

# Notice of meeting and agenda

## Development Management Sub-Committee

**10.00 am Wednesday, 27th January, 2021**

Virtual Meeting - via Microsoft Teams

This is a public meeting and members of the public are welcome to attend.

### Contacts

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## 1. Order of business

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- 1.1 Including any notices of motion, hearing requests from ward councillors and any other items of business submitted as urgent for consideration at the meeting.
- 1.2 Any member of the Council can request a Hearing if an item raises a local issue affecting their ward. Members of the Sub-Committee can request a presentation on any items in part 4 or 5 of the agenda. Members must advise Committee Services of their request by no later than **1.00pm on Monday 25 January 2021** (see contact details in the further information section at the end of this agenda).
- 1.3 If a member of the Council has submitted a written request for a hearing to be held on an application that raises a local issue affecting their ward, the Development Management Sub-Committee will decide after receiving a presentation on the application whether or not to hold a hearing based on the information submitted. All requests for hearings will be notified to members prior to the meeting.

## 2. Declaration of interests

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- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## 3. Minutes

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- 3.1 Minute of the Development Management Sub-Committee of the 13 January 2021 – submitted for approval as a correct record 7 - 10

## 4. General Applications, Miscellaneous Business and Pre-Application Reports

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The key issues for the Pre-Application reports and the recommendation by the Chief Planning Officer or other Chief Officers detailed in their reports on applications will be approved without debate unless the Clerk to the meeting indicates otherwise during “Order of Business” at item 1.

### Pre-Applications

- 4.1 Report for forthcoming application by Manse (Seafield) LLP for Proposal of Application Notice at Land At 22/ 23/ 24/ 25 Seafield Rd, Edinburgh - Residential led mixed use development with associated infrastructure - application no. 20/05758/PAN – Report by the Chief Planning Officer 11 - 16

### Applications

- 4.2 3 Shandwick Place, Edinburgh, EH2 4RG - Change of Use from Class 1 to Unlicensed Hot Food Takeaway (Sui Generis) with internal and external alterations with a new extract flue to the rear - application no. 20/03395/FUL – Report by the Chief Planning Officer 17 - 34

It is recommended that this application be **GRANTED**.

- 4.3 3 Shandwick Place, Edinburgh, EH2 4RG - Internal and external alterations with new rear extract flue - application no. 20/03412/LBC – Report by the Chief Planning Officer 35 - 46

It is recommended that this application be **GRANTED**.

## 5. Returning Applications

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These applications have been discussed previously by the Sub-Committee. A decision to grant, refuse or continue consideration will be made following a presentation by the Chief Planning Officer and discussion on each item.

- 5.1 14 Ashley Place, Edinburgh, EH6 5PX - Demolition of existing building and erection of 65 flatted residential development with 47 - 62

associated landscaping, car and cycle parking; formation of pedestrian access from Ashley Place and associated infrastructure - application no. 19/05092/FUL – Report by the Chief Planning Officer

It is recommended that this application be **GRANTED**.

## **6. Applications for Hearing**

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**The Chief Planning Officer has identified the following applications as meeting the criteria for Hearings. The protocol note by the Head of Strategy and Insight sets out the procedure for the hearing.**

**6.1** None.

## **7. Applications for Detailed Presentation**

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**The Chief Planning Officer has identified the following applications for detailed presentation to the Sub-Committee. A decision to grant, refuse or continue consideration will be made following the presentation and discussion on each item.**

**7.1** None.

## **8. Returning Applications Following Site Visit**

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**These applications have been discussed at a previous meeting of the Sub-Committee and were continued to allow members to visit the sites. A decision to grant, refuse or continue consideration will be made following a presentation by the Chief Planning Officer and discussion on each item.**

**8.1** None.

**Andrew Kerr**

Chief Executive

## **Committee Members**

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Councillor Neil Gardiner (Convener), Councillor Maureen Child (Vice-Convener), Councillor Chas Booth, Councillor Mary Campbell, Councillor George Gordon, Councillor Joan Griffiths, Councillor Max Mitchell, Councillor Joanna Mowat, Councillor Hal Osler, Councillor Cameron Rose and Councillor Ethan Young

## **Information about the Development Management Sub-Committee**

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The Development Management Sub-Committee consists of 11 Councillors and is appointed by the City of Edinburgh Council. The meeting will be held by Microsoft Teams and will be webcast live for viewing by members of the public.

## **Further information**

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If you have any questions about the agenda or meeting arrangements, please contact Jamie Macrae, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, Tel 0131 553 8242 / 0131 529 4085, email [jamie.macrae@edinburgh.gov.uk](mailto:jamie.macrae@edinburgh.gov.uk) / [blair.ritchie@edinburgh.gov.uk](mailto:blair.ritchie@edinburgh.gov.uk).

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to <https://democracy.edinburgh.gov.uk/>.

## **Webcasting of Council meetings**

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Any information presented by individuals to the Council at a meeting, in a deputation or otherwise, in addition to forming part of a webcast that will be held as a historical record, will also be held and used by the Council in connection with the relevant matter until that matter is decided or otherwise resolved (including any potential appeals and other connected processes). Thereafter, that information will continue to be held as part of the historical record in accordance with the paragraphs above.

If you have any queries regarding this and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial

damage or distress to any individual, please contact Committee Services (committee.services@edinburgh.gov.uk).

# Minutes

## Development Management Sub-Committee of the Planning Committee

10.00 am, Wednesday 13 January 2021

### Present:

Councillors Gardiner (Convener), Child (Vice-Convener), Booth, Mary Campbell, Gordon, Griffiths, Mitchell, Mowat, Osler, Rose and Young.

### 1. Minutes

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#### Decision

To approve the minute of the Development Management Sub-Committee of 16 December 2020 as a correct record.

### 2. General Applications and Miscellaneous Business

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The Sub-Committee considered reports on planning applications listed in Sections 4 and 7 of the agenda for this meeting.

#### Requests for Presentations

Councillor Rose requested a presentation in respect of item 4.1 - Northfield House Hotel, 115 Lasswade Road, Edinburgh.

Ward Councillor Cameron requested a site visit and hearing in respect of item 4.1 - Northfield House Hotel, 115 Lasswade Road, Edinburgh.

#### Decision

To determine the applications as detailed in the Appendix to this minute.

(Reference – reports by the Chief Planning Officer, submitted.)

### 3. Northfield House Hotel, 115 Lasswade Road, Edinburgh

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Details were provided of an application for planning permission for the demolition of existing hotel and redevelopment of the site for purpose-built student accommodation including landscaping and all ancillary development at 115 Lasswade Road, Edinburgh. - application no. 20/02562/FUL.

The Chief Planning Officer gave details of the proposals and the planning considerations involved and recommended that the application be refused.

#### Motion

To **REFUSE** planning permission for the reasons set out in section 3 of the report by the Chief Planning Officer.

- moved by Councillor Gardiner, seconded by Councillor Child.

### **Amendment**

To **REFUSE** planning permission as the application was contrary to Local Development Plan Policy Tra 4.

- moved by Councillor Rose, seconded by Councillor Gordon.

### **Voting**

For the motion: - 9 votes

For the amendment: - 2 votes

(For the motion: Councillors Booth, Mary Campbell, Child, Gardiner, Griffiths, Mitchell, Mowat, Osler and Young.

For the amendment: Councillors Gordon and Rose)

### **Decision**

To **REFUSE** planning permission for the reasons set out in section 3 of the report by the Chief Planning Officer.

(Reference – report by the Chief Planning Officer, submitted.)



## Appendix

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.</p>		
<p><b>4.1</b> – <a href="#">Northfield House Hotel, 115 Lasswade Road, Edinburgh</a></p>	<p>Demolition of existing hotel and redevelopment of the site for purpose built student accommodation including landscaping and all ancillary development - application no 20/02562/FUL</p>	<p>To <b>REFUSE</b> planning permission for the reasons set out in section 3 of the report by the Chief Planning Officer.  (On a division).</p>
<p><b>4.2</b> – <a href="#">BF, 18 Torphichen Street, Edinburgh</a></p>	<p>Change of use from residential flat to residential holiday let - application no 20/03051/FUL</p>	<p>To <b>GRANT</b> planning permission subject to the conditions, reasons and informatives as set out in section 3 of the report by the Chief Planning Officer</p>
<p><b>4.3</b> – <a href="#">74 West Croft, Ratho (Land 17 Metres Northwest Of)</a></p>	<p>Erection of 5 No. detached dwellings and garages with associated open space, landscaping and site development works (as amended) - application no 20/03807/FUL</p>	<p>To <b>GRANT</b> planning permission subject to the conditions, reasons, informatives and a legal agreement as set out in section 3 of the report by the Chief Planning Officer</p>
<p><b>7.1</b> – <a href="#">57 Tower Street 1 Bath Road, Edinburgh, EH6 7BB</a></p>	<p>Proposed residential development and associated landscaping, drainage, roads and infrastructure - application no 20/01313/FUL</p>	<p>To <b>GRANT</b> planning permission subject to the conditions, reasons, informatives and a legal agreement as set out in section 3 of the report by the Chief Planning Officer</p>

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## Development Management Sub Committee

**Wednesday 27 January 2021**

**Report for forthcoming application by**

**Manse (Seafield) LLP. for Proposal of Application Notice**

**20/05758/PAN**

**at Land At 22/ 23/ 24/ 25 Seafield Rd, Edinburgh,  
Residential led mixed use development with associated  
infrastructure.**

**Item number**

**Report number**

**Wards**

B14 - Craigentinny/Duddingston

### Summary

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The purpose of this report is to inform the Development Management Sub-Committee of a forthcoming application for Planning Permission in Principle for a residential led mixed use with associated infrastructure at land at 22/23/24/25 Seafield Road, Edinburgh.

In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, a Proposal of Application Notice was submitted on the 16 December 2020.

### Links

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**Coalition pledges**

**Council outcomes**

**Single Outcome Agreement**

## **Recommendations**

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**1.1** It is recommended that the Committee notes the key issues at this stage and advises of any other issues.

## **Background**

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### **2.1 Site description**

The site comprises existing car showroom buildings and yards and extends to 1.2 hectares approximately. It is bounded to the north east by the Firth of Forth, to the north west by Edinburgh Cat and Dog Home, to the south east by existing car showroom buildings and to the south west by Seafield Road East.

