

# Notice of meeting and agenda

## Development Management Sub-Committee

**10.00 am Wednesday, 4th August, 2021**

Virtual Meeting - via Microsoft Teams

This is a public meeting and members of the public are welcome watch the live webcast on the Council's website.

### Contacts

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## 1. Order of business

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### 1.1 Order of Business

- 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 2 August 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 | Minutes of Previous Meeting of Development Management Sub-Committee of 16 June 2021 – submitted for approval as a correct | 11 - 18 |
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record

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| <b>3.2</b> | Minutes of Previous Meeting of Development Management Sub-Committee of 23 June 2021 – submitted for approval as a correct record | 19 - 22 |
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## **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**

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|------------|--|---------|
| <b>4.1</b> | Report for forthcoming application by Bankfoot APAM. for Proposal of Application Notice At Gyle Centre, Gyle Avenue, Edinburgh - Proposed mixed use redevelopment of centre including new/relocated commercial and retail floorspace, transport interchange infrastructure, car parking, access, servicing and associated works, Class 9 houses /sui generis flats, community facilities (Class 10), leisure (Class 11), public realm, commercial (Classes 1, 2 and 3), business (Class 4), hotel (Class 7), senior living accommodation (Class 8) - application no. 21/03130/PAN – Report by the Chief Planning Officer | 23 - 30 |
| <b>4.2</b> | Report for forthcoming application by Edinburgh Marina Holdings Limited. for Proposal of Application Notice at Granton Harbour, West Harbour Road, Edinburgh - Mixed use development containing residential flats, houses and commercial/retail units - application no. 21/03177/PAN – Report by the Chief Planning Officer  | 31 - 38 |
| <b>4.3</b> | Report for forthcoming application by CALA Management Ltd. for Proposal of Application Notice at Land North of, Newmills Road, Currie/Balerno - Mixed use development including houses (Class 9), flats (Sui Generis), care home (Class 8), retail (Class 1), commercial (Classes 2, 3 and sui generis), business (Class 4), education and community facilities (Class 10), mobility hub, open   | 39 - 46 |

space and landscaping, access and all associated infrastructure - application no. 21/03334/PAN – Report by the Chief Planning Officer

### **Applications**

- 4.4** 2 - 4 Abbey Mount, Edinburgh - Change of use and alterations to form 11 short term let studio apartments and cafe - application no. 20/05581/FUL – Report by the Chief Planning Officer 47 - 64
- It is recommended that this application be **GRANTED**.
- 4.5** 2 - 4 Abbey Mount, Edinburgh - Conversion and alterations of existing tenement building to form two short-term let studio apartments and community cafe/restaurant. Demolition works/alterations of un-listed rear hall building to form 9 short-term let studios apartments - application no. 20/05603/LBC – Report by the Chief Planning Officer 65 - 74
- It is recommended that this application be **GRANTED**.
- 4.6** 41 Barony Street, Edinburgh - Change of use from a residential property to short term commercial visitor accommodation - application no. 21/02615/FUL – Report by the Chief Planning Officer 75 - 88
- It is recommended that this application be **GRANTED**.
- 4.7** 38 Castle Terrace (Castle Terrace Car Park), Edinburgh - Erection of temporary stage and raised seating area - application no. 21/03418/FUL – Report by the Chief Planning Officer 89 - 100
- It is recommended that this application be **GRANTED**.
- 4.8** 4 Clifton Road, Newbridge - Replacement dwelling house - application no. 21/00674/FUL – Report by the Chief Planning Officer 101 - 116
- It is recommended that this application be **GRANTED**.
- 4.9** 62 George Square (George Square Gardens), Edinburgh - The installation of 2x temporary venues and ancillary activities as part of Edinburgh Festival Fringe - application no. 21/03380/FUL – 117 - 130

Report by the Chief Planning Officer

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

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|---|--|-----------|
| <b>4.10</b>   | 10 Gilmerton Station Road (At land 292 metres west of),<br>Edinburgh - Site remix and erection of 2 additional dwelling<br>houses to development consented under planning permission<br>17/05883/AMC (as amended) - application no. 20/05668/FUL –<br>Report by the Chief Planning Officer | 131 - 140 |
| <p>It is recommended that this application be <b>GRANTED</b>.</p> |  |           |
| <b>4.11</b>   | 68B (1F2) Grassmarket, Edinburgh - Change of use from<br>residential to short term business/holiday accommodation -<br>application no. 21/02351/FUL – Report by the Chief Planning<br>Officer  | 141 - 156 |
| <p>It is recommended that this application be <b>REFUSED</b>.</p> |  |           |
| <b>4.12</b>   | 49 Mitchell Street, Edinburgh - Extension to hotel - application no.<br>21/00880/FUL – Report by the Chief Planning Officer  | 157 - 172 |
| <p>It is recommended that this application be <b>GRANTED</b>.</p> |  |           |
| <b>4.13</b>   | 49 Mitchell Street, Edinburgh - Extension to hotel - application no.<br>21/03006/LBC – Report by the Chief Planning Officer  | 173 - 182 |
| <p>It is recommended that this application be <b>GRANTED</b>.</p> |  |           |
| <b>4.14</b>   | 2 Mortonhall Park Terrace, Edinburgh - To create a 2 bedroom<br>level access house in the garden of 2 Mortonhall Park Terrace -<br>application no. 21/01786/FUL – Report by the Chief Planning<br>Officer  | 183 - 202 |
| <p>It is recommended that this application be <b>REFUSED</b>.</p> |  |           |
| <b>4.15</b>   | 82 Newbattle Terrace, Edinburgh - Confirmation of Tree<br>Preservation Order No. 195 – Report by the Chief Planning<br>Officer   | 203 - 214 |
| <p>It is recommended that the order be <b>CONFIRMED</b>.</p>      |  |           |
| <b>4.16</b>   | 126 - 130 Raeburn Place, Edinburgh - Section 42 Application<br>seeking variation to condition No.9 of Planning Permission  | 215 - 228 |

12/03567/FUL, to allow the use of acoustic glazing on the elevation fronting onto Comely Bank Road - application no. 21/01222/FUL – Report by the Chief Planning Officer

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

- 4.17** 17 Spring Gardens, Edinburgh - Change of Use from dwelling to holiday-let (in retrospect) - application no. 21/01541/FUL – Report by the Chief Planning Officer 229 - 238

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

- 4.18** 24 Westfield Road, Edinburgh - Application under Section 42 to vary condition 3 of consent 19/01970/FUL for erection of student accommodation, ancillary uses and associated landscaping and infrastructure - application no. 20/05008/FUL – Report by the Chief Planning Officer 239 - 256

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** None.

## **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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Councillors Councillor Neil Gardiner (Convener), Councillor Maureen Child (Vice-Convener), Councillor Chas Booth, Councillor Lezley Marion Cameron, Councillor George Gordon, Councillor Max Mitchell, Councillor Joanna Mowat, Councillor Hal Osler, Councillor Cameron Rose, Councillor Alex Staniforth 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 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 Veronica Macmillan, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, Tel 0131 529 4283 / 0131 529 4085, email [veronica.macmillan@edinburgh.gov.uk](mailto:veronica.macmillan@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 [www.edinburgh.gov.uk/cpol](http://www.edinburgh.gov.uk/cpol).

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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](mailto:committee.services@edinburgh.gov.uk)).



# Minutes

## Development Management Sub-Committee of the Planning Committee

**10.00 am, Wednesday 16 June 2021**

### **Present:**

Councillors Gardiner (Convener), Child (Vice-Convener), Booth, Lezley Marion Cameron (substituting for Councillor Griffiths), Mary Campbell, Gordon, Mitchell, Mowat, Osler, Rose and Ethan Young.

### **1. Minutes**

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#### **Decision**

To approve the minute of the Development Management Sub-Committee of 2 June 2021 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, 5 and 7 of the agenda for this meeting.

#### **Requests for Presentations**

Councillor Booth requested presentations in respect of Item 4.6 – 48 Howe Street, Edinburgh, Item 4.8 – Kirklands Park Street (At Land In The Grounds Of Kirkliston Sports Centre), Kirkliston and Item 4.11 – Victoria Street (1 India Buildings), Edinburgh.

Councillor Rose and Ward Councillor McLellan requested a presentation in respect of Item 4.7 – 35 Kekewich Avenue, Edinburgh.

#### **Requests for Hearings**

Ward Councillor Barrie and Councillor Mowat requested a hearing in respect of Item 7.2 – 108 - 114 Dundas Street (Centrum House), Edinburgh.

#### **Decision**

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

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

### **3. 108-114 Dundas Street (Centrum House), Edinburgh**

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Details were provided of proposals for applications for planning permission for:

- (a) The proposed demolition of existing office buildings and erection of a mixed-use development comprising 48 flats with 3 commercial units (Class 1, 2 and 3 uses), amenity space, landscaping, basement level car and cycle parking and other associated infrastructure (as amended) at 108-114 Dundas Street (Centrum House), Edinburgh - application no. 20/05645/FUL.
- (b) The complete demolition of existing buildings at 108-114 Dundas Street (Centrum House), Edinburgh - application no 20/05646/CON.

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

### **Motion**

To refuse the request for a hearing and agree to determine the applications at the meeting of the Development Management Sub-Committee of 16 June 2021.

- moved by Councillor Gardiner, seconded by Councillor Child.

### **Amendment**

To continue consideration of the applications for a hearing.

- moved by Councillor Mowat, seconded by Councillor Osler.

### **Voting**

For the motion: - 5 votes

For the amendment: - 6 votes

(For the motion: Councillors Child, Gardiner, Gordon, Rose and Ethan Young.)

(For the amendment: Councillors Booth, Lezley Marion Cameron, Mary Campbell, Mitchell, Mowat and Osler.)

### **Decision**

To continue consideration of the applications for a hearing.

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

## **4. Kirkland Park Street (At Land in the Grounds of Kirkliston Sports Centre), Kirkliston**

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Details were provided of an application for planning permission for the erection of Early Years Nursery and Primary 1 and 2 School with associated landscaping at Kirklands Park Street (At Land in the Grounds of Kirkliston Sports Centre), Kirkliston - application no. 20/05679/FUL.

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

### **Motion**

To grant planning permission subject to the conditions and reasons as set out in section 3 of the report by the Chief Planning Officer.

- moved by Councillor Gardiner, seconded by Councillor Child.

### **Amendment**

To grant planning permission subject to:

- 1) The conditions and reasons as set out in section 3 of the report by the Chief Planning Officer.
- 2) An additional informative that the applicant undertook play area improvement/renovations to be implemented in the immediate vicinity of Kirliston Leisure Center to offset the loss of greenspace to the satisfaction of the Chief Planning Officer.

- moved by Councillor Booth, seconded by Councillor Mary Campbell

### **Voting**

For the motion: - 8 votes

For the amendment: - 3 votes

(For the motion: Councillors Child, Lezley Marion Cameron, Gardiner, Gordon, Mitchell, Mowat, Rose and Ethan Young.)

(For the amendment: (Councillors Booth, Mary Campbell and Osler.)

### **Decision**

To grant planning permission subject to the conditions and reasons as set out in section 3 of the report by the Chief Planning Officer.

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

## **5. Victoria Street (1 India Buildings), Edinburgh**

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Details were provided of an application for planning permission for the construction of a metal balustrade and introduction of planters to the flat roof at level 7 to create a roof garden/sanctuary at Victoria Street (1 India Buildings), Edinburgh - application no. 21/01323/FUL.

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

### **Motion**

To grant planning permission subject to the informatives as set out in section 3 of the report by the Chief Planning Officer and an additional condition that no amplified music or otherwise should be allowed on the roof garden/sanctuary.

- moved by Councillor Gardiner, seconded by Councillor Child.

### **Amendment**

To refuse planning permission to reduce the impact on residents, as it would be contrary to Local Development Policies Des 5a, (The Amenity of Neighbouring Developments), Env 1 (World Heritage Site), Env 3 (Listed Buildings - Setting) and Env 6 (Conservation Areas - Development).

- moved by Councillor Booth, seconded by Councillor Gordon.

### **Voting**

For the motion: - 8 votes

For the amendment: - 3 votes

(For the motion: Councillors Child, Lezley Marion Cameron, Gardiner, Mitchell, Mowat, Osler Rose and Ethan Young.)

(For the amendment: Councillors Booth, Mary Campbell and Gordon.)

**Decision**

To grant planning permission subject to the conditions and reasons as 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
Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.		
<b>4.1 – <a href="#">Report for forthcoming application by AMA (New Town) Ltd. For Proposal of Application Notice at 1 Scotstoun House, South Queensferry EH30 9SE</a></b>	Redevelopment of Scotstoun House including conversion and extension of existing buildings to residential use, part demolition of office extension, and erection of new build residential development with associated infrastructure, landscaping, access and parking - application no 21/01798/PAN	<ol style="list-style-type: none"> <li>1) To note the key issues at this stage.</li> <li>2) To take into account the following additional issues: <ul style="list-style-type: none"> <li>• To request that the applicant consider the need for affordable housing in the development and that they discuss this with RSLs.</li> </ul> </li> </ol>
<b>4.2 – <a href="#">Report for forthcoming application by CCG Scotland Ltd. for Proposal of Application Notice at 1 Waterfront Avenue, Edinburgh, EH5 1SG</a></b>	Mixed use development to include (approximately) 75 residential units and (approximately) 4 no commercial units. The commercial units would be either Class 1 (Shop), Class 2 (Financial, professional and other services), Class 3 (Food and drink), Class 4 (Business) or Class 10 (Non-residential institution). The development would also include limited parking spaces, access road and pavements, internal courtyard, an energy centre (including an air source heat pump station) and drainage infrastructure. To supersede 21/00793/PAN which had been withdrawn - application no 21/02412/PAN	<ol style="list-style-type: none"> <li>1) To note the key issues at this stage.</li> <li>2) To take into account the following additional issues: <ul style="list-style-type: none"> <li>• To ensure that there was robust engagement with Granton and District Community Council and West Pilton/West Granton Community Council.</li> <li>• To recognise that this was a key site and a gateway to the Waterfront and to ensure that there was a high quality of development to reflect this.</li> </ul> </li> </ol>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<b>4.3 – <a href="#">2 Buteland Road (At The Mill House), Balerno</a></b>	Erection of 2 x new dwelling houses - application no 21/01053/FUL	To <b>REFUSE</b> planning permission for the reasons set out in section 3 of the report by the Chief Planning Officer.
<b>4.4 – <a href="#">13 Craigleith Road (at Royal Victoria Hospital), Edinburgh</a></b>	Earthworks and site re-grading and re-profiling (partly in retrospect) (as amended) - application no - 21/00334/FUL	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.
<b>4.5 – <a href="#">10 Gilmerton Station Road (At Land 292 Metres West Of), Edinburgh</a></b>	Section 42 application to amend condition 5 of 14/01649/PPP tree protection measures to require prior to each phase a plan outlining the protective barriers to be submitted to, and approved in writing by, the planning authority - application no 21/01304/FUL	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.
<b>4.6 – <a href="#">48 Howe Street, Edinburgh EH3 6TH</a></b>	Proposed change of use of flat to a short term let - application no 21/01591/FUL	To <b>GRANT</b> planning permission subject to the informatives as set out in section 3 of the report by the Chief Planning Officer.
<b>4.7 – <a href="#">35 Kekewich Avenue, Edinburgh EH7 6TY</a></b>	To erect new dwelling - application no 21/01287/FUL	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.

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<b>4.8 – <a href="#">Kirkland Park Street (At Land in the Grounds of Kirkliston Sports Centre), Kirkliston</a></b>	Erection of Early Years Nursery and Primary 1&2 School with associated landscaping - application no 20/05679/FUL	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.  (On a division.)  <b>Note:</b> That officers considered whether a single storey building was the best use of the site considering the lack of space and whether access could be provided outwith operational times.
<b>4.9 – <a href="#">136A Lasswade Road (At Land 10 Metres South West Of), Edinburgh</a></b>	Proposed development of x 3, 2 bed terraced houses (as amended) - application no 21/00067/FUL	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.
<b>4.10 – <a href="#">54 Main Street, Edinburgh EH4 5AA</a></b>	Internal and external alterations for a change of use from Class 1 retail to licenced restaurant with new flue - application no 20/03527/FUL	To <b>REFUSE</b> planning permission for the reasons as set out in section 3 of the report by the Chief Planning Officer.
<b>4.11 – <a href="#">Victoria Street (1 India Buildings), Edinburgh</a></b>	Construction of a metal balustrade and introduction of planters to the flat roof at level 7 to create a roof garden/sanctuary - application no - 21/01323/FUL	To <b>GRANT</b> planning permission subject to the informatives as set out in section 3 of the report by the Chief Planning Officer and an additional condition that no amplified music or otherwise should be allowed on the roof garden/sanctuary.  (On a division.)

