units.

3. Summary

This planning application makes no provision for affordable housing.

This department confirms that there is an AHP requirement for this application as it consists of 12 or more units. The AHP states that on developments of 20 units or less, the payment of a commuted sum is acceptable in lieu of on-site provision. In such cases a direct 25 percentage requirement is applied and as such in this case a commuted sum payment for 3.25 units will be required. The applicant will be required to enter into a Section 75 Legal Agreement to this effect. This sum payable will be based upon a valuation for commuted sum undertaken by a District Valuer and will be payable on the commencement of development as defined in the Planning Act.

I would be happy to assist with any queries relating to the affordable housing for this development.

Historic Environment Scotland - 3 May 2018

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Site 30 metres North of 18 Pipe Lane, Edinburgh, EH15 1BR - 13 Residential units and associated development

Thank you for your consultation which we received on 30 April 2018. We have assessed it for our historic environment interests and consider that the proposals have the potential to affect the following:

<i>Ref</i>	<i>Name</i>	<i>Designation</i>	<i>Type</i>
<i>SM3317</i>	<i>Portobello, Harbour Road, pottery kilns</i>	<i>Scheduled Monument</i>	

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

Our Advice

We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.

Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/. Technical advice is available through our Technical Conservation website at www.engineshed.org.

Please contact us if you have any questions about this response. The officer managing this case is Mary MacLeod Rivett who can be contacted by phone on 0131 668 8688 or by email on mary.macleod@hes.scot.

Yours sincerely

Historic Environment Scotland

Transport

15 May 2018

Whilst there are no objections to the proposed application in principle, there are a number of issues which require to be addressed prior to issuing a final response.

The application should therefore be continued.

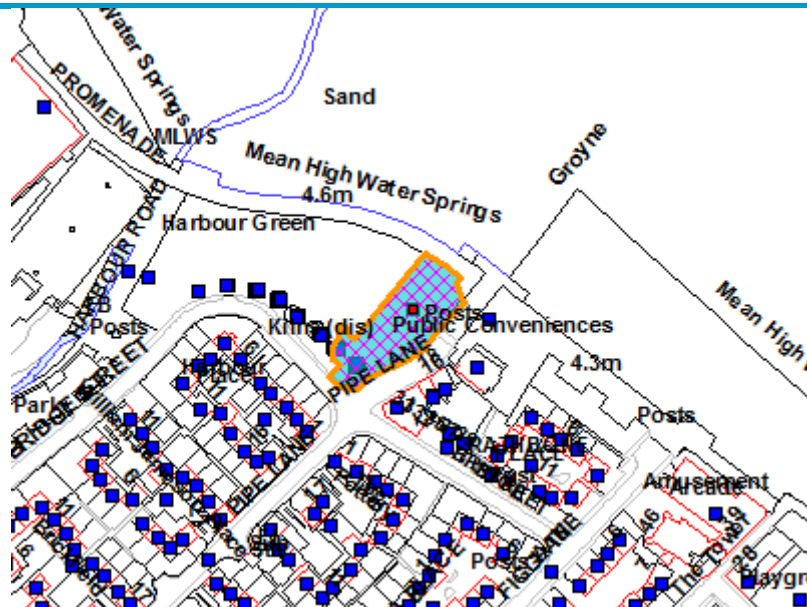
Reasons:

- a. Cycle parking - the proposed location in the basement is not acceptable, nor is the use of a wheeling ramp within a new build development. Cycle parking is required to be in a secure, accessible and undercover location and to be to an acceptable layout and design. The proposed 33 spaces is acceptable;
- b. Motorcycle parking - there appears to be no motorcycle parking provision. Current standards require 1 space per 25 units. The applicant should be required to provide a minimum of 1 motorcycle parking space;
- c. The proposed main access on the north-east side of the development is by steps. This is not considered acceptable in making reasonable provision for wheel chairs etc. The applicant should be required to make suitable provision at the main entrance, particularly as it provides access to Portobello Promenade;
- d. The proposed bin store access on Pipe Lane includes doors which open outwards. This is not acceptable and is required to be redesigned.

Note:

- o The proposed vehicle access on Pipe Lane to be by dropped kerb, not bellmouth;
- o The applicant may wish to consider locating the proposed electric vehicle charging point adjacent to the disabled parking space to enable disabled vehicles to be conveniently charged;
- o The proposed 13 car parking spaces, including 1 disabled space, is acceptable.

Location Plan



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