The site is currently in use as a car showroom sales (sui generis). The site is generally flat fronting Seafield Road East. Seafield Road East is downslope from the A199 to the west.

The site is located within the urban area, but is adjacent to the Forth Coast Site of Special Scientific Interest (SSI). There is an existing cycleway/footpath safeguard to the site boundary. There is also an area of open space and Local Nature Reserve within the vicinity of the site.

### **2.2 Site History**

There is no relevant planning history for this site.

## **Main report**

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### **3.1 Description of the Proposal**

The proposal is for a residential-led mixed use development with associated infrastructure. No further details have been given at this time.

### **3.2 Key Issues**

The key considerations against which the eventual application will be assessed include whether:

- a) The principle of the development is acceptable in this location

The site is located in the urban area as identified by the Local Development Plan (LDP). The proposed mix of uses and the extent of development are not known at this time.

The site is part of a larger area of land at Seafield which is being considered through the Local Development Plan process as having potential for mixed use development, though no decisions have yet been made in respect of any allocation.

Due to developer interest in parts of the land and community concerns that any redevelopment should be on a holistic, masterplan led approach, the Council has convened a 'sounding board' approach to join up discussions with the neighbouring communities, local Members and landowners/developers to facilitate consideration of how any wider redevelopment would respond to the characteristics and constraints of the wider site, including how it would link to its neighbouring areas. This process reflects an approach taken for other development sites, including at Fountainbridge, and is ongoing.

b) The design, scale and layout are acceptable with the character of the area

The proposal will be considered against the provisions of the LDP design policies and the Edinburgh Design Guidance.

c) Access arrangements are acceptable in terms of road safety and public transport accessibility

The applicant will be required to provide transport information that demonstrates how the proposal prioritises active travel and is aligned with parking standards, including service arrangements and cycle parking provision. Information is also needed on the impact on traffic flow on local roads and access to public transport. Pedestrian connectivity would also be important given its location next to the sea.

d) There are any other environmental factors that require consideration

The proposal and site are to be screened against the criteria set out in Schedule 3 of Environmental Impact Assessment (Scotland) Regulations 2017, to determine whether an Environmental Impact Assessment is required.

Notwithstanding the above, consideration must be given to how the site can be developed without adverse effect on the environment and shall include impact on the SSSI site.

It is anticipated that the following supporting documentation will be submitted:

- Air Quality Impact Assessment;
- Archaeology Statement;
- Design and Access Statement;
- Flood Risk Assessment and Surface Water Management Plan;
- Landscape and Visual Impact Appraisal;
- Noise Impact Assessment;
- Phase 1 Site Investigation Report;
- Phase 1 Habitat and Protected Species Survey;
- Planning Statement;
- Pre-Application Consultation report;
- Sustainability Statement and
- Transport Information.

### **3.3 Assessment**

This report highlights the main issues that are likely to arise in relation to the various key considerations. This list is not exhaustive and further matters may arise when the new application is received, and consultees and the public have the opportunity to comment.

### **Financial impact**

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4.1 The forthcoming application may be subject to a legal agreement.

### **Risk, Policy, compliance and governance impact**

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

### **Equalities impact**

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6.1 This is a pre-application report. When a planning application is submitted it will be assessed in terms of equalities and human rights.

### **Sustainability impact**

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7.1 A sustainability statement will need to be submitted with the application.

### **Consultation and engagement**

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#### **8.1 Pre-Application Process**

There is no pre-application process history.

#### **8.2 Publicity summary of representations and Community Council comments**

In light of the ongoing Covid-19 situation, Scottish Government guidance on Preapplication Consultation makes provision for non-face to face public events. The Proposal of Application Notice signposted a website [www.seafielddroad.scot](http://www.seafielddroad.scot) where members of the public could view public exhibitions with online comment facilities on 3pm - 7pm on Thursday 28th January 2021. The online event will also be advertised in the Evening News, one week prior to the event.

The results of this consultation will be submitted with the future planning application as a Pre-application Consultation Report.

Copies of the Proposal of Application Notice were distributed to Craiginntny/Meadowbank Community Council, Councillor Griffiths, Councillor Young, Councillor McLellan, Councillor Staniforth, and Tommy Sheppard MP and Ash Denham MSP.

## Background reading/external references

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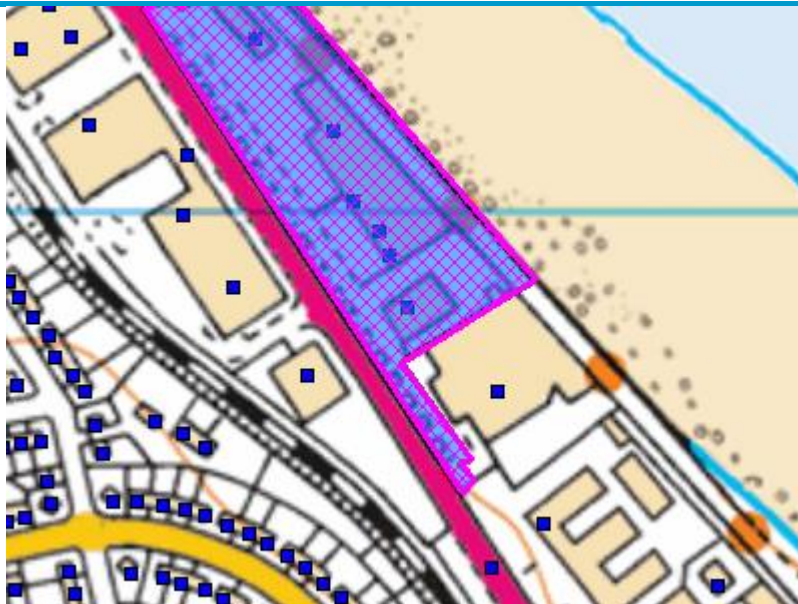
- To view details of the proposal of Application Notice go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)

**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](mailto:catriona.reece-heal@edinburgh.gov.uk)

## Location Plan

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## Development Management Sub Committee

Wednesday 27 January 2021

**Application for Planning Permission 20/03395/FUL  
at 3 Shandwick Place, Edinburgh, EH2 4RG.  
Change of Use from Class 1 to Unlicensed Hot Food  
Takeaway (Sui Generis) with internal and external  
alterations with a new extract flue to the rear.**

**Item number**

**Report number**

**Wards**

B11 - City Centre

### Summary

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The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves the character and setting of the listed building and preserves and enhances the character and appearance of the conservation area.

The proposal largely complies with the adopted Local Development Plan and the infringement of LDP policy Ret 9 is justified in this instance. The proposal is acceptable in this location and will have no material impact upon the retail function of the defined City Centre Retail Core. The proposal will have no adverse effect on local residents in terms of loss of amenity and it will not harm the Outstanding Universal Value of the Edinburgh World Heritage Site.

There are no material planning considerations which outweigh this conclusion.

### Links

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[Policies and guidance for this application](#)

LDPP, LDES12, LEN03, LEN04, LEN06, LEN01, LRET09, LRET11, NSLBCA, NSBUS, HES, HESUSE, HESEXF, OTH, SGCCRC, CRPNEW,

# Report

## **Application for Planning Permission 20/03395/FUL at 3 Shandwick Place, Edinburgh, EH2 4RG. Change of Use from Class 1 to Unlicensed Hot Food Takeaway (Sui Generis) with internal and external alterations with a new extract flue to the rear.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The application site relates to a small, ground floor class 1 retail unit. The unit has a frontage on the north east elevation at the internal corner of the recessed open space formed with the adjacent buildings on Rutland Place. There is a basement level below the unit and two storeys and attic above which are utilised as the Edinburgh City Roomz hotel. Other uses directly nearby include the Ghillie Dhu bar and restaurant, ASK restaurant and the Rat Pack Piano and Cocktail Bar which is at basement level. The rear elevation of the building is largely enclosed and there are currently two large ventilation flues present directly nearby.

It is part of a category B listed building (Listing date: 12 December 1974 listing reference: LB30175). It is also located within the World Heritage Site.

This application site is located within the New Town Conservation Area.

#### **2.2 Site History**

4 July 2017- Planning permission granted for extension to basement and change of use from class 1 to class 11 (Entertainment Venue) (application reference: 17/02154/FUL)

4 July 2017- Listed building consent granted for alterations to No. 3 and No. 9 Shandwick Place to create an extension of basement entertainment venue located at No. 9. (Application reference: 17/02255/LBC)

3 August 2020- Planning permission refused for alterations to frontage to remove existing bay window and door surround and remove masonry to form a larger shop front opening (Application reference: 20/02075/FUL).

3 August 2020- Listed building consent refused for alterations to frontage to remove existing bay window and door surround and remove masonry to form a larger shop front opening (Application reference: 20/02074/LBC).

A conterminous application for listed building consent is pending decision (Application reference: 20/03412/LBC)

## **Main report**

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### **3.1 Description of the Proposal**

The application is for planning permission for the change of use from a class 1 shop to unlicensed hot food takeaway (Sui Generis) with internal and external alterations including a new extract flue to the rear.

The proposal will provide some seating within the unit (four tables and one bar table element) permitting 12 patrons. However, this will be ancillary to the main function of the unit as a hot food takeaway.

The extract flue will measure 350mm in width and 400mm in depth. It will exit from the rear of the ground floor unit and will run up the building terminating above an adjacent dormer window.

No alterations are proposed to the front of the unit.

### **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.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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 proposed use will undermine the retailing function of the City Centre Retail Core;
- b) The proposal will be detrimental to the special interest of the listed building and its setting;
- c) The proposal will be detrimental to the character and appearance of the conservation area;
- d) The proposal affects the Outstanding Universal Value of the World Heritage Site;
- e) The proposal will materially impact residential amenity;
- f) The proposal raises any concerns with regards to road or pedestrian safety;
- g) There are other material matters to be considered and
- h) Any matters raised in representation have been addressed.

#### a) Retailing Function

Local Development Plan (LDP) Policy Ret 9 (Alternative Use of Shop Units in Defined Centres) states that change of use proposals which would undermine the retailing function of the centre will not be permitted. Detailed criteria for assessing proposals for the change of use of a shop unit to a non-shop unit will be set out in supplementary guidance.