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<b>5.1 – <a href="#">1 Lauriston Place (At Land 100 Metres South Of), Edinburgh</a></b>	Application for planning permission proposing the erection of residential development and ancillary works together with a mix of class 1, 2 and 3 uses at ground floor level (as amended) - application no 17/00168/FUL	To <b>AGREE</b> to a further 4-month extension to the period to conclude the legal agreement which would enable the planning permission to be released for this application.
<b>7.1 – <a href="#">10 Arboretum Road (Edinburgh Academy Prep School), Edinburgh</a></b>	To erect a temporary outdoor structure to create a concert venue for the Edinburgh International Festival's classical music series on the sports field of Edinburgh Academy Junior School for performances in August 2021. The venue would be a recognised Temporary Structure, regulated under Temporary Demountable Structures V4) - application no 21/02355/FUL	To <b>GRANT</b> planning permission subject to:  1) The conditions, reasons and informatives as set out in section 3 of the report by the Chief Planning Officer  2) An additional condition that a DDA compliant access route be submitted to the Chief Planning Officer's satisfaction, prior to operation.  3) An additional informative that sustainable travel options be fully identified, including provision for disabled access, cycle parking and a temporary parking restriction on Arboretum Road.
<b>7.2 – <a href="#">108-114 Dundas Street (Centrum House), Edinburgh</a></b>	Proposed demolition of existing office buildings and erection of a mixed-use development comprising 48 flats with 3 commercial units (Class 1, 2 and 3 uses), amenity space, landscaping, basement level car and cycle parking and other associated infrastructure (as amended) - application no 20/05645/FUL	To continue consideration of the matter for a hearing.  (On a division.)
<b>7.3 – <a href="#">108 -114 and 116 Dundas Street (Centrum House), Edinburgh</a></b>	Complete demolition of existing buildings - application no 20/05646/CON	To continue consideration of the matter for a hearing.  (On a division.)



# Minutes

## Development Management Sub-Committee of the Planning Committee

**1.00pm, Wednesday 23 June 2021**

### **Present:**

Councillors Gardiner (Convener), Booth, Cameron (substituting for Councillor Child), Mary Campbell, Gordon, Griffiths, McLellan (substituting for Councillor Rose), Mitchell, Mowat, Osler, and Ethan Young.

### **1. 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.

### **Decision**

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

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

## Appendix

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.		
<b>4.1 – <a href="#">Report for forthcoming application by West Craigs Ltd c/o Cardross Asset Management for Proposal of Application Notice at site 100 metres East of 194, Glasgow Road, Edinburgh.</a></b>	Mixed use development incorporating class 4 (business), class 5 (general industrial), class 6 (storage or distribution), class 9 (houses), flatted development (sui generis), active travel routes, landscaping, access, and associated ancillary development - application no 21/01364/PAN	1) To note the key issues at this stage. 2) To take into account the following additional issues: <ul style="list-style-type: none"> <li>• Full consideration should be given to connectivity through the site with particular reference to public transport and active travel.</li> <li>• For the developer to engage with adjoining site developers to consider a comprehensive joined development with adjoining sites.</li> </ul>
<b>4.2 - <a href="#">Report for forthcoming application by Ladybank Developments Limited. for Proposal of Application Notice at land 175 metres North of 22, Haymarket Yards, Edinburgh</a></b>	Student accommodation with associated ancillary development, landscaping and access - application no 21/02263/PAN	1) To note the key issues at this stage. 2) To take into account the following additional issues: <ul style="list-style-type: none"> <li>• The potential for a well-connected site, particularly pedestrian routes.</li> </ul>
<b>4.3 - <a href="#">The Old Dairy House, Dundas Home Farm, South Queensferry (at land 405 metres North West of)</a></b>	Proposed MBNL 25.00m High FLI Tree Mast mounted on 5.50 x 5.50m reinforced concrete base and associated ancillary works - application no 20/05809/FUL	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.

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<a href="#">4.4 - 8 Shandwick Place, Edinburgh, EH2 4RP</a>	Change of use from residential and storage to short stay let accommodation - application no 21/02525/FUL	To <b>GRANT</b> planning permission subject to the conditions and reasons as set out in section 3 of the report by the Chief Planning Officer.
<a href="#">7.1 – 25 Marine Drive, Edinburgh (At Land 220 Metres North East Of)</a>	Residential flatted development with associated roads, parking and landscaping works - application no 21/00457/FUL	<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 and additional condition that:</p> <ul style="list-style-type: none"> <li>• An updated landscaping plan that details the connections between the park and the site in terms of pedestrian and cycle movements be submitted and agreed with the Planning Authority before development commences.</li> </ul> <p>And additional informatives:</p> <ul style="list-style-type: none"> <li>• The applicant is advised to consider fully how they can achieve full disabled accommodation.</li> <li>• To consider the relationship between the development and the park and to ensure there is no infringement of that during the construction phase where possible.</li> </ul> <p>N.B Officers to provide clarity on accessibility through West Shore Road to Councillor Gordon.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p><b>7.2 – <a href="#">1 Middle Meadow Walk, Edinburgh</a></b></p>	<p>To erect a temporary outdoor structure to create a performance venue as part of Underbelly's Circus Hub open air event site for the Edinburgh Festival Fringe. The venue will host a programme of world class circus performance by Middle Meadow Walk on the North side of the Meadows. The venue will be a recognised temporary structure, regulated under temporary demountable structures V4 - application no 21/02736/FUL</p>	<p>To <b>GRANT</b> planning permission subject to the conditions and reasons as set out in section 3 of the report by the Chief Planning Officer and additional informatives:</p> <ul style="list-style-type: none"> <li>• A restoration programme to be agreed, the details of which to be submitted prior to the occupation of the site then implemented as soon practically possible at a maximum of 3 months following conclusion of the event.</li> <li>• The applicant to prepare an Active Travel Plan including cycle parking signposting in the local area, website signposting, areas identified and potential for lightweight provision of cycle parking on site.</li> <li>• The site should ensure barrier free access from Middle Meadow Walk into the venue.</li> </ul>

## Development Management Sub Committee

**Wednesday 4 August 2021**

**Report for forthcoming application by**

**Bankfoot APAM. for Proposal of Application Notice**

**21/03130/PAN**

**At Gyle Centre, Gyle Avenue, Edinburgh**

**Proposed mixed use redevelopment of centre including new/relocated commercial and retail floorspace, transport interchange infrastructure, car parking, access, servicing and associated works, Class 9 houses /sui generis flats, community facilities (Class 10), leisure (Class 11), public realm, commercial (Classes 1, 2 and 3), business (Class 4), hotel (Class 7), senior living accommodation (Class 8).**

**Item number**

**Report number**

**Wards**

B03 - Drum Brae/Gyle

### Summary

The purpose of this report is to inform the Development Management Sub-Committee of a forthcoming application for planning permission in principle at Gyle Centre, Gyle Avenue, Edinburgh.

In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, as amended, the applicant submitted a Proposal of Application Notice (21/03130/PAN) on 1 June 2021.

### Links

**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 application site is the Gyle Centre, situated west of Edinburgh City Centre, north of Edinburgh park and south of the Edinburgh Gateway Transport Hub. The Edinburgh Tram runs through the western side of the site connecting the city centre to Edinburgh airport. The site has an abundance of surface car parking with the magnet stores in the centre being Morrisons supermarket and Marks and Spencer.

The site is 50 acres in area and is flat. The centre was established approximately 30 years ago, with numerous trees and beech hedging dispersed through the car park. The site is constrained by the railway line to the northwest. South Gyle Broadway runs along the southern boundary, with the bypass and Gogar Roundabout on the western edge.

On the northern eastern boundary of the site lies the underpass to Edinburgh Gateway interchange. The West Craigs housing development has been consented to the north (LDP HSG 19). Scottish Ministers have indicated that they are minded to grant planning permission for the Garden district residential development to the west of the by-pass, subject to the formation of a legal agreement to secure necessary infrastructure. Further housing development is consented on the International Business Gateway area at the airport and housing development is proposed at Crosswinds, resulting in around 18000 new homes in the locality.

### 2.2 Site History

March 1992 - Planning permission granted to develop a district shopping centre and associated parking (application reference: 91/270)

May 1992 - Detailed planning permission granted to develop a district shopping centre (application reference: 92/94)

Planning applications by Wimpey Construction UK for an extension to the shopping mall and an extension to the Marks & Spencers store, were submitted in 1996. The rights of the mall extension were conveyed to Marks & Spencers (application references: 95/1043 and 95/1358)

These applications were called in by the Scottish Ministers and were approved in December 2000.

The extension to the Marks & Spencers store has been constructed. Planning permission 95/1043 remained unimplemented.

December 1999 - Construction of mezzanine floor and new shopfront entrance at units 18/19. Additional floorspace of 308 square metres granted (application reference: 99/01645/FUL)

The extension to this unit was considered by the Scottish Ministers in the approval of application 95/1043.

July 2003 - Planning permission granted to amend previous planning consent 95/01043 for an extension of 2787 square metres. Approval was given to transfer the previous consented floor space to an alternative extension. This permission has been partly implemented with the erection of phase 1 of the consent which has a floor area of 1358 square metres. A total of 1429 square metres of approved floor space was not developed.

December 2004 - Extension to time period approved for planning permission 99/01645/FUL for the extension of 308 square metres at units 18/19 (application reference: 04/03839/FUL). This unimplemented floorspace is in addition to the 1429 square metres from permission 95/01043.

April 2006 - Planning permission granted for an extension to unit 5 with a gross floor area of 385 square metres (application reference: 06/00004/FUL).

This resulted in the remaining consented floor space from permission 95/01043 to be utilised as 1044 square metres.

June 2007- Planning permission granted for an extension to units 18-19 with a gross floor area of 248 square metres (application reference: 07/00770/FUL).

This resulted in the remaining consented floor space from permission 95/01043 to be utilised as 796 square metres.

August 2007 - Planning permission granted for an extension to unit 4 with a gross floor area of 1290 square metres (application reference: 07/01119/FUL).

This proposal exceeded the floor space that had been previously consented with application 95/1043 by 494 square metres.

Scottish Ministers were notified but did not wish to intervene in the decision.

## Main report

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### 3.1 Description Of The Proposal

The applicant proposes to apply for planning permission in principle in the form of a Masterplan for a mixed use redevelopment of the centre including new/relocated commercial and retail floorspace, transport interchange infrastructure, car parking, access, servicing and associated works, Class 9 houses /sui generis flats, community facilities (Class 10), leisure (Class 11), public realm, commercial (Classes 1, 2 and 3), business (Class 4), hotel (Class 7), and senior living accommodation (Class 8).

### 3.2 Key Issues

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

a) The principle of redevelopment of the site is acceptable.

The site is allocated as a commercial centre in the Edinburgh Local Development Plan (LDP).

Policy Ret 4 (Commercial Centres) is of relevance. It aims to direct new retail floorspace to the city centre and town centres in the first instance. It also indicates the circumstances in which additional retail floorspace will be supported.

Policy Del 4 (Edinburgh Park/South Gyle) states there will be a requirement for additional leisure and community uses at Gyle shopping Centre. Other requirements of this policy in terms of improved connectivity and improved pedestrian and cycle links will also apply.

Page 61 of the LDP sets out the Development Principles for Edinburgh Park/South Gyle in terms of the Gyle Centre. Specifically it states:

- Any expansion of the Gyle shopping centre to meet the needs of the expanding population in the West of Edinburgh should provide an active frontage to South Gyle Broadway, contribute to the green network and provide good pedestrian connections to the tram stop and wider area.
- The opportunity exists to create a new green space incorporating the tram halt and a north-south pedestrian cycle route, framed by additional development to help the centre contribute to the long term vision for the area.

The application will be assessed against the relevant policies of the Edinburgh Local Development Plan, in addition to the non-statutory guidance.



b) Transport and highway safety impacts are acceptable.

The application will be supported by Transport information, the scope and study of which is still to be agreed. The proposal should make provision for car, cycle, electric and disabled vehicles as set out in the Council's Parking Standards.

A Quality Audit, including a safety audit as set out in Designing Streets, is likely to be required, and contributions are likely to be required under the Council's Developer Contributions and Infrastructure Delivery Supplementary Guidance (Tram Contribution).

The application will have to ensure connectivity between the application site and other sites in Edinburgh Park and South Gyle is achieved and that enhanced pedestrian and cycle routes are prominent in their proposals.

c) Amenity for neighbours and occupiers is acceptable

The application should ensure neighbouring amenity is adequately protected and a good level of residential amenity can be achieved for future occupants of the site.

The application should be supported by a Noise Impact Assessment and possibly an Air Quality Assessment.

A Daylighting Privacy and Sunlight Assessment will be also required.

d) The scale of development on the site and the proposed design and materials are acceptable.

The proposal will be assessed against relevant design policies in the Local Development Plan as well as non- statutory guidance where applicable (e.g. Edinburgh Design Guidance). The applicant should clearly demonstrate how the proposal's design has considered the Council's policies and guidance. A design and access statement will be required to support the planning application.

The application was presented to the Edinburgh Urban Design Panel on 10 February 2021.

e) The proposal has acceptable impacts on infrastructure

The application will be required to make appropriate developer contributions in accordance with Edinburgh Local Development Plan policy Del 1 Developer Contribution and Infrastructure Delivery.

### **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**

---

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

## **Equalities impact**

---

**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**

Pre-application discussions took place on this application.

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

On 2 June 2021 the applicant submitted a copy of the Proposal of Application Notice (PAN) to the following;

Corstorphine Community Council  
Drum Brae Community Council  
Ratho and District Community Council  
Wester Hailes Community Council  
Cllrs Aldridge, Bridgman and Brown (Drumbrae/Gyle)  
Cllrs Douglas, Gloyer and Ross (Corstorphine/Murrayfield)  
Christine Jardine MP and Alex Cole-Hamilton MSP  
West, South West and Almond Neighbourhood Partnerships

In light of the ongoing Covid-19 situation and Scottish Government Guidance on pre-application consultation, revisions have been made to the consultation strategy.

A virtual/online event is forecast on site [www.the-gyle.com](http://www.the-gyle.com) with details to be confirmed 7 days in advance.

## Background reading/external references

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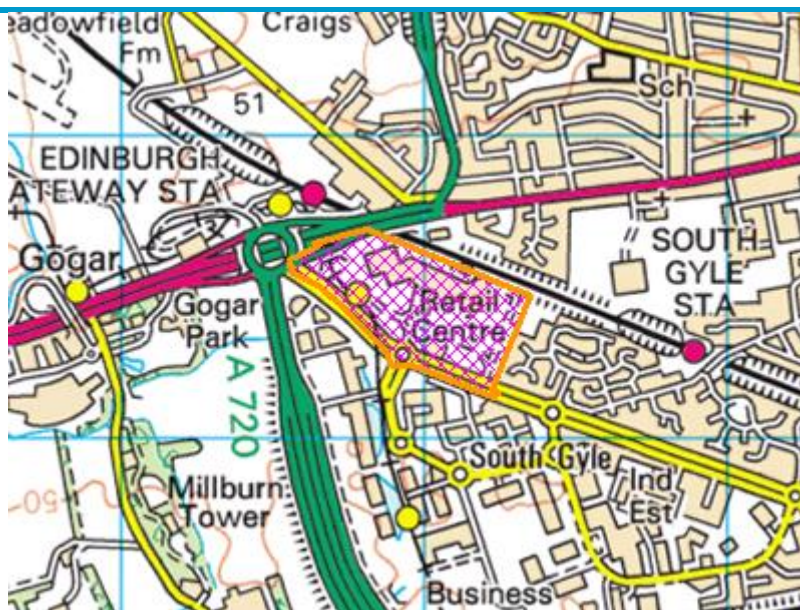
- To view details of the proposal of Application Notice go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)

**David Givan**  
**Chief Planning Officer**  
PLACE  
The City of Edinburgh Council

Contact: Jennifer Paton, Senior planning officer  
E-mail: [jennifer.paton@edinburgh.gov.uk](mailto:jennifer.paton@edinburgh.gov.uk) Tel: 0131 529 6473

## Location Plan

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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Report for forthcoming application by**

**Edinburgh Marina Holdings Limited. for Proposal of  
Application Notice**

**21/03177/PAN**

**at Granton Harbour, West Harbour Road, Edinburgh.  
Mixed use development containing residential flats, houses  
and commercial/retail units.**

**Item number**

**Report number**

**Wards**

B04 - Forth

### 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 for mixed use development containing residential flats, houses and commercial/retail units.

In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, the applicants submitted a Proposal of Application Notice 21/03177/PAN on Monday 7 June 2021.

### 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 application site is located at the northern end of Granton Harbour. The site lies to the north and east of Plot 35 and fronts onto Granton Harbour quayside on its east side and the Forth estuary to its north. The site measures approximately 0.42 hectares.

The category 'B' listed Western Breakwater (item number 30219, listed 28 November 1989), constructed between 1842 and 1863, lies on the eastern side of plot 35, with part of its eastern flank being located under the application site.

### 2.2 Site History

Relevant history to the site:

20 June 2003 - Outline planning permission granted for the Granton Harbour Village, mixed use development comprising residential units, hotel and serviced apartments, shops and retail /services, restaurants /cafes, public houses, general business, leisure facilities and marina (Application reference 01/00802/OUT).

4 March 2009 - Application approved to discharge the following reserved matters, (under condition 2): siting and height of development; design and configuration of public and open spaces; access, road layouts; footpaths and cycle routes; (1) existing and finished ground levels. This approval was subject to conditions, requiring further information to be submitted within 1 year, on landscaping of public open space, proposed rock revetment, play equipment, configuration of roads and other access provisions, the proposed drainage scheme and related implementation provisions and maximum unit numbers per plot (Application reference 06/03636/REM).

31 January 2014 - Application approved for matters specified in condition 2 as attached to outline permission 01/00802/OUT: covering siting and height of development; design and configuration of public and open spaces; access, road layouts; footpaths and cycle routes. The application was subject to a number of conditions requiring further details to be submitted for approval regarding: car parking, landscaping, and the shared cycle way on Western Harbour Road (Application reference 13/04320/AMC).

18 November 2015 - Application for approval to discharge a selected number of reserved matters which were attached to the outline planning permission under condition 2, including the siting and height of development; design and configuration of public and open spaces; access and road layouts; and footpaths and cycle routes approved (Application reference 14/05305/AMC).

2 February 2017 - Application approved for the approval of matters specified in condition 2, covering siting and height of development, design and configuration of public and open spaces, access, road layouts, footpaths and cycle routes (Scheme 2) approved. (Application reference 16/05618/AMC).

31 May 2017 - Application submitted for approval of matters specified in condition 2, covering siting and height of development, design, and configuration of public and open spaces, access, road layouts, footpaths and cycle routes at Grantor Harbour, West Harbour Road (Application reference 17/02484/AMC). Permission granted.

11 September 2019- Planning application for formation of access roads and footways and public realm; and associated quay edge retention scheme, to serve the Granton Harbour plot 29 (residential development) and plot 35 (hotel development) refused (Application Reference 19/00844/FUL).

24 September 2019- Application for approval of matters conditioned under application number 2 of outline planning application reference 01/00802/OUT regarding the erection of buildings containing residential flats, hotel and serviced apartments; formation of road access, parking, and open space at plots 29 and 35 allowed on appeal (Application reference 17/05306/AMC).

10 July 2020 - Permission granted for the formation of access roads and footways to serve Granton Harbour plots 7B and 8C residential development (Application Reference 20/02026/FUL).

29 October 2020 - Planning permission appeal dismissed for the formation of access roads and footways and public realm; and associated quay edge retention scheme, to serve the Granton Harbour plot 29 (residential development) and plot 35 (hotel development) (Application reference 20/01368/FUL).

20 May 2021 - Deemed refusal - Formation of access roads, cycle ways and public realm areas around Granton Harbour Plot 35 (as amended)(Application reference 20/05731/FUL).

## **Main report**

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

The proposal is for mixed use development containing residential flats, houses and commercial/retail units.

### **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 within the Edinburgh Waterfront: Granton Harbour area identified in the Edinburgh Local Development Plan (LDP).

This is part of an identified housing proposal site for a major housing-led mixed use regeneration opportunity. The development principles for the site are outlined in policy EW 2c), which states that proposals will be expected to:

- complete the approved street layout and perimeter block urban form
- provide a housing mix that is appropriate to the site in terms of placemaking and would maximise completions within this urban regeneration proposal within the plan period
- meet the convenience shopping needs of new and future residents and to include tourism and waterfront-related leisure and entertainment uses
- complete the relevant section of the waterside Edinburgh Promenade
- provide for retained and improved mooring facilities and boat storage and retain Middle Pier as a 'working pier'
- provide a strategic flood risk assessment.

As this forms part of the wider waterfront area, LDP Policy Del 3 (Edinburgh Waterfront) will be of relevance to the assessment of the application. This policy states that planning permission will be granted for development which maximises the development potential of the area, creates a series of mixed use sustainable neighbourhoods, provides a mix of house types, sizes and affordability, and provides open space to meet the needs of the local community.

The proposal includes commercial/retail units. LDP Policy Ret 7 (Entertainment and Leisure Developments -Preferred Locations) states that planning permission will be granted for high quality, well designed arts, leisure and entertainment facilities and visitor attractions around the Granton Waterfront provided:

- the proposal can be integrated satisfactorily into its surroundings with attractive frontages to a high quality of design that safeguards existing character
- the proposal is compatible with surrounding uses and will not lead to a significant increase in noise, disturbance and on-street activity at unsocial hours to the detriment of living conditions for nearby residents
- the development will be easily accessible by public transport, foot and cycle.

A master plan showing residential blocks, new cycle infrastructure and a revised harbour edge was approved by the Development Management Sub-Committee on 25 May 2021 (Application Reference: 17/02484/AMC).

LDP Policy Hou 2 (Housing Mix) will apply in relation to assessing the mix of house types and sizes.



## **b) Impact on listed buildings**

The application site overlies the category B-listed, western arm of the harbour's Victorian breakwater completed in 1851. This part of the application site has been identified as being of archaeological importance. The proposal will be assessed in relation to Sections 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal will also be considered against relevant policies in the Edinburgh Local Development Plan including policies Env 3, Env 4 and Env 9. Any works directly affecting the breakwater will require a separate application for Listed Building Consent.

## **c) Design, Scale and Layout**

Design development will need to take cognisance of relevant LDP design and environment policies and the Edinburgh Design Guidance. Detailed information will be required in relation to the height, materials and form of the proposed units.

An assessment on amenity of neighbouring and future occupiers, as required by LDP Policy Des 5 (Development Design - Amenity) will also be required. This will include the requirement for greenspace provision, in accordance with LDP Policy Hou 3.

## **d) Access and transport**

The proposal shall have regards to LDP transport policies and Edinburgh Design Guidance. Developer Contributions and Infrastructure Delivery Supplementary Guidance will apply to the proposal. The applicant will be required to provide transport information to demonstrate how the proposal prioritises active travel and is aligned with parking standards, including service arrangements and cycle parking provision.

## **e) Other Environmental Factors**

The applicant will be required to submit sufficient information to demonstrate that the site can be developed without having an unacceptable detrimental impact on the environment.

The proposal will require a new rock revetment in line with a repositioning of the harbour edge. Full details of the rock revetment to be constructed, including wave modelling results where appropriate will be required to support the application.

As the application will include coastal works affecting a harbour wall the application will fall under Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The Planning Authority is therefore required, by law, to undertake screening to determine whether an Environmental Impact Assessment is required.

In order to support the application, the following documents should be submitted:

- Pre-Application Consultation report;
- Planning Statement;
- Design and Access Statement;
- Archaeology Statement;
- Transport Information;
- Full details of the rock revetment and wave modelling data where appropriate;
- Flood Risk Assessment and Surface Water Management Plan;
- Sustainability Report and S1 Form;
- Daylighting, Privacy and Overshadowing information;
- Phase 1 Site Investigation Report and
- Phase 1 Habitat and Protected Species Survey.

### **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**

---

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

## **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**

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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 pre-application consultation makes provision for public consultation to be carried out without the need for a face to face public event.

A website has been organised and run by Wilson+Gunn Architects, at:  
[www.wilsongunnarchitects.com/35a](http://www.wilsongunnarchitects.com/35a).

A presentation of the proposals was made available on this website from 17 June until till 5pm on 7 July, with users able to add comments. The website includes a Frequently Asked Questions section. A Live Video Session with the design team was also held on 30 June from 6pm to 9pm. This was accessed via the website noted above. In addition, telephone calls could be made to Wilson+Gunn Architects at 0141 331 0377 and a Live Chat option was available via the website, Mon-Fri /1pm till 3pm during the consultation period. The consultation process was publicised in an advert in the Edinburgh Evening News on Wednesday 9 June. Posters advertising the consultation were displayed in various locations in the Granton area, including Granton Library.

Documentation relating to this Proposal of Application Notice was sent by the applicant to Ward Councillors and to Granton & District Community Council.

## **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](#)

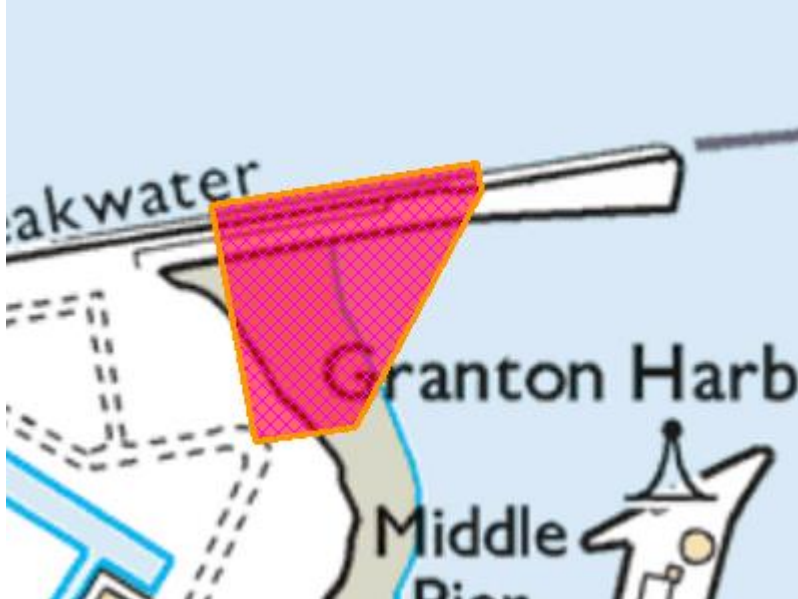
### **David Givan**

Chief Planning Officer  
PLACE  
The City of Edinburgh Council

Contact: Christopher Sillick, Planning Officer  
E-mail:[christopher.sillick@edinburgh.gov.uk](mailto:christopher.sillick@edinburgh.gov.uk) Tel:0131 529 3522

## Location Plan

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**END**

## Development Management Sub Committee

**Wednesday 4 August 2021**

**Report for forthcoming application by**

**CALA Management Ltd. for Proposal of Application Notice**

**21/03334/PAN**

**at Land North of, Newmills Road, Currie/Balerno.**

**Mixed use development including houses (Class 9), flats (Sui Generis), care home (Class 8), retail (Class 1), commercial (Classes 2, 3 and sui generis), business (Class 4), education and community facilities (Class 10), mobility hub, open space and landscaping, access and all associated infrastructure.**

**Item number**

**Report number**

**Wards**

B02 - Pentland Hills

### Summary

The purpose of this report is to inform the Development Management Sub-Committee of a forthcoming application for planning permission in principle for 'Mixed use development including houses (Class 9), flats (Sui Generis), care home (Class 8), retail (Class 1), commercial (Classes 2, 3 and sui generis), business (Class 4), education and community facilities (Class 10), mobility hub, open space and landscaping, access and all associated infrastructure'.

In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, as amended, the applicant submitted a Proposal of Application Notice on 11 June 2021 (reference: 21/03334/PAN)

## 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 proposed site is an elongated area of agricultural and wooded land that runs along the northern edge of Currievale Drive, which forms the existing settlement edge of Currie.

Long Dalmahoy Road and the Glasgow to Edinburgh railway line are located to the north, and Baberton settlement edge is located to the east.

Newmills Road runs through the site in a north to south direction.

The land is designated as Green Belt and an Area of Importance for Flood Management in the Edinburgh Local Development Plan.

The site includes a strip of land that runs alongside Somerville Road which is designated as Greenspace Proposal (GS1-11): Newmills Park in the LDP.

### 2.2 Site History

There is no relevant planning history for this site.

## Main report

---

### 3.1 Description of the Proposal

The proposal is a mixed use development including houses (Class 9), flats (Sui Generis), care home (Class 8), retail (Class 1), commercial (Classes 2, 3 and sui generis), business (Class 4), education and community facilities (Class 10), mobility hub, open space and landscaping, access and all associated infrastructure.

### 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 within the Green Belt as identified on the Local Development Plan (LDP) Proposals Map. The site also includes land designated as Greenspace Proposal (GS1-11): Newmills Park in the LDP.

The site must be assessed against all relevant policies within the LDP including LDP Policy Env 10 (Development in the Green Belt and Countryside). The Council's non-statutory planning guidance such as the Council's 'Guidance for Development in the Countryside and Green Belt' will also need to be considered by the applicant.

The proposal must comply with LDP Policy Hou 1 (Housing Development) which provides criteria for assessing whether greenfield/greenbelt housing proposals are acceptable.

The proposed retail and commercial uses on site must comply with the relevant policies within the LDP.

**b) the design, scale and layout are acceptable within the character of the area; and does the proposal comply with the Edinburgh Design Guidance.**

The applicant will be required to comply with all relevant design policies within the LDP as well as non-statutory guidance where applicable (e.g., Edinburgh Design Guidance).

A Design and Access Statement will be required to support the application.

An assessment on amenity of neighbouring and future occupiers, as required by LDP Policy Des 5 (Development Design - Amenity). This will include the requirement for greenspace provision, in accordance with LDP Policy Hou 3 and a Noise Impact Assessment should be submitted as part of the application.

**c) access arrangements are acceptable in terms of road safety and transport accessibility.**

LDP transport policies will apply to the proposal. The applicant will be required to provide transport information including a travel plan and demonstrate how the proposal complies with parking standards including service arrangements and cycle parking provision.

**d) there are any other environmental factors that require consideration.**

The applicant will be required to submit sufficient information to demonstrate that the site can be developed without having a detrimental impact on the environment.

The site is designated as an Area of Importance for Flood Management in the Local Development Plan and a Flood Risk Assessment should be submitted.

In order to support the application, the following documents will be submitted:

- Pre-Application Consultation Report;
- Planning Statement;
- Design and Access Statement;
- Townscape and Visual Impact Assessment;
- Sustainability Form S1;
- Daylight, Privacy and Overshadowing Information;



- Transport Assessment;
- Waste Management Information and Servicing Strategy;;
- Ground investigations/Site investigations;
- Flood Risk Assessment, Drainage Information and Surface Water Management Plan.
- Noise Impact Assessment;
- Air Quality Impact Assessment; and
- Landscape Management and Maintenance Plan and
- Protected Species/Ecology Information.

As the application will fall under Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The Planning Authority is therefore required, by law, to undertake screening to determine whether an Environmental Impact Assessment is required.

### **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**

---

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

## **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 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**

---

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

The Proposal of Application Notice outlined arrangements for a formal public event, involving an online exhibition and a 'live and interactive' consultation event to be held on the 22 June 2021 between 3.00 and 7.00 pm. During the event, representatives of the applicant and their consultants will be available to answer questions via a live chat facility.

A Public Notice advertising the event will be displayed in the Edinburgh Evening News on the 15 June 2021. In terms of additional publicity, leaflets advertising the event will be sent to 2,300 homes in the local area.

A copy of the PAN has been sent to all relevant parties on 11 June 2021 including: Currie Community Council, local ward councillors, constituency MP and MSP and the South-West Locality Office. Given their proximity to the site Balerno, Juniper Green and Ratho & District Community Councils were also notified of the PAN submission.