The site falls right on the edge of the defined City Centre Retail Core (CCRC).

The City Centre Retail Core Supplementary Guidance states that it aims to deliver two LDP objectives set out in Section 6 (Shopping and Leisure) of the Plan:

- To sustain and enhance the city centre as the regional focus for shopping, entertainment, commercial leisure and tourism related activities and encourage appropriate development of the highest quality.
- To improve the appearance, quality and attractiveness of all centres.

It further states that *"There is a need to ensure a healthy balance of uses within the city centre in line with development plan policy to ensure its vitality, viability and maintain footfall, with a sufficient proportion of retail units to ensure that shopping continues to be a predominant use. However, there are also benefits in allowing shops to change to other uses to achieve a diverse, thriving and welcoming city, allowing complementary uses that support the main shopping function and encourage use into the evening."*

*"Changing circumstances since the original guidance was adopted including the trend towards online retailing, the publication of a Retail and Leisure Commercial Needs Study commissioned by the Council, and the ECCT programme provided justification for revising the guidance to make it more flexible to support alternative uses of shop units."*

The CCRC Supplementary Guidance highlights that the site falls within area CC4 (Elsewhere in the City Centre Retail Core).

The CCRC states in relation to units within CC4;

*Proposals for a change of use of shop units, elsewhere in the CCRC to a non-shop use will be permitted provided;*

*a. As a result of permitting the change of use no more than half of the total number of units on the same side of the named street as the proposal would be in non-shop use; and*

*b. The proposal is for an appropriate commercial or community use which would complement the character of the City Centre Retail Core and would not be detrimental to its vitality or viability*

A retail survey has been submitted that shows that there are currently 11 units within this side of Shandwick Place which are in shop use, whilst there are 13 which are in non-shop use. Therefore, there are already more than 50% of the units within this side of Shandwick Place which have fallen out of shop use. As a result, the proposal does not comply with part (a) of the CCRC supplementary guidance.

Paragraph 262 of the LDP states that policy Ret 9 aims to avoid areas of dead frontage and reduced pedestrian flow which would detract from the character and vitality of the centre by requiring a certain level of shop use.

The application site is located in a tight corner position set back from Shandwick Place and pedestrians cannot directly walk past this unit. The impact of this unit being changed from a class 1 to a sui generis use will not create an area of dead frontage or reduce pedestrian flow through the wider CCRC or indeed through this side of Shandwick Place.

The unit previously traded as a Subway Sandwich shop. This operated as a takeaway business serving both hot and cold food. It had a variety of illuminated and non-illuminated signage present on its shop front as does a number of other nearby businesses. Changing the unit from a sandwich shop to a hot food takeaway would not undermine the character of the City Centre Retail Core.

The CCRC guidance refers to the continual impact of online retailing on the high street. The effect that the Coronavirus pandemic has had on the high street must also be acknowledged. A site visit was carried out as part of the assessment of the application and it was apparent that some other units along this side of Shandwick Place appeared to be either closed and/or vacated since the retail survey had been submitted.

The applicant is attempting to bring a unit back into use which has been marketed for rent/sale for since May 2018 and has now laid empty and vacant for more than a year. Planning permission (20/02075/FUL) and listed building consent (20/02074/LBC) were sought in 2020 to enlarge the frontage of the unit in an attempt to make it more attractive as a shop unit, given its relatively secluded positioning. However, these applications were refused on the basis that the proposed alterations would harm the special interest of the listed building. An occupied and active unit will do more for the vitality and viability of the CCRC than an empty and potentially neglected shop. No alterations to the shop front are proposed.

It is further advised that planning permission was granted in 2017 (17/02154/FUL) for the extension of the property's basement and a change of use of the entire unit from class 1 to class 11 (Entertainment Venue). It is assumed that the basement level is now utilised as part of the basement level Rat Pack Piano Bar but that the ground floor level changes were never enacted.

The proposal is in breach of part (a) of the CCRC supplementary guidance as more than 50% of the units within this side of Shandwick Place already fall out with shop use. However, as well as complying with the Edinburgh Guidance for Business, in terms of hot food takeaways, the application also broadly complies with part (b) of the CCRC supplementary guidance as it is an appropriate commercial use which would complement the character of the City Centre Retail Core and would not be detrimental to its vitality and viability.

The Edinburgh Guidance for Businesses states that proposals for Hot Food Takeaways, with the exception of proposals within areas of restrictions, will be supported in principle in the following locations:

- Throughout the Central Area
- In designated shopping centres
- In existing clusters of commercial uses, provided it will not lead to an unacceptable increase in disturbance, on-street activity or anti-social behaviour to the detriment of the living conditions of nearby residents.

The unit is within the central area and not within an area of hot food takeaway restriction. Environmental Protection has confirmed that it has no objections to the proposal and therefore it will not lead to an unacceptable increase in disturbance, on street activity or anti-social behaviour to the detriment of the living conditions of nearby residents.

The proposal complies with the Edinburgh Guidance for Businesses. Therefore, the principle of a hot food takeaway in this location is acceptable and it is an appropriate commercial use within the area.

It is therefore considered that, on balance, the proposal will not materially undermine the retail function of the City Centre Retail Core and that the breach in the CCRC supplementary guidance is acceptable in this instance.

#### b) Listed Building

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:-

*"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*

Historic Environment Scotland's (HES) Guidance Notes on Managing Change in the Historic Environment: Use and Adaptation of Listed Buildings states; *"New uses may enable us to retain much of the fabric and special interest of a building, but they will always have an impact on its intangible value. The process of conversion will have some impact on a building's special interest, regardless of how well it is handled. The continued use of a listed building for its original function will normally be the best way to retain its historic character"*.

Historic Environment Scotland's Managing Change in the Historic Environment - Fixtures states that *"new external fixtures must be sited to minimise impact on the architectural integrity and fabric of the building. Secondary elevations that are out of sight from principal views can often accommodate new fixtures without significant impact"*.

LDP policy Env 3 (Listed Buildings- Setting) states that development within the curtilage or affecting the setting of the listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting.

Policy Env 4 (Listed Buildings- Alterations and Extensions) of the LDP states that alterations to listed buildings will be permitted where these alterations are justified and where there is no diminution of the building's interest.

The proposed flue will be located on an inconspicuous elevation to the rear of the building where two large flues are already present. The relatively small width and depth of the flue (350mm by 400mm), painted to match that of the stonework on the building will reduce the impact of the proposal. The rear elevation of the building is not visible from public views. The proposed flue will not be incongruous to the appearance of the building and it will not have an unacceptable impact on the character of the listed building.

No detail of the proposed method of ventilation attachment to the rear of the building was provided. A condition will be added to the consent, if granted, stating these details must be provided. This is to safeguard the fabric of the listed building.

Whilst it is acknowledged that the use of the building will change from class 1 to sui generis, the change will preserve the special character and setting of the listed building.

### c) Conservation Area

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

*"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2) , special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*

Policy Env 6 (Conservation Areas- Development) presumes against development that does not preserve or enhance the special character and appearance of the conservation area or that is inconsistent with the conservation area character appraisal.

The application site is located within the New Town Conservation Area. The character appraisal states the following:

*The Conservation Area is characterised by Georgian and early Victorian rectilinear development of grand formal streets lined by fine terraced building expressing neo-classical order, regularity, symmetry, rigid geometry, and a hierarchical arrangement of buildings and spaces. They create a regular pattern of stately streets, squares and crescents, interspersed by formal gardens, and containing a series of major classical buildings by architects of the stature of Robert Adam'*

The proposed ventilation flue will be erected to the rear, the least visible element of the property in a quite secluded location. There are already two large ventilation flues installed around the application site. Given the location, size and design of the flue it will not adversely detract from the appearance or character of the conservation area.

The shop front is to remain as existing. The proposal will cause no adverse impact to the character and appearance of the conservation area and complies with LDP policy Env 6 and the associated character appraisal.

#### d) World Heritage Site

LDP Policy Env 1 (World Heritage Sites) states that development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh will not be permitted.

The Outstanding Universal Value (OUV) of the Old and New Towns of Edinburgh World Heritage Site (EWHS) is defined as the remarkable juxtaposition of two clearly articulated urban planning phenomena: the contrast between the organic medieval Old Town and the planned Georgian New Town which provides a clarity of urban structure unrivalled in Europe.

Given the small-scale nature of this development, there is no requirement to assess it against policy Env 1.

#### e) Residential Amenity

Policy Hou 7 (Inappropriate Uses in Residential Areas) of the adopted LDP states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

Policy Ret 11 (Food and Drink Establishments) of the LDP states that the change of use of a shop unit or other premises to a licensed or unlicensed restaurant, cafe, or shop selling hot food for consumption off the premises (hot food takeaway) will not be permitted;

(a) if likely to lead to an unacceptable increase in noise, disturbance, on street activity or anti-social behaviour to the detriment of living conditions for nearby residents or

(b) in an area where there is considered to be an excessive concentration of such uses to the detriment of living conditions for nearby residents.



The unit does not fall within an area defined for hot food takeaway restrictions within the Edinburgh Guidance for Businesses.

The uses surrounding the site are largely commercial and not residential in nature. There is a hotel development located directly above the unit (Cityroomz) a large bar/restaurant right next to the unit (Ghillie Dhu) whilst there is another restaurant present on the other side (Ask Italian) and then a bar on the corner and at basement level (Rat Pack Piano Bar).

The amenity of residents staying within private hotel or city let accommodation is not protected under environmental controls.

Concerns were raised that the elevation and floor plans submitted were not accurate and that the siting of the proposed flue may intrude on the windows belonging to the commercial hotel that is located above the unit. As a result of these concerns, the position of the proposed flue has been moved to be sited next to where there is already an existing flue. This will mean that the flue will not intrude on any existing rear windows and the flue will terminate at the same height as the existing flue on the building, above the dormer window to the rear.

A noise impact assessment and further technical details of the proposed flue were submitted with the application. It showed that even though there are no residential properties directly above the unit there would be no exceedance of NR 25 criterion to the units above as there will be a silencer fitted to the extract fan. Mechanical fixings to the structure will also mitigate vibration from passing into the rooms above. Environmental Protection was consulted and confirmed that it had no objections to the proposal.

Shandwick Place is a busy city centre location on an arterial route in and out of the city centre. It has wide variety of units, including pubs and restaurants, many of which have no controls restricting times of operation. It would therefore not be proportionate to apply a restrictive hours condition on this unit.

The proposal will have no materially detrimental effect on the living conditions of nearby residents.

Given the above, the proposal complies with LDP policies Hou 7, Ret 11 and the associated supplementary guidance.

#### f) Road and Pedestrian Safety

The Roads Authority was consulted as part of the assessment of the application. It confirmed that it had no objections to the proposal. The development will have no impact upon road or pedestrian safety.

There is an open plaza area to the front of the unit which is already utilised to an extent by other nearby businesses. However, there is also a defined separate walkway leading up to the unit. Concerns relating to future patrons of the hot food takeaway potentially walking through or disturbing areas of the plaza currently utilised by other businesses is not a material planning consideration.

#### g) Other matters

The agent has confirmed that waste will be stored internally before bins are moved to the front of the store prior to collection. The removal of trade waste from the unit will be handled by a private contractor.

#### h) Public Comments

#### **Material Comments - Objections**

- Loss of amenity, noise disturbance, odours and health and safety - this is addressed in section 3.3e;
- Impact upon listed building, conservation area and World Heritage Area - this is addressed in section 3.3 b, c and d;
- No information about operational times, deliveries and waste collection - this is addressed in section 3.3e;
- Elevational and Floor plan drawings inaccurate - this is addressed in section 3.3e;
- Lack of detail of ventilation system - this is addressed in section 3.3e;
- The change of use is unacceptable, would impact upon employment and viability of city centre - this is addressed in section 3.3 a; and
- The development would impact upon road/pedestrian safety - this is addressed in section 3.3 e

#### **Non-material Objections**

- Proposal will block access to pipes for maintenance - this is not a material planning consideration;
- The flue cannot be attached to the upper levels of the building as this is not in the applicant's ownership - this is a civil matter;
- The proposal would set a precedent; other flues have not been permitted to the rear of the site - every application is determined on its individual merits;
- The proposal does not comply with LDP policy Des 5 -this policy is not applicable as it only applies to new development of one or more buildings;
- The proposal would impact upon the amenity of hotel residents - the planning process does not protect the amenity of hotel residents;
- The applicant did not consult with other operators regarding the proposal - this is not a material planning consideration;

- No need for more hot food takeaways - this is not a material planning consideration; and
- The development would impact upon the access to and areas in front of other existing units - there are no alterations proposed to the front of the unit. The movement of future patrons through a plaza area is not a material planning consideration.

## **Conclusion**

The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves the character and setting of the listed building and preserves and enhances the character and appearance of the conservation area.

The proposal largely complies with the adopted Local Development Plan and the infringement of LDP policy Ret 9 is justified in this instance. The proposal is acceptable in this location and will have no material impact upon the retail function of the defined City Centre Retail Core. The proposal will have no adverse effect on local residents in terms of loss of amenity.

There are no material planning considerations which outweigh this conclusion.

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

## **3.4 Conditions/reasons/informatives**

### **Conditions: -**

1. Details of the proposed method of ventilation attachment to the rear of the building and the proposed painted colour of the flue shall be provided for the written approval of the Planning Authority prior to any works commencing on site.
2. Prior to the opening of the hot food takeaway facility, the external extract flue shall be installed and will be operational in accordance with approved plan 04a.

### **Reasons:-**

1. To protect the special interest of the listed building.
2. In the interests of amenity.

## **Informatives**

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

## **Risk, Policy, compliance and governance impact**

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

## **Equalities impact**

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### **6.1 The equalities impact has been assessed as follows:**

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

## **Sustainability impact**

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### **7.1 The sustainability impact has been assessed as follows:**

This application meets the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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### **8.1 Pre-Application Process**

There is no pre-application process history.

### **8.2 Publicity summary of representations and Community Council comments**

Nine objection comments were received in relation to the application. The points raised are addressed in section 3.3 of this report.

## Background reading/external references

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- 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** 31 August 2020

**Drawing numbers/Scheme** 01, 02a, 03b, 04a,

Scheme 2

### **David R. Leslie**

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Robert McIntosh, Planning Officer

E-mail: robert.mcintosh@edinburgh.gov.uk

## **Links - Policies**

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### **Relevant Policies:**

#### **Relevant policies of the Local Development Plan.**

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

LDP Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

LDP Policy Env 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

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

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

LDP Policy Ret 9 (Alternative Use of Shop Units in Defined Centres) protects the City Centre Retail Core and Town Centres from development which would undermine their retailing function, and specifies that detailed criteria for change of use will be set out in

supplementary guidance. It provides criteria for assessing the change of use of a shop unit to a non shop unit in local centres.

LDP Policy Ret 11 (Food and Drink Establishments) sets criteria for assessing the change of use to a food and drink establishment.

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

**Non-statutory guidelines** 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

### **Relevant Government Guidance on Historic Environment.**

Managing Change in the Historic Environment: Use and Adaptation of Listed Buildings sets out Government guidance on the principles that apply to enable the use, the reuse and adaptation of listed buildings.

Managing Change in the Historic Environment: External Fixtures sets out Government guidance on the principles that apply to altering the external fixtures of listed buildings.

### **Other Relevant policy guidance**

The City Centre Retail Core Supplementary Guidance sets criteria for assessing change of a shop unit to a non-shop use on Core Frontages, Primary Frontages and elsewhere.

**The New Town Conservation Area Character Appraisal** states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

# Appendix 1

## **Application for Planning Permission 20/03395/FUL At 3 Shandwick Place, Edinburgh, EH2 4RG Change of Use from Class 1 to Unlicensed Hot Food Takeaway (Sui Generis) with internal and external alterations with a new extract flue to the rear.**

### **Consultations**

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#### **The Roads Authority**

*No objections to the application.*

#### **Environmental Protection**

*The application proposes the change of use from Class 1 to unlicensed hot food takeaway (sui generis) including installation of a ventilation system on the premises with a ventilation duct to the rear.*

*The premises surrounding the proposed development site are commercial in nature and include hotel accommodation above the premises and to the rear and a restaurant and licensed premises adjacent.*

*Details of the ventilation system and duct have been provided on drawing number BW/L/2020/11/01-A. It is noted, that the ventilation duct terminates 1000mm above the eaves of the building to which it is attached, which is at the same level as and proximal to windows of the top floor of the hotel located above the proposed development. It is likely therefore that cooking odours could potentially affect the upper floor of the hotel. Information has not been provided which confirms that consent for access and attachment of the duct to the building as proposed has been obtained.*

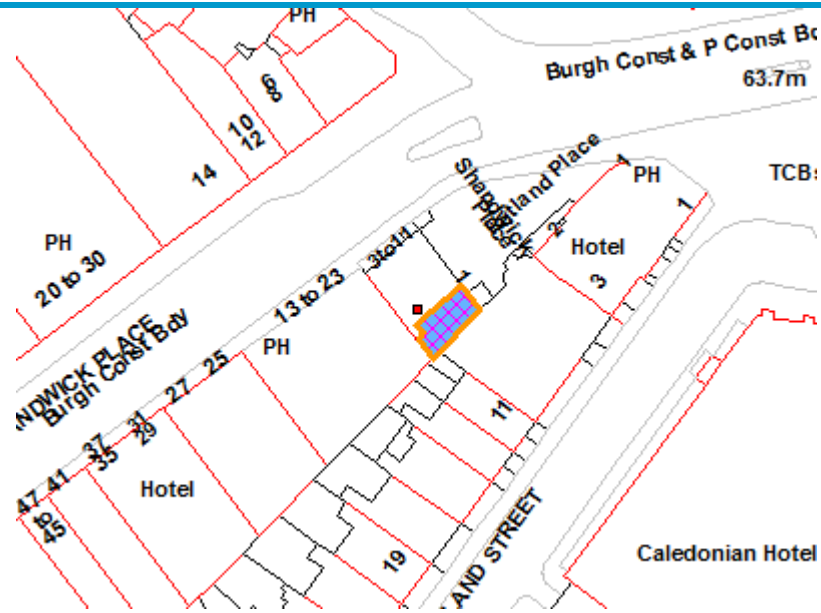
*A noise impact assessment, Technical Report No. R-8817-EP1-DJC 20th November 2020, has been provided which details the specifications of the ventilation system and mitigation methods to be employed to ensure that the surrounding properties are not affected by noise (to meet the noise limit of NR 25).*

*Therefore, as the development is not directly adjacent to residential premises, the amenity of which could be affected, Environmental Protection does not object to this proposal but would note that the location of the duct and its point of termination could adversely affect the hotel above the development.*



## Location Plan

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## Development Management Sub Committee

Wednesday 27 January 2021

**Application for Listed Building Consent 20/03412/LBC  
at 3 Shandwick Place, Edinburgh, EH2 4RG.  
Internal and external alterations with new rear extract flue.**

Item number

Report number

Wards

B11 - City Centre

### Summary

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The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves the character and setting of the listed building and preserves and enhances the character and appearance of the conservation area.

### Links

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[Policies and guidance for this application](#)

LDPP, LEN03, LEN04, LEN06, LEN01, NSG, NSLBCA, HES, HESUSE, HESEXF, OTH, CRPNEW,

# Report

## **Application for Listed Building Consent 20/03412/LBC at 3 Shandwick Place, Edinburgh, EH2 4RG. Internal and external alterations with new rear extract flue.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The application site relates to a small, ground floor class 1 retail unit. The unit has a frontage on the north east elevation at the internal corner of the recessed open space formed with the adjacent buildings on Rutland Place. There is a basement level below the unit and two storeys and attic above which are utilised as the Edinburgh City Roomz hotel. Other uses directly nearby include the Ghillie Dhu bar and restaurant, ASK restaurant and the Rat Pack Piano and Cocktail Bar which is at basement level. The rear elevation of the building is largely enclosed and there are currently two large ventilation flues present directly nearby.

It is part of a category B listed building (Listed 12 December 1974; listing reference: LB30175). It is also located within the World Heritage Site.