### 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 Givan

Chief Planning Officer

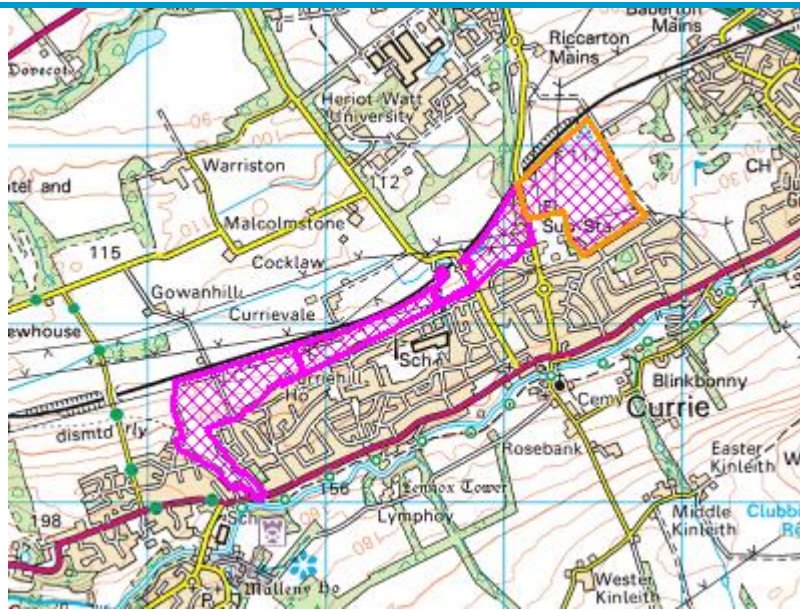
PLACE

The City of Edinburgh Council

Contact: Sonia Macdonald, Planning Officer

E-mail:sonia.macdonald@edinburgh.gov.uk Tel:0131 529 4279

## Location Plan



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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 20/05581/FUL  
at 2 - 4 Abbey Mount, Edinburgh, EH8 8EJ.  
Change of use and alterations to form 11 short term let  
studio apartments and cafe.**

**Item number**

**Report number**

**Wards**

B14 - Craigentinny/Duddingston

### Summary

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The proposal ensures the continued use of the ground floor of the listed building and a new use for the former church hall. The proposed use as short-term let accommodation and a class 3 café/restaurant is acceptable within the context of this busy mixed use area. The proposed alterations will not have a detrimental impact on the unique architectural and historical character or setting of the listed building. The proposal will not have an unacceptable impact on neighbouring amenity.

The proposal complies with the Local Development Plan and there are no material considerations which override this.

### Links

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[Policies and guidance for this application](#)

LDPP, LHOU07, LRET11, LEN03, LEN04, LDES12, LTRA02, LTRA03, NSG, NSBUS, HES, HESUSE,

# Report

## **Application for Planning Permission 20/05581/FUL at 2 - 4 Abbey Mount, Edinburgh, EH8 8EJ. Change of use and alterations to form 11 short term let studio apartments and cafe.**

### **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 comprises two former shop units to the ground floor of a tenement building at 2-4 Abbey Mount and a two-storey hall adjoined by a vestibule to the rear.

The tenement building is part of a C listed building which additionally covers 1 Abbey Mount and 2 Montrose Terrace. Its statement of special interest notes the building as an idiosyncratic tenement in a very prominent position at the cross-roads of Regent Road, Abbey Mount and Montrose Terrace (listing ref: LB49048, listing date: 19 December 2002).

The hall is reported to have originally been a Victorian church hall and is unlisted being specifically excluded from the listing description. It has had a number later uses including as an arts and social centre for rehabilitation and care, a resource centre and most recently a venue offering space for workshops, meetings and classes. The former shop units below the tenement have previously been associated with the use of the hall, with the central door and corridor between the units providing access. Both the hall and shop units have been vacant for several years.

The surrounding area has a mixed character, with both residential flats and houses, new build student accommodation and commercial properties.

#### **2.2 Site History**

7 December 2016 - Listed building consent granted for change of use and alterations to form residential studios, retention of existing community café/restaurant and meeting room (application reference: 16/03669/LBC)

7 December 2016 - Planning permission granted for change of use and alterations to form residential studios, retention of existing community café/restaurant and meeting room (application reference: 16/03668/FUL).

29 May 2019 - Non-material variation of the planning application 16/03668/FUL (application reference: 16/03668/VARY)

29 August 2019 - Listed building consent granted for amendments to listed building consent previously granted for change of use and alterations to form residential studios, retention of existing community café/restaurant and meeting room (application reference: 19/03185/LBC)

15 December 2020 - Concurrent listed building consent for demolition works / conversion / alterations of un-listed rear hall building to form 9 short-term let studios apartments. Proposed new external landscaping and plant / storage building (application reference: 20/05603/LBC)

## **Main report**

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

It is proposed to create 11 short term let studio units and a class 3 café/restaurant. The ground floor of the tenement building would contain the café in the unit to the south with two studios for short term let use accommodated in the remaining unit. Nine short term let studios would be located within the former hall building accessed via the central door between the two shop units.

In order to facilitate the creation of the short term let studios, several alterations to the external appearance of the hall are proposed. New window and door openings will be installed on both the north and south elevations of the hall at ground floor level, with the existing windows at first floor level on the southern elevation being retained. New windows will be installed at first floor level on the northern elevation. A new dark grey membrane roof will be installed raising the roof height of the building by 90 centimetres. The link vestibule connecting the hall to the tenement building will be demolished, as will a single storey outshoot situated adjacent to the southern elevation of the hall, creating a detached building.

In 2016 planning permission and listed building consent were granted for conversion of the site to 11 residential studios and a café. Whilst this development was initiated on site, it has not been completed. The current proposal follows a similar physical layout with minor changes to windows and the omission of a replacement vestibule connecting to the tenement.

#### Supporting Documents

The applicant has submitted the following supporting documents which are available to view on the Planning Portal:

- Planning Statement;
- Design Statement;
- Heritage Statement;
- Noise Impact Assessment; and
- Bat Survey.

#### Revised Scheme

The plans have been amended to alter window positions and include material details.

### 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.

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 proposal is acceptable in principle;
- b) the development has special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest;
- c) the proposals impact on residential amenity;
- d) the development raises any issues in respect of car and cycle parking and road safety and
- e) comments raised have been addressed.

#### a) Principle of the Proposal

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP).

#### **Short-stay visitor accommodation**

The main policy that is applicable to the assessment of short-term lets/ short-stay commercial visitor accommodation (SCVA) is LDP policy Hou 7 (Inappropriate Uses in Residential Areas). This states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;



- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The guidance states that a change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs.

In connection to short stay lets it states - "The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration.

It should be noted that the approved residential conversion has been initiated and is an extant consent. However, this has not been completed and the building remains unoccupied. As such, the proposal seeks the conversion of an existing vacant commercial unit and hall. The principles contained within the Guidance for Business remain a relevant factor given the approved residential use.

The intention of the policy Hou 7 is to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent any further deterioration in living conditions in more mixed use areas which nevertheless have important residential functions.

The proposed units, both within the tenement block and within the hall, do not share an entrance or communal space with the neighbouring residential flats. One unit is accessed directly from the street and the others through the existing dedicated corridor access between the proposed SVCA units and cafe and a gated link to the rear.

The majority of the units will be located within the converted hall, which is to become a stand-alone building. The scale of the development at 11 studio units each with either double or single bed limits the number of potential occupiers for each unit.

The site's location is close to Easter Road and Montrose Terrace, both busy locations near to the city centre with a broad mix of business, residential and commercial uses. The proposed use is compatible with this mix of uses and the frequency of movement and use of local facilities is unlikely to be significantly different to nearby uses such as student housing.

Based on the criteria established above, the proposed SVCA use is acceptable in principle in terms of policy Hou 7. A detailed assessment on amenity and design is set out in 3.3 c).

### **Class 3 use**

LDP Policy Ret 11 (Food and Drink Establishments) states that the change of use of a shop unit or other premises to a licensed or unlicensed restaurant, café, pub, or shop selling hot food for consumption off the premises (hot food take-away) 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 proposed Class 3 Café/restaurant use reinstates a previously existing café use within a shop unit. The unit has most recently been vacant but has previously operated as a class 3 use without any records of noise or disturbance. The reinstatement of this use will not lead to an excessive concentration of such uses.

The proposed class 3 use is acceptable in principle.

### **b) Impact on the 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".

LDP Policy Env 4 (Listed Buildings - Alterations and Extensions) permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.

The listing description for the site and adjoining building places emphasis on the architectural features on the principal elevation of the tenement as being important to the unique character of the building. The proposal will retain the existing traditional recessed shopfronts and cast iron entrance gates on the ground floor of the tenement building. Whilst it is acknowledged that the use of the building will change, the change will not have a material impact on the special interest of the listed building.

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

The proposed alterations are broadly similar to those approved under the previous applications (16/03669/FUL). The external alterations will improve the current condition of the building and remove the non-original vestibule attaching the hall to the listed building. The roof design though contemporary, will be a suitable design within the context. The proposed alterations will be an improvement to the setting of the listed building.

The proposal will not have an adverse impact on the unique architectural and historical character of the listed building. The proposal complies with LDP Policies Env3 and Env 4 and the relevant HES guidance.

#### c) Residential amenity

LDP Policy Des 12 (Alterations and Extensions) states that planning permission will be granted for alterations to existing building where there will not be an unreasonable loss of privacy or natural light to neighbouring properties and where it would not be detrimental to neighbourhood amenity and character.

In terms of daylight and overshadowing, the increase in the roof profile of the hall will have a small impact on the daylight and sunlight to five windows which serve flatted properties within the tenement building. In the previously granted consent, a daylight and sunlight study concluded that the affected windows comply with the requirements of British Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice. The impact is within acceptable levels and will not have a significant negative impact.

The reinstatement of previously blocked up windows at the lower level of the hall building to the south, formation of rooflights and additional windows to the north will result in an increase in the number of openings and the potential to overlook adjoining spaces. To the south, the proposed windows sit in close proximity to the rear of numbers 6 and 6A Abbey Mount. The rear windows of these properties serve spaces including bathrooms and storage space or are secondary to the main windows to the front of the property.

To the north, the proposed windows will sit on the boundary with the rear amenity space of the tenement block. This area is framed by the west corner of the Abbey Mount tenement block and a single storey row of shops on Montrose Terrace. A further tenement block lies to the east beyond the site on Montrose Terrace. The proposed windows will directly face the rear of the single storey shop units. The positioning of windows and the layout of buildings ensures that there will be no direct overlooking of windows to residential properties. It should be noted that the principle of the reinstatement and new window openings to the north and south elevations of the hall was established under consent 16/03668/FUL, an extant consent.

The applicant has provided a plan detailing the access and landscape arrangements surrounding the hall. The area will be upgraded with locked gates improving security in this area and preventing guests from accessing the tenement's communal openspace. Guests will enter the site through the entrance on Abbey Mount. A small plant and bin store will be located to the east adjoining existing garages with a further locked gate used for waste and maintenance purposes. These arrangements provide an improvement to this previously neglected area to the rear, improving overall amenity.

The proposed cafe unit has previously been in a class 3 use and retains the ventilation extract flue located on the rear elevation of the building. Information on ventilation and a Noise Impact Assessment has been submitted and the Council's Environmental Protection service consulted. The Environmental Protection officer was satisfied that the proposal will not have a detrimental impact on the amenity of neighbouring residents in relation to noise and smells, subject to conditions.

The proposal as a whole will not have an adverse impact on the amenity of neighbouring residents.

#### d) Parking and road safety

LDP Policy Tra 2, Private Car Parking, and LDP Policy Tra 3, Private Cycle Parking, state that planning permission will be granted for development where proposed car and cycle parking provision complies with and does not exceed the car parking levels set out in the Non-statutory Edinburgh Design Guidance.

The guidance does not define car or cycle parking standards for a SCVA. No car parking is proposed and the site is well located for access by bus, train and in the future the extended tram line. Given the nature of the use, it is likely that the majority of visitors shall arrive by public transport. Fourteen spaces for cycle storage are also proposed.

The proposal complies with LDP Policy Tra 2 and LDP Policy Tra 3.

e) Other material considerations

**Waste**

The Planning Statement advises a previous letter of agreement for provision of waste service with the Council. However, as the development is no longer a residential use, it will be the responsibility of the owner to make arrangements for the disposal of all waste with a commercial waste contractor.

The proposal does not raise any issues in respect of waste collection.

**Protected species**

The applicants have submitted a bat survey. This confirms that there will be no impact on bats through the proposed works.

f) Public comments

**Material Comments - Support**

- Support for car free nature of development.

Conclusion

The proposal ensures the continued use of the ground floor of the listed building and a new use for the former church hall. The proposed use as short-term let accommodation and a class 3 café/restaurant is acceptable within the context of this busy mixed use area. The proposed alterations will not have a detrimental impact on the unique architectural and historical character or setting of the listed building. The proposal will not have an unacceptable impact on neighbouring amenity.

The proposal complies with the Local Development Plan and there are no material considerations which override this conclusion.

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

**3.4 Conditions/reasons/informatives**

**Conditions :-**

1. The following noise protection measures, as defined in the KSG Acoustics Ltd 'Acoustic Assessment' report dated 30 April 2021 (rev1), shall be completed prior to the consented cafe/restaurant use being implemented :
  - An additional lining of 12.5 mm plasterboard shall be installed to underline the existing ceiling construction separating the consented cafe and residential properties

- Independent timber joists shall be installed below the existing floor construction. The joists must be completely independent of the existing floor construction, supported from the structural walls. For the ceiling construction separating the consented restaurant and residential properties
  - 150 mm thick mineral fibre insulation to be installed between newly installed timber joists. For the ceiling construction separating the consented restaurant and residential properties
  - 2 x 12.5 mm plasterboard installed to the underside of the timber joists. There shall be a minimum cavity depth of 200 mm between this lining and the underside of the existing ceiling. For the ceiling construction separating the consented restaurant and residential properties shall be carried out in full and completed prior to the development being occupied.
2. Prior to the cafe/restaurant use being taken up, the existing 300mm extract flue and ventilation system, must capable of a minimal 30 air changes per hour and shall be connected and operational as per the drawing numbers G (2-) 021, G (2-) 030, G (2-) 130 all dated March 2021.
  3.
    - i) Prior to the commencement of construction works on site:
      - a) A site survey (including intrusive investigation where necessary) must be carried out to establish, 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 required remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning Authority.
    - ii) 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 for the approval of the Planning Authority.
  4. The access arrangements and locked gates, as shown on drawing G(2-)001 Rev.A, shall be implemented prior to the occupation of the short stay let accommodation and thereafter remain in place for that use.

**Reasons:-**

1. In order to safeguard the amenity of neighbouring residents and other occupiers.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.
3. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.
4. To ensure visitors do not access communal residential areas.

## 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.
4. It is the responsibility of the owner to make arrangements for the disposal of all waste with a commercial waste contractor.
5. This application relates to a flatted building. This planning permission does not affect the legal rights of any other parties with an interest in the building. In that respect, the permission does not confer the right to carry out the works without appropriate authority.
6. The applicant should further investigate reducing the energy demand of the building and then meeting any heat/energy demand via renewables. It would be possible to introduce solar/PV panels and or ground/air sourced heat pumps linked to energy storage.

It should be noted that when designing the exhaust ducting, Heating, ventilation and Air Conditioning (HVAC) good duct practice should be implemented to ensure that secondary noise is not generated by turbulence in the duct system. It is recommended that the HVAC Engineer employed to undertake the work, undertakes the installation with due cognisance of the Chartered Institute of Building Services Engineers (CIBSE) and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guidance

## 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 is not subject to 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**

The application received one support comment.