This application site is located within the New Town Conservation Area.

#### **2.2 Site History**

4 July 2017- Planning permission granted for extension to basement and change of use from class 1 to class 11 (Entertainment Venue) (application reference: 17/02154/FUL)

4 July 2017- Listed Building Consent granted for alterations to No. 3 and No. 9 Shandwick Place to create an extension of basement entertainment venue located at No. 9. (Application reference: 17/02255/LBC)

3 August 2020- Planning permission refused for alterations to frontage to remove existing bay window and door surround and remove masonry to form a larger shop front opening (Application reference: 20/02075/FUL).

3 August 2020- Listed building consent refused for alterations to frontage to remove existing bay window and door surround and remove masonry to form a larger shop front opening (Application reference: 20/02074/LBC).

A conterminous application for planning permission is pending decision (Application reference: 20/03395/FUL)

## Main report

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### 3.1 Description of the Proposal

The application is for listed building consent for internal and external alterations including a new extract flue to the rear.

The extract flue will measure 350mm in width and 400mm in depth. It will run internally through a small element of the unit, exit from the rear of the ground floor unit and will run up the building terminating above an adjacent dormer window.

Other proposed internal alterations are minimal and include the installation of low-level partitions, kitchen units and seating.

No alterations are proposed to the front of the unit.

### 3.2 Determining Issues

Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - In considering whether to grant consent, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. For the purposes of this issue, preserve, in relation to the building, means preserve it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

In determining applications for listed building consent, the Development Plan is not a statutory test. However the policies of the Local Development Plan (LDP) inform the assessment of the proposals and are a material consideration.

### 3.3 Assessment

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

- a) The proposal will be detrimental to the special interest of the listed building;
- b) The proposal is of an acceptable design and will not be detrimental to the character and appearance of the conservation area and
- c) Any matters raised in representations have been addressed.

#### a) Listed Building

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:-

*"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*

Historic Environment Scotland's (HES) Guidance Notes on Managing Change in the Historic Environment: Use and Adaptation of Listed Buildings states; *"New uses may enable us to retain much of the fabric and special interest of a building, but they will always have an impact on its intangible value. The process of conversion will have some impact on a building's special interest, regardless of how well it is handled. The continued use of a listed building for its original function will normally be the best way to retain its historic character"*.

Historic Environment Scotland's Managing Change in the Historic Environment - Fixtures states that *"new external fixtures must be sited to minimise impact on the architectural integrity and fabric of the building. Secondary elevations that are out of sight from principal views can often accommodate new fixtures without significant impact"*.

LDP policy Env 3 (Listed Buildings- Setting) states that development within the curtilage or affecting the setting of the listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting.

Policy Env 4 (Listed Buildings- Alterations and Extensions) of the LDP states that alterations to listed buildings will be permitted where these alterations are justified and where there is no diminution of the building's interest. The Guidance on Listed Buildings and Conservation Areas presumes against any alterations that would seriously detract from the character of the listed building.

The proposed flue will be located on an inconspicuous elevation to the rear of the building where two large flues are already present. The relatively small width and depth of the flue (350mm by 400mm), painted to match that of the stonework on the building will reduce the impact of the proposal. The rear elevation of the building is not visible from public views. The proposed flue will not be incongruous to the appearance of the building and it will not have an unacceptable impact on the character of the listed building.

No detail of the proposed method of ventilation attachment to the rear of the building was provided. A condition will be added to the consent stating these details shall be provided. This is to safeguard the fabric of the listed building.

The interior of the building is already largely stripped out and the works proposed internally will not harm the special interest of the building.

Whilst it is acknowledged that the use of the building will change from class 1 to sui generis, the change will not have a material impact on the special character and setting of the listed building in compliance with HES guidance and Council policy.

## b) Conservation Area

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

*"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*

Policy Env 6 (Conservation Areas- Development) presumes against development that does not preserve or enhance the special character and appearance of the conservation area or that is inconsistent with the conservation area character appraisal.

The application site is located within the New Town Conservation Area. The character appraisal states the following:

*The Conservation Area is characterised by Georgian and early Victorian rectilinear development of grand formal streets lined by fine terraced building expressing neo-classical order, regularity, symmetry, rigid geometry, and a hierarchical arrangement of buildings and spaces. They create a regular pattern of stately streets, squares and crescents, interspersed by formal gardens, and containing a series of major classical buildings by architects of the stature of Robert Adam'*

The proposed ventilation flues will be erected to the rear, least visible element of the property in a quite secluded location. There are two large ventilation flues already installed around the application site. Given the location, size and design of the flues they will not adversely detract from the character or appearance of the conservation area overall.

The shop front is to remain as existing. The proposal will cause no adverse impact to the character and appearance of the conservation area and complies with LDP policy Env 6 and the associated character appraisal.

## c) Public Comments

### **Material Comments - Objections:**

- Impact upon listed building and conservation area- This is addressed in section 3.3 a and b and
- Elevational and Floor plan drawings inaccurate - This has been addressed with the submission of revised plans.

### **Non material Objections**

- Proposal will block access to pipes for maintenance- This matter cannot be assessed under an application for listed building consent;

- The flue cannot be attached to the upper levels of the building as this is not in the applicant's ownership- This matter cannot be assessed under an application for listed building consent;
- The proposal would set a precedent- Every application is determined on its individual merits;
- No information about operational times, deliveries and waste collection - This matter cannot be assessed under an application for listed building consent;
- Lack of detail of ventilation system - This matter cannot be assessed under an application for listed building consent;
- The development would impact upon the access to and areas in front of other existing units- This matter cannot be assessed under an application for listed building consent;
- Concerns relating to operational noise, smells, antisocial behaviour and health and safety -This matter cannot be assessed under an application for listed building consent;
- The change of use is unacceptable, it does not comply with LDP Policy Des 1 or Des 5 This matter cannot be assessed under an application for listed building consent;
- Would impact upon employment and viability of city centre -This matter cannot be assessed under an application for listed building consent;
- Impact upon the World Heritage Site -This matter cannot be assessed under an application for Listed Building Consent and
- Concerns raised about the applicant and integrity of the planning process- This is not a material planning consideration.

## **Conclusion**

The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves the character and setting of the listed building and preserves and enhances the character and appearance of the conservation area.

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

### **3.4 Conditions/reasons/informatives**

#### **Conditions:-**

1. Details of the proposed method of ventilation attachment to the rear of the building and the colour of the proposed vent shall be provided for the written approval of the Planning Authority prior to any works commencing on site.



## **Reasons:-**

1. To protect the special interest of the listed building.

## **Informatives**

It should be noted that:

1. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

There are no financial implications 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:**

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

## **Sustainability impact**

---

### **7.1 The sustainability impact has been assessed as follows:**

This application meets the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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### **8.1 Pre-Application Process**

There is no pre-application process history.

### **8.2 Publicity summary of representations and Community Council comments**

Nine objection comments were received in relation to the application. The points raised shall be addressed in section 3.3 of this report.

## 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** 31 August 2020

**Drawing numbers/Scheme** 01, 02a, 03a,

Scheme 2

### David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Robert McIntosh, Planning Officer

E-mail: robert.mcintosh@edinburgh.gov.uk

## Links - Policies

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### Relevant Policies:

#### **Relevant policies of the Local Development Plan.**

LDP Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

LDP Policy Env 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

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

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

#### **Relevant Non-Statutory Guidelines**

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

**Relevant Government Guidance on Historic Environment.**

Managing Change in the Historic Environment: Use and Adaptation of Listed Buildings sets out Government guidance on the principles that apply to enable the use, the reuse and adaptation of listed buildings.

Managing Change in the Historic Environment: External Fixtures sets out Government guidance on the principles that apply to altering the external fixtures of listed buildings.

**Other Relevant policy guidance**

**The New Town Conservation Area Character Appraisal** states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

# Appendix 1

## Application for Listed Building Consent 20/03412/LBC At 3 Shandwick Place, Edinburgh, EH2 4RG Internal and external alterations with new rear extract flue.

### Consultations

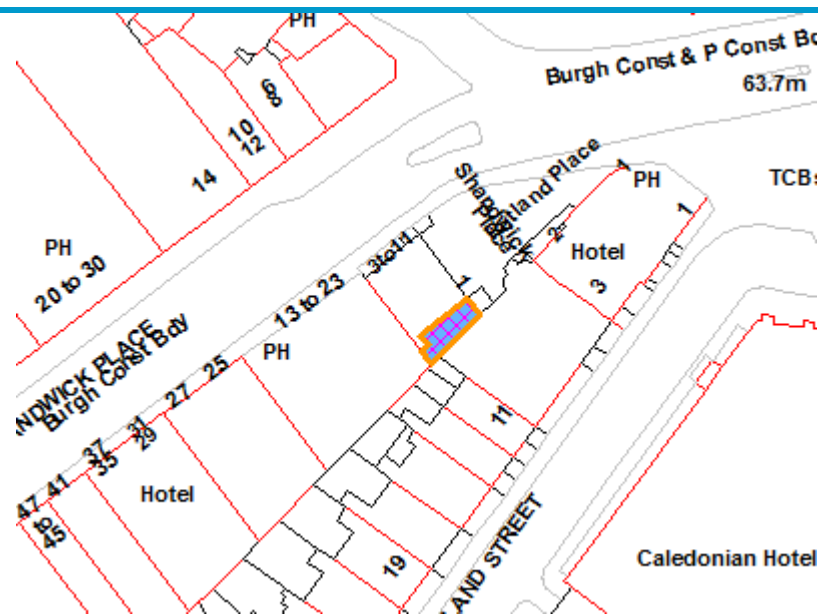
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#### Historic Environment Scotland

*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 listed building consent, together with related policy guidance.*

### Location Plan

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## Development Management Sub Committee

report returning to Committee - Wednesday 27 January 2021

**Application for Planning Permission 19/05092/FUL  
at 14 Ashley Place, Edinburgh, EH6 5PX.  
Demolition of existing building and erection of 65 flatted  
residential development with associated landscaping, car  
and cycle parking; formation of pedestrian access from  
Ashley Place and associated infrastructure.**

**Item number**

**Report number**

**Wards**

B12 - Leith Walk

### **Recommendations**

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

### **Background information**

---

The original application was for full planning permission to demolish the existing brick building with adjoining yard, and to replace it with residential development of 58 flats, open space and associated infrastructure.

It was presented to Committee on 18th March 2020 and was granted planning permission subject to the conclusion of a legal agreement. This legal agreement has not been concluded as the applicant has stated that this scheme is no longer viable. Therefore, amended planning proposals have been put forward and are now reported to Committee.

# Main report

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## 3.1 Description of the Proposal

This application seeks full planning permission to demolish the existing brick building with adjoining yard, and to replace it with residential development of 65 flats, open space and associated infrastructure.

There are three adjoining flatted blocks creating an 'L' shape fronting Ashley Place. Block A is part four storey part six storey block. The adjacent block B is six storeys high with flat roof. The top floor is set back from the roofline and includes roof terraces with metal balustrades at eaves height.

The 49 private flats comprise 11 one-bedroom flats of 53 sq.m in size; 29 two bedroom flats 66 sq.m - 67 sq.m in size. There are also nine three-bedroom flats which range from 82 sq.m to 97 sq.m in size. 19 of these flats will be dual aspect.

Sixteen units will be affordable. These are located in block A with a separate stair and external cycle storage. There are four one bedroomed flats of 52 sq.m in size. There are eight two-bedroom flats ranging in size from 66 sq.m to 83 sq.m in size. Eight of these flats will be dual aspect.

The proposed materials include a mix of light and dark grey facing brick, grey zinc cladding, a mix of aluminium faced timber windows to areas with cladding and UPVC windows to brick areas. The entrance canopy would be light grey concrete and the balustrades painted metal. Photovoltaic panels are included on the roof.

Private amenity space includes the rear courtyard garden area which will have a mix of hard and soft landscaping including a courtyard with seating and a sunken garden. This area will have gated access from Ashley Place and a substantial cycle store along one wall. The landscaping includes trees, hedges, climbing plants, groundcover planting and grass. The ground floor units have some private space including yew hedges.

Access to the site is from Ashley Place although pedestrians and cyclists can also link into the wider network via Tinto Place. The proposal includes 17 car parking spaces (26%), including one accessible space and three electric vehicle charging spaces, fronting onto Ashley Place. The 143 cycle parking spaces are provided, equating to 220%. For block A this is in an external store and comprises nine Sheffield stands and two-tier bike racks totalling 36 spaces. Block B has 107 spaces some utilising internal ground floor storage on two tier racks with two Sheffield stands and there is also an external store for Block B comprising two tier bike racks.

All bin stores are located in the ground floor of the buildings - one in block A and one in block B.

### Scheme 1

The initial proposal was for a mix of mainly one and two bed units, and 48% single aspect units. It included 53% car parking provision which dominated the rear courtyard accessed by a pend. The proposal also included stair block access only, no private, front door entrances and front garden spaces.



## Scheme 2

The previous proposal was for 58 residential units in three blocks with 14 affordable units including four one bedroomed flats, nine two bedroomed flats and one three bedroomed unit. The private flats comprise 16 one bedroomed flats; 19 two-bedroom flats and nine three bedroom flats.

## Supporting Information

The following were submitted in support of the application:

- Revised Archaeology Report;
- Revised Daylight and Sunlight Assessment;
- Revised Design and Access Statement;
- Drainage and Flood Risk Assessment;
- Ecological Report;
- Geo-environmental Assessment;
- Noise Impact assessment;
- Revised Pre-Application Consultation (PAC) report;
- Revised Planning Statement;
- Site Investigation Report;
- Revised Sustainability Statement and
- Revised Transport Statement.

These are available to view on the Planning and Building Standards Online Service.

## **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 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 the development is acceptable in this location;
- b) the proposals are of an appropriate scale, form, and design;
- c) the proposals will result in an unreasonable level of neighbouring residential amenity;
- d) the proposals will result in an adequate level of amenity for the future occupiers of the development;
- e) the proposals will have any traffic or road safety issues;
- f) affordable housing provision is acceptable;
- g) educational infrastructure provision will be sufficient;
- h) the proposal meets sustainability criteria;
- i) there are any other environmental impacts;
- j) any comments raised have been addressed and
- k) the existing planning permissions.

## **a) Principle**

The Edinburgh Local Development Plan (LDP) identifies the application site as within the urban area where residential development is acceptable in principle provided proposals are compatible with other policies in this plan. LDP Policy Hou 5 also emphasises that proposals to change from other uses to residential should provide a satisfactory residential environment, be compatible with nearby uses and meet existing open space, amenity and parking standards, having regard to other local plan policies. LDP Policy Emp 9 also accepts the principle of employment sites and premises in the urban area being developed for other uses where such uses will not prejudice the activities of nearby employment uses and help to regenerate the wider area. For sites over one hectare, business floorspace should also be provided. This site area is less than one hectare and the proposal does contribute to a wider residential development of the area, which does not prejudice the nearby employment uses.

The Bonnington Development Brief (2008) also covers the site. The brief sought to establish an appropriate mix of uses that would ensure that the introduction of residential uses in this location would not compromise the operation of existing businesses at a time when there was general concern regarding the loss of employment uses in the city. The brief proposed a mix of residential and office use for Ashley Place. The change from business to residential was assessed in the previous planning application (14/05208/FUL) and planning permission granted for residential use. Therefore, the principle of residential use on this site is acceptable.

## **b) Design, scale, form, density and layout**

Policies Des 1 to Des 9 of the LDP set out the policy framework for the design of developments to ensure that proposals integrate within the city and help to create a sense of place. Also relevant is the Bonnington Development Brief (2008) and the Edinburgh Design Guidance. The brief sought to ensure a predominant building form of tenemental scale buildings around 4-5 storeys high to protect city views and create an attractive street layout allowing pedestrian and cycle accessibility.

The surrounding area is being redeveloped and contains a range of flatted blocks in a variety of designs, heights and materials. The proposal continues Ashley Place as a street integrating with the new residential development nearby. This proposal does not compromise the effective development of neighbouring land and aligns with the aims of the development brief.

The scale of the building is substantial with a deep floor plate and curved 'L' shaped corner to the pedestrian and cycle link to Tinto Place. This design is an interesting addition which differentiates the building whilst integrating with the pattern of rectilinear perimeter blocks. The 'stepping up' from four to six storeys and setting back the top storey helps to reduce its mass. The elevational treatments include recessed Juliette balconies, and decorative brickwork at the main entrances. The elevation details and materials complement those of the existing flats nearby. A condition is recommended to secure materials of an appropriate quality.

Policy Des 7 (Layout Design) outlines the criteria to assess layout of proposals. The proposed 'L' shaped layout of the buildings provides a street frontage to Ashley Place, front garden area, and rear communal garden, replicating the tenemental form. The rear garden area is accessed by two paths from Ashley Place with gates providing some security, and the external bike sheds would be overlooked. There is already a cycle path along the opposite side of Ashley Place which is easily accessible.

The proposed flats are set back from the existing Ashley Place building line by 6 metres, allowing an enhanced streetscape, greater distances between flatted blocks, removing cars from one side of the street. The ground floor properties are set back from the street by hedging and provide overlooking to the paths and on-street car parking.

Whilst there are no longer individual main entrances to the flats semi-private threshold space is retained.

The perimeter block is extended along Ashley Place and it continues the tenemental form and therefore the proposed layout is acceptable.

### Height

The general height of new development in this area varies between four and six storeys high. Policy Des 4 requires assessment of height in relation to the character of the wider townscape, and impact on existing views. There is an existing six storey flatted block on Ashley Place as well as the traditional four storey tenements. There is also the extant planning permission for a six storey office block on the site. The top floor is set back from the eaves which helps reduce the mass at roof level. The flatted roof is not traditional tenemental style but is found in nearby new buildings.

The Bonnington Development Brief envisaged tenemental scale buildings of around 4-5 storeys high. The surrounding area already includes buildings up to six storeys in height, therefore the proposal is not out of keeping with the surrounding area. The brief also wanted to ensure that any proposals did not impact on city views.

Policy Des 11 protects skyline and key views from adverse impact. A townscape assessment was undertaken which illustrated that Ashley Place site lies within the field of view of two key views - No. N8 and No. C1b. However, the proposed six storey height would not be visible in either view above existing rooflines and is acceptable. The proposed height is therefore acceptable.

### Housing Density and Mix

Policy Hou 4 (Housing Density) seeks appropriate density of development having regard to the surrounding area, amenity for existing and new residents, and accessibility. The proposed density is 166 dwellings per hectare; an increase from the previous proposal which was 148 dwellings per hectare. However, the adjoining development proposal at Tinto Place provided a density of 143 dwellings per hectare and other modern developments such as Westfield (172 dph) and Lochrin Place (164 dph) as illustrated in the Edinburgh Design Guidance. The higher density mix of housing proposed provides a balance between the efficient use of land on this brownfield site and ensuring that an attractive residential environment is created which safeguards living conditions within the development.

Policy Hou 3 seeks adequate provision of green space to meet the future needs of residents. There is a communal rear garden which has total useable greenspace of 21.9% (less than the previous scheme of 26.7% due to additional bike sheds in the rear courtyard area) but still above the minimum of 20% of the total site area which complies with policy Hou 3 on private green spaces in housing developments.

The reconfiguration of the internal layout of the blocks results in the addition of seven units. The revised scheme provides an acceptable mix of one (15 units), two bedroomed (37 units) and three bedroomed flats (13 units) which is more two bedroom flats (+9 units), and family three bedroom flats (+ 3 units) and less one bedroom (-5 units). All the flats exceed the minimum internal floor areas as set out in the Edinburgh Design Guidance. The four three bedroom affordable housing flats are all 91 sq.m and two of the nine private three bedroom flats exceed this equating to 46% overall, exceeding the Edinburgh Design Guidance 20%. There is a minor infringement as not all three bedroom properties have direct access to private gardens or balconies. However, all the ground floor properties have some threshold space and top floor flats have private roof terraces.