## **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** 14 December 2020

**Drawing numbers/Scheme** 01-16, 17A, 18-24, 25A, 26A, 27A, 28A, 29, 30,

Scheme 3

**David Givan**  
Chief Planning Officer  
PLACE  
The City of Edinburgh Council

Contact: Lynne McMenemy, Senior Planning Officer  
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## **Links - Policies**

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### **Relevant Policies:**

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

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

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

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

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

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

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

**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.

# Appendix 1

## **Application for Planning Permission 20/05581/FUL At 2 - 4 Abbey Mount, Edinburgh, EH8 8EJ Change of use and alterations to form 11 short term let studio apartments and cafe.**

### **Consultations**

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#### **Environmental Protection**

*Environmental Protection have consulted on a previous scheme (16/03668/FUL). This application is broadly similar with the main difference being the end user is changing from residential to short-term-let. The applicant still proposes a mixed-use development, including the renovation of an existing community cafe and the conversion of the existing ground floor tenement.*

*The site is bounded by an open communal garden to the north and a 2 storey traditional terrace to the south. A stone wall running along the east boundary separates the site from an open site, currently used as garaging and storage. To the west sits the 5 storey tenement that includes the existing ground floor commercial units of the application site.*

*The applicant has submitted an updated supporting noise impact assessment and details on the proposed commercial ventilation system. The noise impact assessment has identified that a various noise mitigation measures will be required to ensure that amenity is protected. Environmental Protection recommends several conditions are attached if consent is granted.*

*The applicant has advised that they are intending to utilise the existing commercial kitchen extract. Environmental Assessment has assessed the supporting engineers report and can confirm that this method of extraction is acceptable.*

*The applicant has confirmed that they intend to install individual gas boilers for each unit. This is disappointing as we would prefer the applicant to further investigate reducing the energy demand of the building and then meeting any heat/energy demand via renewables. It would be possible to introduce solar/PV panels and or ground/air sourced heat pumps linked to energy storage. In this case, it is accepted that the principle of development on this site was approved in 2016 when there was less stringent requirements.*

*Ground conditions relating to potential contaminants in, on or under the soil as affecting the site will require investigation and evaluation, in line with current technical guidance such that the site is (or can be made) suitable for its intended new use/s. Any remediation requirements require to be approved by the Planning & Building Standards service. The investigation, characterisation and remediation of land can normally be addressed through attachment of appropriate conditions to a planning consent (except where it is*

*inappropriate to do so, for example where remediation of severe contamination might not be achievable)*

*Therefore Environmental Assessment offers no objection to this application subject to the following conditions;*

#### *Noise*

*The following noise protection measures to the proposed hotel, as defined in the KSG Acoustics Ltd 'Acoustic Assessment' report, dated 30 April 2021 (rev1):*

*-An additional lining of 12.5 mm plasterboard shall be installed to underline the existing ceiling construction separating the consented cafe and residential properties*

*-Independent timber joists shall be installed below the existing floor construction. The joists must be completely independent of the existing floor construction, supported from the structural walls. For the ceiling construction separating the consented restaurant and residential properties*

*-150 mm thick mineral fibre insulation to be installed between newly installed timber joists. For the ceiling construction separating the consented restaurant and residential properties*

*-2 x 12.5 mm plasterboard installed to the underside of the timber joists. There shall be a minimum cavity depth of 200 mm between this lining and the underside of the existing ceiling. For the ceiling construction separating the consented restaurant and residential properties shall be carried out in full and completed prior to the development being occupied.*

#### *Plant & Flue Treatments*

*Prior to the use being taken up, the existing 300mm extract flue and ventilation system, must capable of a minimal 30 air changes per hour shall be connected and operational as per the drawing numbers G (2-) 021, G (2-) 030, G (2-) 130 all dated March 2021.*

*All the above mitigation measures shall be carried out in full and completed prior to the Contaminated Land*

*i) Prior to the commencement of construction works on site:*

*a) A site survey (including intrusive investigation where necessary) must be carried out to establish, 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 required remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning Authority.*

ii) 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 for the approval of the Planning Authority.

#### Informative

The applicant should further investigate reducing the energy demand of the building and then meeting any heat/energy demand via renewables. It would be possible to introduce solar/PV panels and or ground/air sourced heat pumps linked to energy storage.

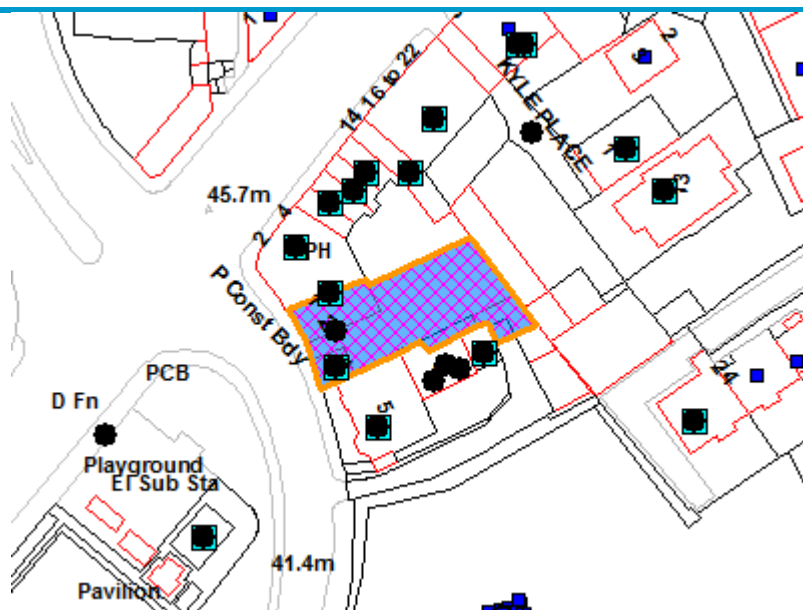
It should be noted that when designing the exhaust ducting, Heating, ventilation and Air Conditioning (HVAC) good duct practice should be implemented to ensure that secondary noise is not generated by turbulence in the duct system. It is recommended that the HVAC Engineer employed to undertake the work, undertakes the installation with due cognisance of the Chartered Institute of Building Services Engineers (CIBSE) and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guidance

#### City Archaeologist

Both the listed building and attached unlisted former Victorian church hall are considered to be of local archaeological and historic significance. As such a programme of archaeological historic building survey was undertaken by AOC Archaeology in 2020 in response to a condition attached to the previous consent (see 19/03185/LBC). AOC report accompanied this application.

Given this previous work and having assessed the potential impacts of this new revised scheme, it has been concluded that there are no archaeological implications, in regard to these new (revised) applications.

#### Location Plan



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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Listed Building Consent 20/05603/LBC  
at 2 - 4 Abbey Mount, Edinburgh, EH8 8EJ.  
Conversion and alterations of existing tenement building to  
form two short-term let studio apartments and community  
cafe / restaurant. Demolition works/alterations of un-listed  
rear hall building to form 9 short-term let studios  
apartments.**

**Item number**

**Report number**

**Wards**

B14 - Craigentinny/Duddingston

### Summary

The proposal ensures the continued use of the ground floor of the listed building and a new use for the former church hall. The proposed alterations will not have a detrimental impact on the unique architectural and historical character or setting of the listed building.

The proposal complies with the Local Development Plan and HES Managing Change Guidance and there are no material considerations which override this.

### Links

[Policies and guidance for this application](#)

LDPP, LEN04, HES, HESUSE,

# Report

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at 2 - 4 Abbey Mount, Edinburgh, EH8 8EJ.  
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form two short-term let studio apartments and community  
cafe / restaurant. Demolition works/alterations of un-listed  
rear hall building to form 9 short-term let studios  
apartments.**

## 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 comprises two former shop units to the ground floor of a tenement building at 2-4 Abbey Mount and a two-storey hall adjoined by a vestibule to the rear.

The tenement building is part of a C listed building which additionally covers 1 Abbey Mount and 2 Montrose Terrace. Its statement of special interest notes the building as an idiosyncratic tenement in a very prominent position at the cross-roads of Regent Road, Abbey Mount and Montrose Terrace (listing ref: LB49048, listing date: 19 December 2002).

The hall is reported to have originally been a Victorian church hall and is unlisted being specifically excluded in the listing description. It has had a number later uses including as an arts and social centre for rehabilitation and care, a resource centre and most recently a venue offering space for workshops, meetings and classes. The former shop units below the tenement have previously been associated with the use of the hall, with the central door and corridor between the units providing access. Both the hall and shop units have been vacant for several years.

The surrounding area has a mixed character, with both residential flats and houses, new build student accommodation and commercial properties.

### 2.2 Site History

7 December 2016 - Listed building consent granted for change of use and alterations to form residential studios, retention of existing community café/restaurant and meeting room (application reference:16/03669/LBC)



7 December 2016 - Planning permission granted for change of use and alterations to form residential studios, retention of existing community café/restaurant and meeting room (application reference: 16/03668/FUL).

29 May 2019 - Non-material variation of the planning application 16/03668/FUL (application reference: 16/03668/VARY)

29 August 2019 - Listed building consent granted for amendments to listed building consent previously granted for change of use and alterations to form residential studios, retention of existing community café/restaurant and meeting room (application reference: 19/03185/LBC)

14 December 2020 - Concurrent planning application for change of use and alterations to form 11 short term let studio apartments and café (20/05581/LBC)

## **Main report**

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

It is proposed to create two short term let studio units and a class 3 café/restaurant within the ground floor of the listed tenement building.

Internally, alterations are minimal with the shop unit to the north being sub-divided to form two short term let units.

Externally the link between the listed tenement and the rear hall will be removed and original window and door openings re-instated.

### **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.

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 development has special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest and
- b) comments raised 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".

LDP Policy Env 4 (Listed Buildings - Alterations and Extensions) permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.

The listing description for the site and adjoining building places emphasis on the architectural features on the principal elevation of the tenement as being important to the unique character of the building. The proposal will retain the existing traditional recessed shopfronts and cast iron entrance gates on the ground floor of the tenement building. Whilst it is acknowledged that the use of the building will change, the change will not have a material impact on the special interest of the listed building.

The external alterations and removal of linking vestibule to the former church hall will improve the current condition of the building. The proposed alterations will be an improvement to the setting and character of the listed building.

Internally, there are no features of special architectural or historic interest to be preserved.

The proposal will not have an adverse impact on the unique architectural and historical character of the listed building. The proposal complies with LDP Policies Env 4 and the relevant HES guidance.

b) Public comments

**Material Comments - Neutral**

- Swift bricks should be included - this is outwith the scope of the listed building application as this relates to the unlisted hall.

## Conclusion

The proposal ensures the continued use of the ground floor of the listed building and a new use for the former church hall. The proposed alterations will not have a detrimental impact on the unique architectural and historical character or setting of the listed building.

The proposal complies with the Local Development Plan and HES Managing Change Guidance and there are no material considerations which override this.

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

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

#### **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**

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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:**

## 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

The application received one neutral comment.

## 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** 15 December 2020

**Drawing numbers/Scheme** 01-18, 19A, 30-33,

Scheme 2

**David Givan**  
Chief Planning Officer  
PLACE  
The City of Edinburgh Council

Contact: Lynne McMenemy, Senior Planning Officer  
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## **Links - Policies**

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### **Relevant Policies:**

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

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

#### **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.

# Appendix 1

**Application for Listed Building Consent 20/05603/LBC  
At 2 - 4 Abbey Mount, Edinburgh, EH8 8EJ  
Conversion and alterations of existing tenement building to  
form two short-term let studio apartments and community  
cafe / restaurant. Demolition works/alterations of un-listed  
rear hall building to form 9 short-term let studios  
apartments.**

## **Consultations**

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### Archaeologist

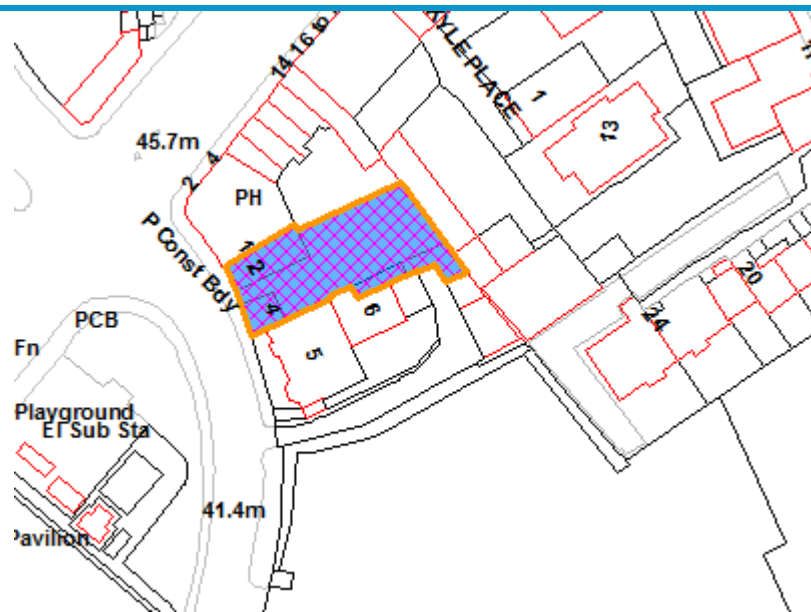
*Further to your consultation request I would like to make the following comments and recommendations concerning this linked FUL and LBC applications for the conversion & alterations of existing tenement building to form two short-term let studio apartments and community cafe / restaurant and demolition works / conversion / alterations of un-listed rear hall building to form 9 short-term let studios apartments. Proposed new external landscaping and plant / storage building.*

*Both the listed building and attached unlisted former Victorian church hall are considered to be of local archaeological and historic significance. As such a programme of archaeological historic building survey was undertaken by AOC Archaeology in 2020 in response to a condition attached to the previous consent (see 19/03185/LBC). AOC report accompanied this application.*

*Given this previous work and having assessed the potential impacts of this new revised scheme, it has been concluded that there are no archaeological implications, in regard to these new (revised) applications.*

## Location Plan

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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/02615/FUL  
at 41 Barony Street, Edinburgh, EH3 6NX.  
Change of use from a residential property to short term  
commercial visitor accommodation.**

**Item number**

**Report number**

**Wards**

B11 - City Centre

### Summary

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The change of use to SSCVA is acceptable in principle in this location and will not harm the special interest of the listed building or the defined character of the conservation area. It will not result in an unreasonable loss of amenity for neighbouring residential properties or raise any transport concerns. The proposal complies with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

### Links

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[Policies and guidance for this application](#)

LDPP, LHOU07, LEN04, LEN06, LEN01, LTRA02, LTRA03, HES, HESEXT, NSG, NSBUS, NSLBCA, OTH, CRPNEW,

# Report

## **Application for Planning Permission 21/02615/FUL at 41 Barony Street, Edinburgh, EH3 6NX. Change of use from a residential property to short term commercial visitor accommodation.**

### **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 property is a ground floor main door flat in a four storey stone tenement in the New Town. It has a sitting room, two bedrooms and two bathrooms.

The surrounding area is predominantly residential although there are other uses nearby. Next to the application site is Broughton Market which houses commercial, businesses and industrial units.

The application property is a category C listed building (date of listing 31 March 1999; ref LB46116).

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

#### **2.2 Site History**

30 March 2015 - listed building consent granted for minor alterations to internal layout. New structural steel to slapping's in existing walls, new services throughout, new finishes (application number 15/00720/LBC).

### **Main report**

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#### **3.1 Description Of The Proposal**

The application seeks permission for a change of use from residential flat to a short term commercial visitor accommodation (SSCVA) i.e. short-term holiday let use.

No external or internal physical alterations are proposed.

#### Supporting information

- planning statement

This is available to view on the Planning and Building Standards Online Services.

### 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 proposal is acceptable in principle;
- b) the development has special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest;
- c) the development preserves or enhances the special character or appearance of the conservation area;
- d) the development affects the Outstanding Universal Value of the Edinburgh World Heritage Site;
- e) the development raises any issues in respect of car and cycle parking and road safety;
- f) there are any other material considerations and
- g) comments raised have been addressed.

#### a) Principle of Proposal

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted. There are no policies relating specifically to the control of short stay commercial visitor accommodation (SSCVA) in the current LDP. Hou 7 only focuses on neighbouring amenity and not the loss of housing and the impact this may have on the wider community.

There is currently no policy relating to the loss of housing in the LDP and so the loss of community. The application must be assessed against existing policies. The impact on neighbouring amenity is considered below.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SSCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The guidance states that a change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs.

In connection to short stay lets it states - *"The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest"*.

There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SSCVA properties, the economic benefits are a material planning consideration.

The change of use from a domestic residential flat to a short stay commercial visitor accommodation with a maximum of four persons would be no greater than what the existing residential flat could currently accommodate.

The property has its own private access to the front. Although located in a mainly residential street, the property is next to a small concentration of commercial and business uses at Broughton Market and local residents will be used to some degree of noise and disturbance from the uses such as vehicles/traffic.