The Edinburgh Design Guidance states that single aspect dwellings should not make up more than 50% of the overall dwelling numbers and developments should avoid single aspect dwellings that are north facing, exposed to noise sources, or contain three or more bedrooms. The number of single aspect dwellings has increased from 48% to 58%. The dwellings either face south east or north east, not due north. All the three bedroom flats are dual aspect. The affordable housing component of the scheme has 50% dual aspect including 50% of the two bedroom flats. However, there is a minor infringement in the guidance that there are 58% single aspect dwellings - eight single aspect affordable housing units and 30 private one and two bedroom flats. In terms of housing mix, this is a minor infringement which may be, on balance, acceptable provided that the amenity of the occupiers is satisfactory. The amenity of new residents will be assessed in terms of daylight and sunlight and noise issues as set out below in section (d).

### **c) Amenity for existing residents**

LDP Policy Des 5 (Development design amenity) advises that planning permission will be granted for development where it is demonstrated amongst other things, that the amenity of neighbouring developments is not adversely affected in relation to noise, daylight, sunlight, privacy, and immediate outlook. Proposals should also consider adaptability, mixed use, active frontages and external spaces. The Edinburgh Design Guidance interprets these criteria and helps to clarify how to ensure reasonable amenity needs are balanced against achieving good townscape.

#### Daylight and Sunlight

Representations have been made concerning the development's impact on residential amenity. The application site is in close proximity to a number of residential properties. A detailed daylight, sunlight and privacy statement has been prepared by the applicant.

The detailed study tests residential windows facing onto Ashley Place. The study shows that daylighting to these windows will be reduced by the development. This is because of the building height and its proximity to the windows. Whilst there is a reduction of daylight to the neighbouring 113 windows, these windows still comply with the requirements of the Edinburgh Design Guidance either in terms of the Visual Sky Component or the Average Daylight Factor. The Edinburgh Design Guidance states that the layout of buildings in an area will be used to assess whether the proposed spacing is reasonable. In the Bonnington area, buildings come close together, in some cases more than that proposed. The proposal increases the situation from the existing two storey building to a six storey building which is set back around 18 metres from the neighbouring building. Whilst there is a reduction in daylight these windows are still afforded enough daylight to comply with the Edinburgh Design Guidance.

The assessment of sunlight to existing garden spaces is required, including the existing Ashley Place courtyard garden, which is 32m away from the proposed development, and has existing six storey development surrounding it. The proposed development does not rise above the 45-degree line and therefore sunlight to this courtyard would not be affected. The sun shadow diagrams demonstrate that the proposed development does not have any impact on the sunlight to the two existing garden spaces.

#### Privacy and outlook

The Block A building is set back around 18 metres from the numbers 12-16 Ashley Place to provide acceptable privacy levels and immediate outlook commonly found on tenemental streets. The Ashley Place elevation of the proposal has been designed to reduce overlooking from the new development to the existing residential properties. This is acceptable.

## Noise

The previous planning application (14/05208/FUL) was consented subject to conditions that did not relate to noise. An informative is attached, following Environmental Protection's suggestion, to highlight that no noisy work from the construction phase should be generated outwith 7am-7pm, Monday through to Saturday, due to the close proximity of existing residential properties, which is enforceable under the Control of Pollution Act 1974. This would be enforced by Environmental Protection.

### **d) Amenity for future occupiers**

LDP Policy Des 5 (Development design amenity) also requires future occupiers to have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

## Daylight and Sunlight

The assessment of the no skyline method as set out by BRE reveals that 8 ground floor windows fail the no-skyline test, however all surpass the minimum 25% glazing on the external wall. Of the four flats affected, two are dual aspect and would have reasonable daylight either from the rear which overlooks the shared garden area or in one case from windows fronting two sides of Ashley Place. The remaining two units - a one bedroom unit and a two bedroom unit are both single aspect. The two bed unit has two windows into the open plan living area however the one bedroom living area only has one window. Whilst all windows fail the no-skyline test, the floor to ceiling height has been increased for these ground floor flats and the percentage of glazing on the external wall is well above the minimum 25% (over 40%) and all these rooms are south facing. While this is not ideal, it is considered that this infringement of guidance is not significant enough to merit refusal of planning permission.

Over half of the courtyard space would receive sunlight for more than 3 hours as assessed by using hour by hour shadow plans for 21 March. The proposed landscaped courtyard to the rear therefore has sufficient sunlight in terms of the Edinburgh Design Guidance.

## Privacy and outlook

The setting back of the blocks increases the distance between flats to reduce privacy. This improves the privacy for residents. The windows to ground floor flats that face the street and the courtyard all have a planted buffer in front of them to increase privacy and improve the outlook.

## Noise

The surrounding area has seen the development of further residential properties whilst there are still some commercial uses neighbouring the site. The applicant has submitted a supporting noise impact assessment, which has concluded that no specific noise mitigation measures will be required.

It is considered that there would be sufficient amenity for new occupiers of the property and therefore, on balance, the proposals comply with policy Des 5 (Development Design - Amenity).

## e) Transport impact

LDP Policies Tra 1 (Location of Major Travel Generating Developments) and Tra 8 (Provision of Transport Infrastructure) require development proposals to demonstrate through appropriate transport assessment and proposed mitigation in relation to its impact on the existing transport networks and accessibility of the site by modes other than the car. The application is supported by a Transport Assessment. The LDP Action Programme (February 2020) also sets out requirements to mitigate the impact of development. Contributions are required to be secured by legal agreement, in line with the LDP Action Programme and include:

- a. Contribute the sum of £3,445 to Henderson Street - Great Junction Street Junction Alterations;
- b. Contribute the sum of £3,991 to Bonnington Road - Great Junction Street Junction Improvement;
- c. Contribute the sum of £14,976 to Leith and City Centre (East) Cycle Route;
- d. Contribute the sum of £10,380 to The Water of Leith Path - Commercial Street to Warriston and
- e. Contribute the sum of £3, 140 to Jane Street / Tennant Street Active Travel Connections.

These contributions are all to be indexed as appropriate and the use period to be 10 years from date of payment. Contributions to progress traffic orders for footway or waiting/loading restrictions would also be required as necessary for the development.

Policy Des 7 (Layout Design) of the LDP seeks to enhance connectivity across sites. The proposal includes pedestrian and cycle accesses to the rear from the south and east. The property fronts onto Ashley Place and integrates with the existing pedestrian and cycle network to the south and east. The proposals also allow a potential future permeable east-west route through to Elizafield and Newhaven Road, depending on the redevelopment of the neighbouring area. The Action Programme contributions also improves the wider pedestrian and cycle network. This increases permeability and provides cohesion with the surrounding developments and complies with policy Des 7.

### Parking

LDP Policies Tra 3 (Private Cycle Parking) and Tra 4 (Design of Off-Street Car and Cycle Parking) sets out design considerations for the design of off-street car parking and cycle parking. The car parking layout along eastern street frontage comprises 16 on-street spaces including 3 electric vehicle charging spaces and one disabled space. There is a significant level of unallocated car parking in the surrounding area, easy access to nearby car club vehicles, and existing car ownership of 68% in this area, therefore this level of provision is acceptable. The internal cycle storage at ground floor level and the external stores are safe, secure, convenient and accessible and provides for a total of 143 cycle spaces which complies with the Edinburgh Design Guidance and is acceptable under Policy Tra 3. Transport has also advocated the use of a travel pack which is included as an informative. The low level of car parking provision, high level of cycle parking will encourage transport modes other than the car. Therefore the proposal complies with policies Tra 3 and Tra 4.

## **f) Affordable Housing**

Policy Hou 6 (Affordable Housing) requires a minimum of 25% affordable housing. The proposal includes 16 affordable units comprising four one bedroomed flats, eight two bedroom flats, and four three bedroomed units - an integrated and representative mix acceptable to Port of Leith Housing Association which are all to be for social rent. It is expected that these will be tenure blind. Enabling Partnerships has no objection to the proposals to deliver new onsite affordable housing, which will be secured by legal agreement. The Edinburgh Access Panel welcomed the inclusion of a wheelchair accessible unit.

## **g) Education Infrastructure**

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) requires infrastructure provision where relevant and necessary to mitigate any negative additional impact commensurate to the scale of the proposed development. The Council has assessed the impact of the growth set out in the LDP through an Education Appraisal (August 2018), taking account of school roll projections, and amount of new housing development including within the urban area. This site falls within Sub-Area D1 of the 'Drummond Education Contribution Zone'. The impact of the proposal on identified education infrastructure actions and current delivery programme has been assessed. The education infrastructure actions that are identified are appropriate to mitigate the cumulative impact of development that would be anticipated if this proposal progressed. The proposed development is therefore required to make a contribution towards the delivery of these actions based on the established 'per house' and 'per flat' rates for the appropriate part of the Zone.

The proposal for 50 residential flats (15 one bedroom excluded) requires a total infrastructure of £42,800 or (£856 per unit) (indexed from Q4 2017, to the date of payment). It is considered that these are reasonable and necessary in relation to the scale of the development proposed. If the appropriate infrastructure contribution is provided by the developer, Communities and Families does not object to the application.

## **h) Sustainability**

A sustainability statement has been submitted and complies with the Edinburgh Design Guidance. In summary, measures included the reuse of a brownfield site, higher density development as efficient use of urban land, passive gain with the orientation of living areas within the flats to face south/east, and landscaping of the open space to rear. The reduction in car parking to 27%, and the provision of 130 cycle parking spaces and three electric vehicle chargers (EVC) helps to reduce the carbon impact of proposals. Waste have no objection to the proposals for reduction, reuse and recycling of waste which complies with their standards. Further details will be submitted at building warrant stage to include further details on sustainable materials, recycled UPVC windows, dual flush WC's carbon reduction, the roof mounted photo voltaic panels.

## **i) Other environmental impacts**

### Archaeology

The site is within an area of archaeological significance due to its Victorian industrial heritage and its close proximity to Pilrig House built on the site of the 1559-60 siege fortification of Somerset's Battery. The ground-breaking works associated with both demolition and construction are likely to have a significant impact upon surviving buried remains. Accordingly, it is considered essential that a programme of archaeological excavation work is undertaken as part of the demolition process and prior to development in order to fully excavate, record and analysis any significant buried remains affected by ground breaking.

The City Archaeologist recommends that a programme of archaeological works is undertaken, in accordance with a written scheme of investigation to be approved by the planning authority, prior to development. Therefore, a condition is attached to achieve this.

### Biodiversity

Policy Env 16 of the Edinburgh Local Development Plan protects against development that would have an adverse impact on species protected under European or UK law. The application site does not lie within, or contain, any sites or areas designated or recognised for their international or national ecological or ornithological value. In addition, the closest non-statutory site is the Water of Leith Local Nature Conservation site, which is located approximately 150m away, beyond the industrial area, to the north of the site. A preliminary roost assessment was undertaken on the vacant building. No evidence of bats nor features with the potential for roosting bats were found on site and the building was considered of negligible value to bats and poor for foraging bats too. However, should any bats or bat roosts be identified during the works, works must cease and an informative is put on to that effect. This is acceptable under policy Env 16.

### Flooding

The applicant has submitted a surface water management plan, flood risk assessment plan, self certification and third party certification sheets as well as a SWMP checklist. Site specific soakaway testing and ground water monitoring has been carried out. A soakaway system is no longer considered viable. Proposals now are to discharge to the Water of Leith watercourse 140m north of the site, by connecting into the surface drain of the adjacent development currently under construction. Calculations are provided for the on-site attenuated solution put forward within the revised report. Also included is a network design check from the designer of the adjacent development to confirm suitability of the proposed connection to their network and subsequent discharge to the Water of Leith watercourse. Initial consultations have been had with CEC Flood Prevention, Scottish Water and the developer to give comfort of suitability. Private drainage is to be maintained by a factor via private residents. New lines from disconnecting manholes to existing network to be adopted by Scottish Water. Scottish Water has no objection to the proposed development. CEC Flood Prevention has assessed these revised proposals and confirm that they have no further comment to make on the proposed development.

### Contaminated Land

The applicant has submitted a Ground Investigation Report which is currently being assessed by Environmental Protection and therefore a condition is attached to ensure that contaminated land is fully addressed.

### Local Air Quality

Environmental Protection note the reduction in car parking spaces in the revised proposals. The provision of electric vehicle charging points can be secured by condition to ensure that chargers of a minimum standard 7Kw (32amp) type two chargers shall be installed and operational prior to occupation of the development.

## **j) Material Representations**

19 representations were received including, six objections, one neutral comment and 12 supporting comments.



## Objections - Revised Scheme

Overlooking, overshadowing, loss of privacy, loss of daylight and sunlight to neighbouring properties, too close to neighbouring properties, detrimental impact on neighbours' amenity. This is addressed in section 3.3c.

Increase in units, too much development, too high density, lots of new building already, building position, height. This is addressed in section 3.3b.

Noise pollution will result - this is addressed in section 3.3c.

Transport issues - insufficient parking, congestion, construction distribution, Ashley Place capacity for vehicles, loss of public transport unsuitability of Ashley Place for more residential use. This is addressed in section 3.3e.

Air pollution, due to increase vehicle emissions, dust and vibrations. This is addressed in section 3.3i.

Lack of infrastructure to support the development, pressure on schools, health, waste and green space. This is addressed in section 3.3i.

## Non- material issues

Structural damage or cosmetic damage during construction.

## Neutral Comment

Building works to be undertaken during social hours. This is addressed in section 3.3c

## Support

Increase in housing numbers supported, additional affordable housing to benefit local people and first time buyers addressed in section 3.3c.

Little variation to previous scheme- addressed in section 3.3c.

Principle of housing supported, removed industrial uses and will benefit local area - addressed in section 3.3a.

Good design better than neighbouring developments, modern and energy efficient - addressed in section 3.3b.

The Edinburgh Access Panel welcomed the provision of one unit of wheelchair accessible accommodation - addressed in section 3.3b.

The Leith Central Community Council (LCCC) did not object to these revised proposals however, they did object to the original scheme.

## **k) The existing planning permissions**

The minded to grant planning permission (19/05092/FUL as presented to Committee on 18th March 2020) is a material consideration. The previous scheme (19/05092/FUL) was minded to grant subject to the conclusion of a legal agreement. This legal agreement has not yet been concluded and the applicant considers that scheme unviable. This revised proposal is a variation to scheme 19/05092/FUL.

Also relevant is the existing planning permission (04/00306/FUL) for this application site for office use which is extant and a material consideration in the assessment of the current proposal. The live planning permission for residential development (14/05208/FUL) is also a material consideration in the assessment of the current proposal.

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 in relation to matters concerning principle as set out above and design as set out above. A significant degree of weight should be attached to these permissions given the "fall-back" position as they are live and implementable. A significant degree of weight should also be attached to the 'minded to grant' 19/05092/FUL. The principle of residential development on this site has been accepted before and there has been no significant change in terms of planning considerations including the development plan since the original consideration by Committee.

## **Conclusion**

This revised application is broadly the same footprint and height as the previous scheme. The internal configuration has been altered with an additional bike store being relocated to the rear courtyard. There are now seven more units, two more affordable housing units, and a greater number of three bedroom units than the previous scheme. The mix of development is more balanced to meet the needs of family families for accommodation. However it does include 58% single aspect units whereas previously the scheme had 48% single aspect units. The space standards, all comply with the Edinburgh Design Guidance. However there is a minor infringement of the guidance in that not all three storey have their own private outdoor space. There are also two ground floor single aspect properties where the daylighting fails the no skyline test however, this is mitigated by increased floor to ceiling heights and increased glazing on the external wall.

The proposal complies with the Edinburgh Local Development Plan. The design and layout is acceptable and the higher density development provides an efficient use of this vacant brownfield site. The amenity of existing neighbouring properties will not be adversely affected and an acceptable amount of amenity will be afforded to future occupants. The proposed development will provide a satisfactory residential environment. The low level of car parking provision, high level of cycle parking will encourage sustainable transport. This application has been assessed against the Edinburgh Local Development Plan policies Del1, Des 2-8, Des11, Env 8-9, Env12, Env 16, Env 20-22, Emp 9, Hou 1-7 , Hou10, Tra 1-4, Tra 8-9. The Edinburgh LDP Action Programme, Edinburgh Design Guidance and Edinburgh Developer Contributions and Infrastructure and Bonnington Development Brief are also used to assess this application.

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

### **3.4 Conditions/reasons/informatives :-**

#### **Conditions: -**

1. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.

2. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and SUDS landscaping and all planting, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.
3. The approved landscaping scheme shall be fully implemented within six months of the completion of the development.
4. 'No development shall take place on the site until the applicant has secured and implemented a programme of archaeological work (excavation, reporting & analysis, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
5. Prior to the commencement of construction works on site:
  - (a) A site survey (including initial desk study as a minimum) 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 Head of Planning.
6. The three residential parking space highlighted on drawing number 6D dated 19/10/2020 shall be served by 7Kw (32amp) Type 2 electric vehicle charging sockets and shall be installed and operational in full prior to the development being occupied. The cycle infrastructure and storage provision as submitted should also be implemented.

**Reasons: -**

1. In order to enable the planning authority to consider this/these matter/s in detail.
2. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
3. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
4. In order to safeguard the interests of archaeological heritage.
5. In order to enable the Head of Planning to consider this/these matter/s in detail.
6. To ensure that the level of electric vehicle charging points are installed and operational.

## **Informatives:-**

It should be noted that:

1. Consent shall not be issued until a suitable legal agreement relating to education, affordable housing and transport has been concluded and signed. The legal agreement shall include the following:
  - a. Education - A financial contribution of £42,800 in total (or £856 per unit for the 50 units above one bedroom in size), is required to Communities and Families to alleviate accommodation pressures in the local area as identified by the LDP Action Programme and associated LDP policy Del1.
  - b. Affordable Housing - 25% of the total number of residential units shall be developed for affordable housing provision for social rent.
  - c. Transport - A contribution towards the LDP Action Programme for junction alterations including:
    - a. Contribute the sum of £3,445 to Henderson Street - Great Junction Street Junction Alterations;
    - b. Contribute the sum of £3,991 to Bonnington Road - Great Junction Street Junction Improvement;
    - c. Contribute the sum of £14,976 to Leith and City Centre (East) Cycle Route;
    - d. Contribute the sum of £10,380 to The Water of Leith Path - Commercial Street to Warriston;
    - e. Contribute the sum of £3, 140 to Jane Street / Tennant Street Active Travel Connections.

These contributions are all to be indexed as appropriate and the use period to be 10 years from date of payment. Contributions to progress traffic orders for footway or waiting/loading restrictions would also be required as necessary for the development.

The legal agreement should be concluded within 6 months of the date of this notice. If not concluded within that 6 month period, a report will be put to committee with a likely recommendation that the application be refused.

2. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
3. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
4. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
5. No noisy work from the construction phase should be generated outwith 7am-7pm, Monday through to Saturday. This is enforced under the Control of Pollution Act 1974.

6. In accordance with the Council's LTS Travplan3 policy, the applicant should consider developing a Travel Plan including provision of pedal cycles, public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities) and timetables for local public transport
7. The site has limited potential value for roosting, foraging and commuting bats and nesting birds. A preliminary roost assessment was undertaken on the vacant building as it is in the vicinity of the Water of Leith. No evidence of bats nor features with the potential for roosting bats were found on site and the building was considered of negligible value to bats and poor for foraging bats too. It is recommended that demolition falls outside of the bat summer roosting season (May - September inclusive) to avoid disturbing any bats that may be present inside the building. Should any bats or bat roosts be identified during the demolition or roof removal, works must cease immediately, and contact should be made with a licensed bat worker or Scottish Natural Heritage for advice on how to proceed.

## Links

### Policies and guidance for this application

LDPP, LDEL01, LDES01, LDES02, LDES03, LDES04, LDES05, LDES06, LDES07, LDES08, LDES11, LEN08, LEN09, LEN12, LEN16, LEN20, LEN21, LEN22, LEMP09, LHOU01, LHOU02, LHOU03, LHOU04, LHOU05, LHOU06, LHOU07, LHOU10, LTRA01, LTRA02, LTRA03, LTRA04, LTRA08, LTRA09, NSGD02, NSG, DBBON,

A copy of the original Committee report can be found in the list of documents at

<https://citydev-portal.edinburgh.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=PZVMYGEWGAU00>

Or Council Papers online

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