In addition, there are no policies which limit the number of short stay lets in a particular area so the assessment can only be based on the potential impact on residential amenity. The cumulative impact may be significant but there have been no other applications for short terms lets in Barony Street.

The property is self-contained and there is no rear access. Any visitors/guests staying in the flat would, therefore, not come into contact with residents in the communal areas of the tenement such as the stair or garden. As a two bedroom flat, the application property can accommodate four residents and the proposed change of use to a SSCVA will also accommodate four visitors/guests. Therefore, there will be no increase in the numbers of people who can be accommodated in the flat.

The small size of the flat (two- bedroom) and the curtilage means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti-social behaviour are a matter for the police and not a planning matter. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity.

Those renting out the flat may be more likely to use local facilities such as cafes and restaurants more frequently than long term residents but there are kitchen facilities available and any differences would be unlikely to have any adverse impacts.

Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal.

Based on the criteria established above, the proposal complies with LDP policy Hou 7 and is acceptable in principle.

#### 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 :set out the principles for alterations to listed buildings including physical alterations and change of use.

LDP Policy Env 4, Listed Buildings - Alterations and Extensions, permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.

There are no external or internal alterations proposed. The Planning Statement advises that visitors/guest would be met at the property and there is no reference to the installation of a key lock box in the Planning Statement nor shown on the drawings. Listed Building Consent would be required to install a key lock box on the listed building.

Based on the information submitted at this stage, the change of use will not have a material impact on the special interest of the listed building.

The proposal complies with LDP Policy Env 4 and Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997.

#### 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."*

LDP Policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted if it preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The New Town Conservation Area Character Appraisal also notes that *"The New Town Conservation Area represents a planned urban concept of European significance with an overriding character of Georgian formality. Stone built terrace houses and tenements, built to the highest standards, overlook communal private gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves."*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a two-bedroom domestic flat to a short-term holiday let (SSCVA) will not have any material impact on the character of the conservation area as it contributes to the mix of uses in this area. The change of use would not impact on the intrinsic character of the conservation area.

The proposal complies with LDP Policy Env 6.

#### d) World Heritage Site

LDP Policy Env 1 states development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted.

The inscription reasons are set out in the Edinburgh World Heritage Site Management Plan as follows:

The Old and New Towns of Edinburgh World Heritage Site (WHS) met two criteria -

Criterion (ii) - Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts, or town planning and landscape design. The successive planned extensions of the New Town, and the high quality of its architecture, set standards for Scotland and beyond, and exerted a major influence on the development of urban architecture and town planning throughout Europe, in the 18th and 19th centuries.

Criterion (iv) - Be an outstanding example of a type of building or architectural ensemble or landscape which illustrates (a) significant stage(s) in human history.

The proposed change of use to the ground floor as short stay visitor accommodation does not affect the reasons for the inscription and therefore meets policy Env 1. In addition, the Management Plan notes the importance of the value of the WHS to tourism industry and business community and stresses the importance of sustainable tourism. The proposal will not have a detrimental impact on the Outstanding Universal Value of the World Heritage Site - Northern New Town.

The proposal complies with LDP Policy Env 1.

e) Parking and Road Safety

LDP Policy Tra 2 (Private Car Parking) and LDP Policy Tra 3 (Private Cycle Parking) state that planning permission will be granted for development where proposed car and cycle parking provision complies with and does not exceed the parking levels set out in the Non-statutory Edinburgh Design Guidance.

The guidance does not define car or cycle parking standards for a SSCVA. There is no car or cycle parking provision and the proposal does not include additional parking. The application property is in a traditional tenement street where there is no scope to provide a parking space for the proposal. As the maximum number of visitors/guests would be no greater than what the existing residential flat can currently accommodate, it is unlikely that there would be an increase in demand for parking beyond what already exists. There are no road safety issues. It is likely visitors would come by public transport.

The proposal complies with LDP Policy Tra 2 and LDP Policy Tra 3.

f) Other material considerations

*Equalities and human rights*

Mental Health impacts have been raised in the public comments. The comment quotes from MIND - "If wherever you're living feels unsafe, uncomfortable or insecure, you might constantly feel stressed, anxious, panicked or depressed."

The comment is not a specific comment nor details or explains how the proposal will impact on these feelings. Visitors/guests to the proposed SSCVA will not have access to the communal stair or communal garden of the tenement. Access to the property is via the main door directly from the street and as the street is a public street, planning cannot control who is walking on the street nor who is leasing the property.

In this context, it is not expected that there will be impacts on equalities or on human rights caused by the proposal.

### *Waste*

The applicant/operator of the SSCVA is responsible for ensuring that an appropriate waste strategy is in place and an informative is recommended should permission be granted.

### g) Public Comments

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

- loss of residential - residential lets being given to tourist lets. Addressed in 3.3a).
- the development is contrary to Scottish Planning Policy on "socially sustainable places" - addressed in 3.3 a)
- listed building - key lock box. Addressed in 3.3b).
- impact on residential amenity - noise; antisocial behaviour; nuisance and annoyance; social and physical detriment; number and timing of arrivals and departures; insecurity; loss of community. Addressed in section 3.3a) and 3.3f)
- over provision of tourist accommodation in the area. Addressed in section 3.3a);
- parking. Addressed in 3.3e).
- -equalities and human rights. Addressed in 3.3f).

#### **Non-Material Comments:**

- mix of local house types and size; need for local housing and affordable housing; contrary to Policy Hou 2 - the relevant policy for the application development type is Hou 7 (Inappropriate Uses in Residential Areas) and policy Hou 2 (Housing Mix) is not the relevant policy.
- Scottish Government Housing Policy - there are currently no policies on loss of residential use and housing shortages are addressed in housing allocations in the Development Plan.
- security/fire - not a material planning consideration.
- blocking private access - not a material planning consideration. Police Scotland have powers to deal with obstruction of public roads and accesses.
- -maintenance - not a material planning consideration.

### Conclusion

The change of use to SSCVA is acceptable in principle in this location and will not harm the special interest of the listed building or the defined character of the conservation area. It will not result in an unreasonable loss of amenity for neighbouring residential properties or raise any transport concerns.



The proposal complies with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

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

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

#### **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.
4. This consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.
5. This application relates to a flatted building. This planning permission does not affect the legal rights of any other parties with an interest in the building. In that respect, the permission does not confer the right to carry out the works without appropriate authority.
6. Private waste management arrangements should be put in place for this commercial use.
7. It is understood that this would be a conversion (from domestic to non-domestic) in relation to the Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004 and will therefore require a building warrant. Details of how to apply for a Building Warrant can be found at:  
<https://www.edinburgh.gov.uk/building-warrants/apply-building-warrant>

### **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:**

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

## **Sustainability impact**

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

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

## **Consultation and engagement**

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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**

The application was advertised on 28 May 2021 and 16 objection comments have been received, including from the Cockburn Association.

## **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**

Local Development Plan - conservation area, World Heritage Site.

**Date registered**

12 May 2021

**Drawing numbers/Scheme**

01-02.,

Scheme 1

**David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

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**Links - Policies**

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**Relevant Policies:****Relevant policies of the Local Development Plan.**

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

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

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

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

Managing Change in the Historic Environment: Extensions sets out Government guidance on the principles that apply to extending listed buildings.

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

**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.

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

### **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 Planning Permission 21/02615/FUL  
At 41 Barony Street, Edinburgh, EH3 6NX  
Change of use from a residential property to short term  
commercial visitor accommodation.**

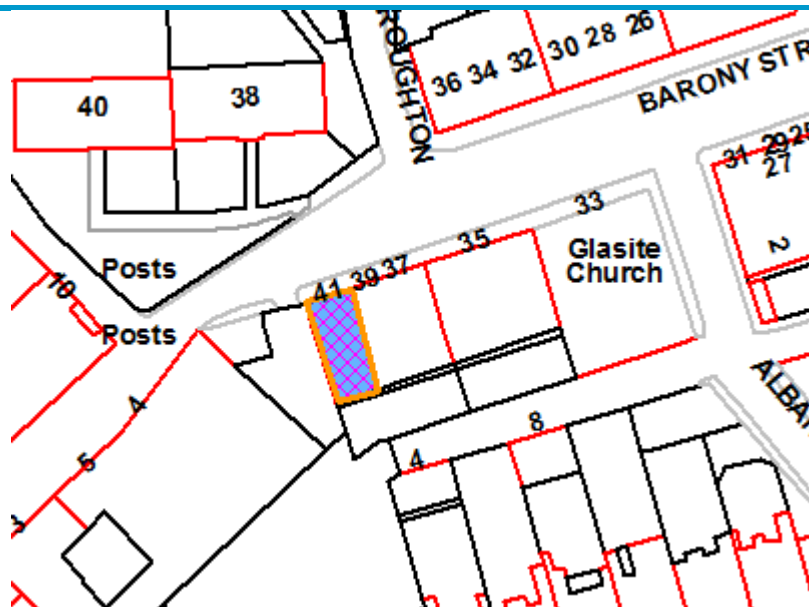
## Consultations

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No consultations undertaken.

## Location Plan

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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/03418/FUL  
at Castle Terrace Car Park, 38 Castle Terrace, Edinburgh.  
Erection of temporary stage and raised seating area.**

**Item number**

**Report number**

**Wards**

B11 - City Centre

### Summary

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The proposed temporary nature of the development is considered to be acceptable in this location. The scheme has been designed to respond to the COVID Emergency whilst still supporting the delivery of an Edinburgh Fringe Programme for 2021. The proposal complies with the Edinburgh Local Development Plan. There are no material considerations that outweigh this conclusion.

### Links

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[Policies and guidance for this application](#)

HES, HESSET, LDPP, LEN01, LEN03, LEN04, LEN06, LRET07, LDES05,

# Report

## **Application for Planning Permission 21/03418/FUL at Castle Terrace Car Park, 38 Castle Terrace, Edinburgh. Erection of temporary stage and raised seating area.**

### **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 is the upper deck of the Castle Terrace car park which is a large, open-deck, modern multi-storey car park, combining traditional materials with a functional exposed concrete form. The car park was listed as category B on 22 October 2019 (reference 52510). The nearby buildings of 25 Castle Terrace are Category A listed (ref 47857, dated 14 December 1970).

The site is open with limited existing structures and a backdrop of Edinburgh Castle Rock. Buildings on the south side of Castle Terrace face towards the application site. One is the frontage for a large office building. The other section of Castle Terrace contains residential properties.

The site is located within the World Heritage Site.

This application site is located within the West End Conservation Area.

#### **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**

Planning permission is sought for the temporary erection of a stage and seating area to support the use of the southern upper section of Castle Terrace Car Park as an outdoor Festival Hub.

The structures proposed include an event stage, outdoor bubble seating, food and drink concessions and public toilets.

The capacity of the venue will be dependent on any social distancing requirements - at 2m physical distancing the maximum show capacity will be 136 people. At a 1.5m physical distancing the maximum capacity will be 172 people, all positioned within seating bubbles.



The hub is proposed to be operational from Thursday 5 August 2021 until Sunday 29 August 2021. Events will take place daily with the following schedule:

Monday to Sunday - 10:00 until 23:00 - up to 6 ticketed shows per day.

### **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 proposals preserve the character and setting of the listed buildings and the character and appearance of the conservation area and have an impact on the reasons for inscription of the world heritage site;
- b) the principle of the development is acceptable;
- c) there is any adverse impact on residential amenity and road safety and
- d) representations raise issues to be addressed.

#### **a) Impact on Historic Environment**

## **Listed Buildings:**

Section 59 of the Planning (Listed Buildings 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."

Policy Env 3 Listed Buildings - Setting states: "Development within the curtilage or affecting the setting of a 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 Building - Alterations and Extensions seeks to ensure that any substantial alterations to a listed building should preserve the special architectural or historic interest it possesses.

Historic Environment Scotland's Managing Change guidance on Setting gives guidance on when proposals impact the setting of listed buildings.

Given the transient nature of the installation, and that there are no physical alterations to the listed car park, the proposals preserve the character and setting of the listed building and the features which make it special. In addition, the small scale and transient nature of the proposals ensure that there is no impact on the setting of Edinburgh Castle. Historic Environment Scotland has offered no comments in objection to the proposals.

The proposals comply with policies Env 3 and 4 and Managing Change guidance.

## **Conservation Area:**

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 which 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."

LDP Policy Env 6 (Conservation Areas - Development) supports development within a conservation area or affecting its setting which preserves or enhances the special character and appearance of the conservation area and is consistent with the relevant character appraisal, preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The temporary nature of the structure is a material factor in the assessment of any impact on the character or appearance of the conservation area. The structure will be set within the context of the large area of open car park and will not impact on the skyline. The proposals preserve the character and appearance the West End Conservation Area in compliance with policy Env 6.

## **World Heritage Site:**

Policy Env 1 World Heritage Sites states: "Development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted."

The inscription reasons are set out in the Edinburgh World Heritage Site Management Plan as follows:

The Old and New Towns of Edinburgh World Heritage Site (WHS) met two criteria -

Criterion (ii) - Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts, or town planning and landscape design. The successive planned extensions of the New Town, and the high quality of its architecture, set standards for Scotland and beyond, and exerted a major influence on the development of urban architecture and town planning throughout Europe, in the 18th and 19th centuries.

Criterion (iv) - Be an outstanding example of a type of building or architectural ensemble or landscape which illustrates (a) significant stage(s) in human history.

The proposal is located within the western edge of the World Heritage Site. The proposals will not have an impact on the outstanding universal value and the reasons for inscription in compliance with policy Env 1.

### **b) Principle of Development**

Class 15 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) sets out that the following is permitted development:

"The use of land (other than a building or land within the curtilage of a building) for any purpose, except as a caravan site, on not more than 28 days in total in any calendar year, and the erection or placing of moveable structures on the land for the purposes of that use."

The Planning Committee considered a report on the 19 May 2021 which set out the Planning response to Festival Installations as part of a post COVID recovery plan for 2021. The report highlighted the Scottish Government's Chief Planner's letter of March 2021 which encouraged a more relaxed approach to planning enforcement to allow business to diversify and continue to operate during the pandemic. The report also outlined the scenarios where a planning application would be sought to allow further scrutiny of the proposals. This included where a public green space would be used, there is no history of festival uses on the site and proximity to residential properties.

The proposed installation on the Castle Terrace Car Park would extend beyond 28 days and, because it is located in proximity to residential premises, an application for planning permission has been sought.

Policy Ret 7 Entertainment and Leisure Developments - Preferred Locations states:

Planning permission will be granted for high quality, well designed arts, leisure and entertainment facilities and visitor attractions in the City Centre, at Leith and Granton Waterfront and in a town centre, provided:

- a) The proposal can be integrated satisfactorily into its surroundings with attractive frontages to a high quality of design that safeguards existing character;
- b) The proposal is compatible with surrounding uses and will not lead to a significant increase in noise, disturbance and on- street activity at unsocial hours to the detriment of living conditions for nearby residents;
- c) The development will be easily accessible by public transport, foot and cycle.

The site is located within the city centre as defined in the Local Development Plan. The principle of leisure and entertainment provision is generally accepted within this area. Given the temporary nature of the installation, the positioning of the structure ensures it integrates adequately into its surroundings. Criteria b) and c) are considered below.

The principle of the use of the site at the Castle Terrace Car Park is acceptable given the temporary nature of the proposal is supported in this location.

#### c) Residential Amenity and Road Safety

##### **Residential Amenity**

LDP Policy Des 5 seeks to ensure that the amenity of neighbouring residents is not adversely affected by development.

The nearest residential properties are located approximately 25 metres from the edge of the site boundary and 45 metres from the proposed stage. Environmental Protection has commented on the proposals and have expressed some concern over potential noise impact from the development but recognise that the venue is a direct response to the pandemic to allow some fringe activity due to COVID restrictions. It is the opinion of Environmental Protection that any noise controls would be appropriately addressed through the licensing requirements for the proposals.

This view is supported by the Planning Authority and the licensing process will also cover the hours of operation.

##### **Road Safety**

The proposal is located within a central location. The site is within close proximity to Lothian Road which is very well serviced by bus routes. The site is also within easy walking distance of Princes Street and buses and the tram. The site is considered to be in an accessible location. The Roads Authority has offered no objection to the proposals.

#### d) Public comments

##### **Material comments - objections:**

- impact on residential amenity/ noise - addressed in part c) above

**Material comments - support:**

- Dispersal of fringe venues across the city welcomed
- Consent should be restricted to 2021

**Non- Material comments**

- Pop-up food and drink has an impact on existing business - competition between businesses is not a material planning consideration.

**Conclusion**

The proposed temporary nature of the development is considered to be acceptable in this location. The scheme has been designed to respond to the COVID Emergency whilst still supporting the delivery of a Fringe Programme for 2021. The proposal complies with the Edinburgh Local Development Plan. There are no material considerations that outweigh this conclusion.

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

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

1. The development hereby granted shall only be operational during 5 August to 28 August 2021 inclusive and all structures shall be removed from the site by 5 September 2021.

**Reasons:-**

1. In recognition of the temporary nature of the proposals.

## **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 development will have to make provision for people with disabilities. This will be assessed through the building warrant process to ensure it meets building regulations in this regard.

## **Sustainability impact**

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

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

## **Consultation and engagement**

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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**

The application was advertised and a total of 4 objection comments were received and a partial support comment from the Cockburn Association.

## **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**

The site is located within the urban area.

**Date registered**

28 June 2021

**Drawing numbers/Scheme**

1-3,

Scheme 1

**David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Elaine Campbell, Team manager

E-mail: [elaine.campbell@edinburgh.gov.uk](mailto:elaine.campbell@edinburgh.gov.uk)

**Links - Policies**

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**Relevant Policies:**

**Relevant Government Guidance on Historic Environment.**

Managing Change in the Historic Environment: Setting sets out Government guidance on the principles that apply to developments affecting the setting of historic assets or places.

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

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

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 Ret 7 (Entertainment and Leisure Developments - Preferred Locations) identifies the City Centre, at Leith and Granton Waterfront and town centres as the preferred locations for entertainment and leisure developments.

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



# Appendix 1

## **Application for Planning Permission 21/03418/FUL At Castle Terrace Car Park, 38 Castle Terrace, Edinburgh Erection of temporary stage and raised seating area.**

### **Consultations**

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#### **Environmental Protection**

*Environmental Protection has no objections to this application.*

*This site is a public car park with the top floor being open air and at ground level on Castle Terrace. It has no previous history of being used as an entertainment or festival venue.*

*Due to the proximity of noise-sensitive receptors and the openness of the site, we have some significant concerns regarding noise negatively impacting on the amenity of neighbours.*

*We recognise that this proposal is a response to the current Covid-19 pandemic. Due to the pandemic there are restrictions as to the audience capacity and other operational restrictions which may make the site smaller, and noise levels lower, than if the site had been proposed in other years.*

*Ordinarily we would look for a Noise Impact Assessment to determine the appropriateness of this site, however given the unique circumstances this year we feel it is more appropriate to control noise via the Licensing system only.*

*Therefore, Environmental Protection has no objection to the application.*

#### **Roads Authority**

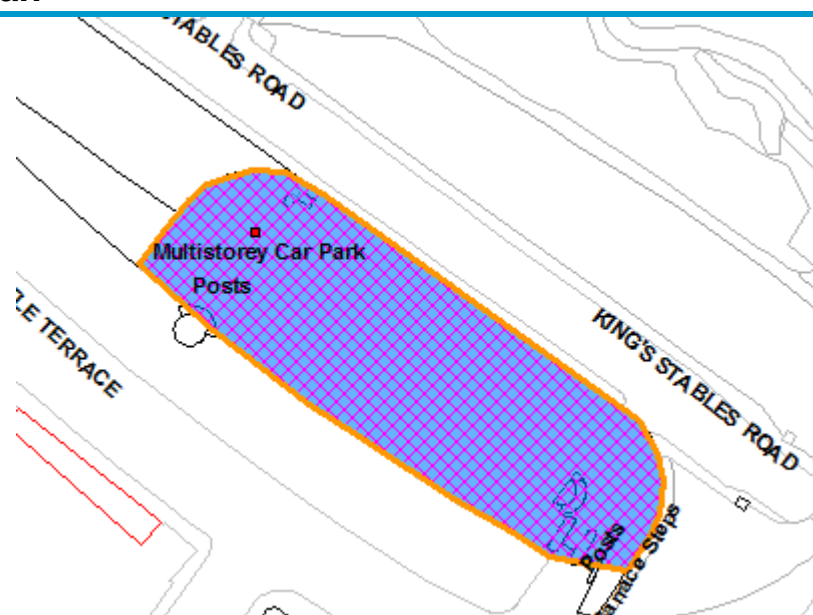
*No objection to the proposals.*

#### **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 development affecting the historic environment, together with related policy guidance.*

## Location Plan

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**END**

## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/00674/FUL  
at 4 Clifton Road, Newbridge, EH28 8LQ.  
Replacement dwelling house**

**Item number**

**Report number**

**Wards**

B02 - Pentland Hills

### Summary

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Whilst the application does not comply with LDP policy Env 10, the site is brownfield land within a cluster of dwellings. There is therefore exceptional planning reasons for approving the development. The proposal complies with all other relevant policies of the adopted LDP as well as the Guidance for Development in the Countryside and Greenbelt. It will provide a suitable residential environment for future occupiers and will not materially harm the amenity of any neighbouring dwellings.

There are no material considerations that would justify the refusal of the application.

### Links

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[Policies and guidance for this application](#)

LDPP, LDEL01, LDES01, LDES03, LDES04, LDES05, LEN09, LEN10, LEN12, LEN16, LEN21, LHOU01, LHOU02, LHOU03, LHOU04, LTRA02, LTRA03, LTRA04, NSG, NSGCGB, NSGD02,

# Report

## **Application for Planning Permission 21/00674/FUL at 4 Clifton Road, Newbridge, EH28 8LQ. Replacement dwelling house**

### **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 site extends to 0.24 acres and is located within the designated countryside.

The site currently comprises a single storey semi-detached cottage and garden grounds and the remains of an adjoining semi-detached cottage and garden ground which was destroyed by a fire. The defined curtilage of the burnt down cottage is, however, still intact.

The existing site is bounded by a stone dyke along the southern and eastern boundaries. The site is bounded along the northern and western boundaries by a hedge. An existing access track to the field behind the site is located adjacent to the southern boundary, with a group of residential buildings beyond. Clifton Road runs along the eastern boundary of the site. Agricultural fields bound the site to the north and west.

The site is located to the south west of the village of Newbridge (approximately 2km from the site) and to the south of the M8 Motorway (approximately 300m from the site). Clifton Hall School is located to the west of the site.

The site is accessed directly from Clifton Road, which connects to the B7030 (Cliftonhall Road) to the east. There are currently two points of access into the site from Clifton Road.

#### **2.2 Site History**

6 November 2015 - Application for planning permission to redevelop a pair of semi-detached cottages was withdrawn (Application number: 14/01988/FUL).

## **Main report**

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

The application is for planning permission for the erection of a replacement dwelling house.

The proposal is to replace both the burned-out remains of the southern cottage and existing cottage with one single dwelling house. The replacement dwelling house will be built on the same approximate footprint as the pair of semi-detached cottages (pre-fire).

The proposed replacement dwelling house is a single storey cottage with a detached double garage. It will be designed as a traditional countryside cottage, with a pitched roof which replicates the scale and proportions of the existing dwelling house (to be replaced) on site.

The replacement dwelling house will be built using traditional materials. The roof will be natural slate. The external walls will be finished in light dry dash render. The proposed windows will consist of a stone base course, window jambs, cills and lintols. Timber cladding will also be located on the external wall of the dining room bay and the entrance porch.

### **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;
- b) The proposed scale, form and design are acceptable;
- c) The proposal will provide a suitable residential environment;
- d) The proposal will have a detrimental impact on the amenity of neighbouring residents;
- e) The proposal will have any impact in terms of trees or protected species;
- f) The proposal raises any concerns in respect of sustainability, parking or road safety;

- g) The proposal raises any concerns in respect of flood prevention;
- h) There are any other material matters;
- i) All public comments received have been addressed.

#### a) Principle of Development

The site is designated as being located within the Countryside in the adopted Edinburgh Local Development Plan (LDP).

LDP Policy Env 10 (Development in the Greenbelt and Countryside), states that within the Greenbelt and Countryside shown in the proposals map, development will only be permitted where it meets certain criteria and would not detract from the landscape quality and/or rural character of the area. Criteria (a) to (c) do not apply in this case.

Criterion (d) states the development should be *for the replacement of an existing building with a new building in the same use provided:*

- 1) *the existing building is not listed or of architectural merit;*
- 2) *the existing building is of poor quality design and structural condition;*
- 3) *the existing building is of domestic scale, has a lawful use and is not a temporary structure and*
- 4) *the new building is of a similar or smaller size to the existing one, lies within the curtilage of the existing building and is of high quality design.*

The existing building on the site is not listed or of architectural merit. The condition of the remaining building has been compromised since the adjoining property burned down. It is of domestic scale, has a lawful use and is not a temporary building.

It is acknowledged that the proposed building shall be larger than the single building that still exists and therefore it does not comply with criterion (d) of LDP policy Env 10. However, it is noted that the proposal will have a very similar footprint to the buildings originally on the site and it will be a high quality design.

The Edinburgh Guidance for Development in the Countryside and Greenbelt states that *New houses not associated with countryside use will not be acceptable unless there are exceptional planning reasons for approving them. These reasons include the reuse of brownfield land within existing clusters of dwellings.*

The site is clearly brownfield land and it will be located within the existing cluster of dwellings. It will enhance the rural character and landscape quality of the countryside by removing a derelict structure. There are therefore exceptional planning reasons for approving the development contrary to policy Env 10. The proposal complies with the Edinburgh Guidance for Development in the Countryside and Greenbelt.

## b) Scale, Form and Design

LDP policy Des 1 (Design Quality and Context) states that *planning permission will be granted for development where it is demonstrated that the proposal will create or contribute towards a sense of place. Design should be based on an overall design concept that draws upon positive characteristics of the surrounding area. Planning permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area around it, particularly where this has special importance.*

LDP policy Des 3 (Development Design- Incorporating and Enhancing Existing and Potential Features) states that *Planning permission will be granted for development where it is demonstrated that existing characteristics and features worthy of retention on the site and in the surrounding area, have been identified, incorporated and enhanced through its design.*

Paragraph 153 of the LDP states *The incorporation of existing features including built structures, archaeology, trees and woodland, landscape character, views and biodiversity can enhance a developments sense of place and contribution to the wider habitat and green network.*

Policy Des 4 (Development Design- Impact on Setting) states that planning permission will be granted for development where it is demonstrated that it will have a positive impact on its surroundings, including the character of the wider townscape and landscape, and impact upon views having regard to

- (a) height and form,
- (b) scale and proportions, including the spaces between buildings
- (c) positioning of buildings and other features on the site
- (d) materials and detailing

Policy Hou 4 (Housing Density) states that the Council will seek an appropriate density of development on each site having regard to its characteristics and those of the surrounding area.

Paragraph 183 of the LDP states *The key test for all proposals in the green belt and countryside areas will be to ensure that the development does not detract from the landscape quality and/or rural character of the area.*

The Edinburgh Guidance for Development in the Countryside and Greenbelt states that *proposed dwellings will not detract from the open, rural character of the green belt or countryside and will not increase activity to a level that would detract from the rural character of the green belt or countryside in terms of traffic or amenity*

The proposal is single storey and of traditional design, scale and form, similar to that of the two buildings that were previously on the site and broadly similar to the directly neighbouring property. Overall, the proposal will help create and contribute towards a sense of place and will not harm the rural character or appearance of the surrounding area.

It is noted that a detached garage is also proposed to the rear of the site. Many of the other nearby properties also have detached garages. The proposed garage will have a pitched roof and will be finished in appropriate materials.

The proposal complies with LDP policy Des 1, Des 3, Des 4, Hou 4, the Edinburgh Design Guidance and the Edinburgh Guidance for Development in the Countryside and Greenbelt.

#### c) Residential Environment for future occupants

LDP policy Des 5 (Development Design-Amenity) states that planning permission will be granted for development where future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

The Edinburgh Design Guidance also seeks to address the criteria of an acceptable level of amenity for future occupiers of the development.

The proposed dwelling will have large windows to its front, rear and side elevations. It will provide adequate levels of sunlight/daylight for any future occupiers and will also provide adequate internal floor space. It would have to comply with the building regulations in terms of adaptability and sustainability and it meets the other criteria of Des 5.

The proposal complies with LDP policy Des 5 and the Edinburgh Design Guidance.

LDP policy Hou 3 (Private Green Space in Housing Development) states that planning permission will be granted for development that makes adequate provision for green space to meet the requirements of future residents.

The proposed property will have good sized garden grounds.

The proposal complies with LDP policy Hou 3.

#### d) Neighbouring amenity

LDP policy Des 5 states that planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments will not be adversely affected.

The proposed property is positioned a suitable distance away from other dwellings in order to ensure that there are no concerns in relation to its potential impact on neighbouring properties in terms of noise, sunlight, privacy and immediate outlook.

The proposal complies with LDP policy Des 5.



#### e) Impact on Protected species and Trees

##### *Trees*

LDP policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact on a tree protected by a tree preservation order or any other tree or woodland worthy of retention.

There were previously two large trees within the site. However, these have already been removed due to issues with them intruding onto overhead wires. No trees will be removed or harmed as part of the application.

The proposal complies with LDP policy Env 12.

##### *Ecology*

LDP policy Env 16 (Species Protection) states that planning permission will not be granted for development that would have an adverse impact on species protected under European or UK law.

An ecological survey of the site was carried out. It states that the proposal will have no impact upon protected species. The Council's Ecologist raised no concerns in this regard.

The proposal complies with LDP policy Env 16.

#### f) Parking and Road Safety

LDP Policies Tra 2 - (Private Car Parking) and Tra 3 - (Private Cycle Parking) state permission will be granted for development where proposed car parking provision complies with and does not exceed the parking levels and cycle parking and storage complies with the standards.

The Roads Authority was consulted as part of the assessment of the application. It raised no objections to the development.

Secure cycle parking can be adequately provided within either the house or within the proposed garage.

The proposal complies with LDP policy Tra 2 and Tra 3.

#### g) Flooding

LDP Policy Env 21 (Flood Protection) states that planning permission will not be granted for development that would increase a flood risk or be at risk of flooding itself.

The SEPA flood maps indicate that the area surrounding the Union Canal is of high risk of surface water flooding. The applicant has provided a Surface Water Management Plan and Flood Risk Assessment. Flood Planning was consulted as part of the assessment of the application and raised no concerns after assessing the information provided.

The proposal complies with LDP policy Env 21.

#### h) Other material matters

##### *Archaeology*

LDP policy Env 9 (Development of sites of Archaeological Significance) is to protect and enhance archaeological remains where possible.

The Council's archaeologist has confirmed that he has no objections to the proposal

The proposal complies with LDP policy Env 9.

##### *Airport Safety*

Due to the proximity of the site to the airport, Edinburgh Airport Safeguarding was consulted. It confirmed that the proposed development has been fully examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria. A recommended informative relating to the use of cranes has been attached.

#### i) Representations raised

None.

#### Conclusion

Whilst the application does not comply with LDP policy Env 10, the site is brownfield land within a cluster of dwellings. There is therefore exceptional planning reasons for approving the development. The proposal complies with all other relevant policies of the adopted LDP as well as the Guidance for Development in the Countryside and Greenbelt. It will provide a suitable residential environment for future occupiers and will not materially harm the amenity of any neighbouring dwellings.

There are no material considerations that would justify the refusal of the application.

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

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

#### **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.
4. Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>).
5. Any wood burning stove proposed must be installed and operated in accordance with the Clean Air Act.
6. It is noted that the proposed double garage will have photo voltaic and solar panels erected on the roof. The applicant should consider linking these panels to energy storage and/or a 7KW (type2 plug socket) electric vehicle charging point.
7. An air-source heat pump/exchanger is also proposed. It should be noted that air sourced heat pumps will generate some plant noise. If possible, you may want to relocate the proposed location of the neat pump as it nearest the existing neighbours and could cause disturbance. However, overall the integration of this onsite renewable heat and energy is welcomed.
8. Space should be allowed within the plot for the housing of the below bins out with collections.

140 litre non recyclable waste bin  
240 litre recycling waste bin  
44 litre box for glass collections  
25 litre food waste kerbside box

The Architect should inform the developer / builder to contact Waste Services directly 12 weeks prior to residents moving in to arrange for the purchase and delivery of the bins and to add these to the systems for collection.

## **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**

No representations have been received.

## **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** 22 February 2021

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

Scheme 1

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

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

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

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

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

LDP Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

LDP Policy Env 10 (Development in the Green Belt and Countryside) identifies the types of development that will be permitted in the Green Belt and Countryside.

LDP Policy Env 12 (Trees) sets out tree protection requirements for new development.

LDP Policy Env 16 (Species Protection) sets out species protection requirements for new development.

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

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

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

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

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

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

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

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

## **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** DEVELOPMENT IN THE COUNTRYSIDE AND GREEN BELT, provide guidance on development in the Green Belt and Countryside in support of relevant local plan policies.

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

# Appendix 1

## **Application for Planning Permission 21/00674/FUL At 4 Clifton Road, Newbridge, EH28 8LQ Replacement dwelling house**

### **Consultations**

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#### **Edinburgh Airport**

*The proposed development has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria. We therefore have no objection to this proposal, however have made the following observation:*

#### *Cranes*

*Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>).*

*It is important that any conditions requested in this response are applied to a planning approval. Where a Planning Authority proposes to grant permission against the advice of Edinburgh Airport, or not to attach conditions which Edinburgh Airport has advised, it shall notify Edinburgh Airport, and the Civil Aviation Authority and the Scottish Ministers as specified in the Safeguarding of Aerodromes Direction 2003.*

#### **Archaeology**

*The application area comprises the site of formally two 20th century semi-detached cottages, the southern one of which has been demolished by fire recently. Historic mapping shows that the cottages were constructed on farmland adjacent to the small group of 19th century cottages of Nellfield constructed either side of the bridge carrying Clifton Road over the Union Canal.*

*Although within an area of archaeological potential, given the construction and demolition history of this site it is considered that it is unlikely that significant insitu archaeological remains will be impacted upon by this development. Therefore, I have concluded there are no known archaeological implications regarding this application.*

#### **Environmental Protection**

*The applicant proposed replacing an existing damaged residential property with a new build residential building. Environmental Protection have provided advice for a similar proposal on this site previously. The comments made then are still valid. The advice*

*was given that if a wood burning stove was being proposed that it must be installed and operated in accordance with the Clean Air Act.*

*It is noted that the proposed double garage will have photo voltaic and solar panels erected on the roof. The applicant should consider linking these panels to energy storage and/or a 7KW (type2 plug socket) electric vehicle charging point. An air-source heat pump/exchanger is also proposed. It should be noted that air sourced heat pumps will generate some plant noise. If possible, you may want to relocate the proposed location of the neat pump as it nearest the existing neighbours and could cause disturbance. However, overall the integration of this onsite renewable heat and energy is welcomed.*

*Therefore, Environmental Protection offer no objection.*

### **Historic Enviroment Scotland**

*Thank you for your consultation which we received on 23 February 2021. We have assessed it for our historic environment interests and consider that the proposals have the potential to affect the following:*

*Ref Name Designation Type*

*SM11097 Union Canal, Fountainbridge to River Almond Scheduled Monument*

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

### **Our Advice**

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

### **Roads Authority**

*No objections to the application.*

*Note on car parking provision: The applicant has indicated two car parking spaces, in the form of a double garage. Whilst this is above the maximum stated in the parking guidelines (maximum of one car parking space per dwelling), transport do not offer any objections to this proposal given the location of the development.*

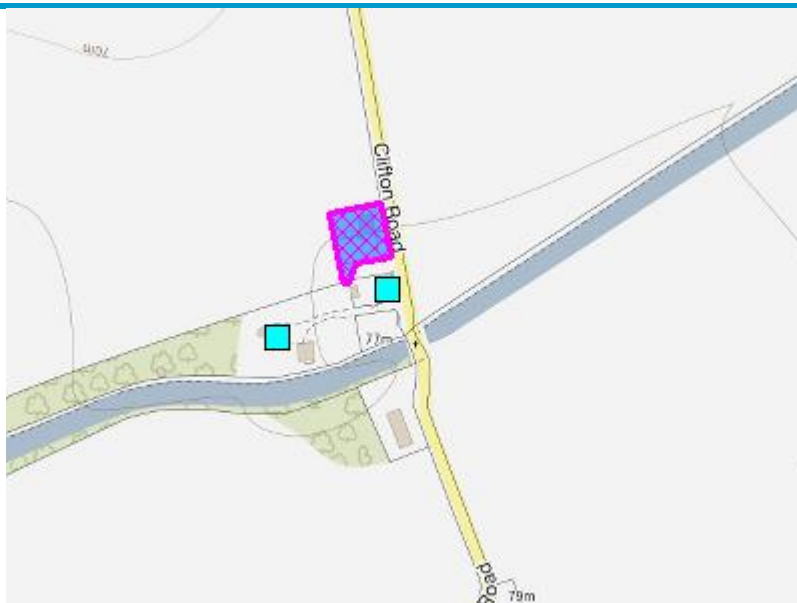
### **Flood Planning**

*Thank you for forwarding the additional information. This satisfies our previous comments. This application can proceed to determination, with no further comments from Flood Prevention.*



## Location Plan

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**END**

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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/03380/FUL  
at George Square Gardens, 62 George Square, Edinburgh  
The installation of 2x temporary venues and ancillary  
activities as part of Edinburgh Festival Fringe.**

**Item number**

**Report number**

**Wards**

B15 - Southside/Newington

### Summary

---

The proposed temporary nature of the development is considered to be acceptable in this location. The scheme has been designed to respond to the COVID Emergency whilst still supporting the delivery of a Fringe Programme for 2021. The proposal complies with the Edinburgh Local Development Plan. There are no material considerations that outweigh this conclusion.

### Links

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[Policies and guidance for this application](#)

LEN01, LEN03, LEN06, LEN18, LEN12, LRET07, LDES05, HES, HESSET, NSG, CRPSSI, LPC,

# Report

## **Application for Planning Permission 21/03380/FUL at George Square Gardens, 62 George Square, Edinburgh The installation of 2x temporary venues and ancillary activities as part of Edinburgh Festival Fringe.**

### **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 is an area of open space located at George Square. The site is privately owned and publicly accessible under agreement with the owner, Edinburgh University. The area of open space is bounded by a road on the western, northern and part eastern side with a pedestrianised route to the east and southern boundaries.

The site is within the heart of the University of Edinburgh Campus with the majority of the buildings bordering the square in the ownership of Edinburgh University.

A number of the buildings are listed with the key ones identified as:

- Edinburgh University Library - A listed - LB Ref 50191 Listed 17 January 2006
- 55 - 60 George Street - A listed - LB Ref 28824 Listed 14 December 1970
- 16 - 29 George Street - A listed - LB Ref 28810 Listed 14 December 1970

The site is outwith but adjacent to the boundary of the Old and New Towns of Edinburgh World Heritage Site.

This application site is located within the Southside Conservation Area.

#### **2.2 Site History**

There is no relevant planning history for this site.

### **Main report**

---

#### **3.1 Description Of The Proposal**

Planning permission is sought for the installation of 2 temporary performance venues and ancillary activities as part of the Edinburgh Festival Fringe. The proposals include the erection of the Spielgeltent, a separate stage and open-air seating. The venue will be supported by food and drink sales and the provision of public toilets.

The site is proposed to be operational between 22 July 2021 and 12 September 2021 and is therefore in part a retrospective application.

The proposals would support the following events:

- Edinburgh Food Festival - 22 July until 1 August 2021
- Edinburgh Fringe - until 29 August 2021
- Welcome Week for Edinburgh University Students - until 12 September 2021.

### **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 proposals preserve the character and setting of the listed buildings and the character and appearance of the conservation area and have an impact on the reasons for inscription of the world heritage site;
- b) the principle of the development is acceptable;
- c) there is any adverse impact on residential amenity and road safety and
- d) representations raise issues to be addressed.

## a) Impact on Historic Environment

### **Listed Buildings:**

Section 59 of the Planning (Listed Buildings 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."

Policy Env 3 Listed Buildings - Setting states: "Development within the curtilage or affecting the setting of a 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 Building - Alterations and Extensions seeks to ensure that any substantial alterations to a listed building should preserve the special architectural or historic interest it possesses.

Historic Environment Scotland's Managing Change guidance on Setting gives guidance on when proposals impact the setting of listed buildings.

Given the transient nature of the installation and its distance some way from the listed buildings, with the trees in between and the roadway surrounding George Square, it does not harm the setting of the nearby listed buildings. The proposals comply with policies Env 3 and 4 and Managing Change guidance.

### **Conservation Area:**

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 which 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."

LDP Policy Env 6 (Conservation Areas - Development) supports development within a conservation area or affecting its setting which preserves or enhances the special character and appearance of the conservation area and is consistent with the relevant character appraisal, preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

The temporary nature of the structure is a material factor in the assessment of any impact on the character or appearance of the conservation area. The structure will be set within the context of the larger area of open space and will not impact on the skyline. The proposals preserve the character and appearance the Southside Conservation Area in compliance with policy Env 6.

### **World Heritage Site:**

Policy Env 1 World Heritage Sites states: "Development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted."

The inscription reasons are set out in the Edinburgh World Heritage Site Management Plan as follows:

The Old and New Towns of Edinburgh World Heritage Site (WHS) met two criteria -

Criterion (ii) - Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts, or town planning and landscape design. The successive planned extensions of the New Town, and the high quality of its architecture, set standards for Scotland and beyond, and exerted a major influence on the development of urban architecture and town planning throughout Europe, in the 18th and 19th centuries.

Criterion (iv) - Be an outstanding example of a type of building or architectural ensemble or landscape which illustrates (a) significant stage(s) in human history.

The proposals lie outwith but adjacent to the boundary of the World Heritage Site. Due to the temporary nature of the proposals, it is considered that there would not be an adverse impact on the setting of the World Heritage Site. Edinburgh World Heritage was consulted and did not object to the proposals but stressed the need for Edinburgh's festivals to develop in a way that is sensitive to our historic environment, contributes to its conservation, and respects the needs of local communities and businesses.

The proposals will not have an impact on the outstanding universal value and the reasons for inscription in compliance with policy Env 1.

### **b) Principle of Development**

Class 15 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) sets out that the following is permitted development:

"The use of land (other than a building or land within the curtilage of a building) for any purpose, except as a caravan site, on not more than 28 days in total in any calendar year, and the erection or placing of moveable structures on the land for the purposes of that use."

The Planning Committee considered a report on the 19 May 2021 which considered the Planning response to Festival Installations as part of a Post COVID recovery plan for 2021. The report highlighted the Scottish Government's Chief Planner's letter of March 2021 which encouraged a more relaxed approach to planning enforcement to allow business to diversify and continue to operate during the pandemic. The report also outlined the scenarios where a planning application would be sought to allow further scrutiny of the proposals. This included where a public green space would be used, there is no history of festival uses on the site and proximity to residential properties.

The proposed installation within George Square would extend beyond 28 days and, because it is located on green space, requires an application for planning permission in accordance with the above report.

Policy Ret 7 Entertainment and Leisure Developments - Preferred Locations states:

Planning permission will be granted for high quality, well designed arts, leisure and entertainment facilities and visitor attractions in the City Centre, at Leith and Granton Waterfront and in a town centre, provided:

- a) The proposal can be integrated satisfactorily into its surroundings with attractive frontages to a high quality of design that safeguards existing character;
- b) The proposal is compatible with surrounding uses and will not lead to a significant increase in noise, disturbance and on- street activity at unsocial hours to the detriment of living conditions for nearby residents;
- c) The development will be easily accessible by public transport, foot and cycle.

The site is located within the city centre as defined in the Local Development Plan. The principle of leisure and entertainment provision is generally accepted within this area. Given the temporary nature of the installation, the positioning of the structure ensures it integrates adequately into its surroundings. Criteria b) and c) are considered below.

Policy ENV 18 Open Space Protection seeks to control the loss of open space within the city. In particular, the provision of open space for the recreational needs of the residents is an integral part of the strategy. The supporting text to the policy advises that the Council "will only support development on open space in exceptional circumstances, where the loss would not result in detriment to the overall network and to open space provision in the locality."

A balanced decision has to be taken on whether the loss of the use of the open space for a period of just over a month outweighs the recreational use of the site. The use of the site at George Square Gardens relates to an area of private open space and is not an area of public land. The proposed scheme will not extend over the full extent of the gardens. The scheme has been designed as an open air event in a direct response to the COVID pandemic. It is considered that these are exceptional times, and the Fringe requires support in delivering a programme in 2021. It is therefore considered that the temporary loss of the open space is justified in this instance for 2021.

It should also be noted that George Square Gardens has been used annually for many years as a Festival Fringe venue.



In addition, there are a number of trees within the gardens which are in close proximity to the proposed structures. The applicants have provided an additional document which outlines the tree sensitive areas and have advised of a tree exclusion zone that has been agreed with the University of Edinburgh as owners of the square.

The principle of the use of the site at the George Square Gardens is acceptable given the temporary nature of the proposal.

c) Residential Amenity and Transport

**Residential Amenity**

LDP Policy Des 5 seeks to ensure that the amenity of neighbouring residents is not adversely affected by development. There are no residential properties immediately next to the part of the site that is proposed to be developed.

**Transport Implications**

The proposal is located within a central location and no parking will be provided for the event. The site is considered to be in an accessible location with good transport links.

A number of the operational matters would be covered by any licensing/ temporary traffic orders.

d) Public comments

**Material comments - objections:**

- impact on trees and soft landscaping - addressed in section 3.3b)

**Non - Material Comments**

- privatisation of normally publicly open space - this site is within private ownership.
- structure up in advance of planning application - retrospective planning permission is included in the Planning Act

Conclusion

The proposed temporary nature of the development is considered to be acceptable in this location. The scheme has been designed to respond to the COVID Emergency whilst still supporting the delivery of a Fringe Programme for 2021. The proposal complies with the Edinburgh Local Development Plan. There are no material considerations that outweigh this conclusion.

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

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

#### **Conditions :-**

1. The development hereby granted shall only be operational from 22 July 2021 to 12 September 2021 inclusive and all structures shall be removed from the site by 15 September 2021.

#### **Reasons:-**

1. In the interest of the amenity of the area.

### **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 development will have to make provision for people with disabilities. This will be assessed through the building warrant process to ensure it meets building regulations in this regard.

### **Sustainability impact**

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

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

### **Consultation and engagement**

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

Pre-application discussions took place on this application.

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

The application was advertised on 2 July 2021. Five comments were received. Four objection comments and one provided partial support with comments.

## 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**

The site is located within the urban area.

**Date registered**

22 June 2021

**Drawing numbers/Scheme**

1 - 4,

Scheme 1

**David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Elaine Campbell, Team manager

E-mail: [elaine.campbell@edinburgh.gov.uk](mailto:elaine.campbell@edinburgh.gov.uk)

**Links - Policies**

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**Relevant Policies:**

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

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

LDP Policy Env 18 (Open Space Protection) sets criteria for assessing the loss of open space.

LDP Policy Env 12 (Trees) sets out tree protection requirements for new development.

LDP Policy Ret 7 (Entertainment and Leisure Developments - Preferred Locations) identifies the City Centre, at Leith and Granton Waterfront and town centres as the preferred locations for entertainment and leisure developments.

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

**Relevant Government Guidance on Historic Environment.**

Managing Change in the Historic Environment: Setting sets out Government guidance on the principles that apply to developments affecting the setting of historic assets or places.

**Relevant Non-Statutory Guidelines**

**The South Side Conservation Area Character Appraisal** emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

**Relevant policies of the Edinburgh City Local Plan.**

# Appendix 1

## **Application for Planning Permission 21/03380/FUL At George Square Gardens, 62 George Square, Edinburgh The installation of 2x temporary venues and ancillary activities as part of Edinburgh Festival Fringe**

### **Consultations**

---

Environment Scotland

objections to the proposal.

World Heritage

offer the following comments to the formal submission These are based on our remit with respect to impact on the Outstanding Universal Value of the World Heritage Site, and consideration should be given to wider heritage assets outside the scope of our remit.

#### **POSITION SUMMARY**

While the proposals are not without heritage impact and merit careful consideration by the council in line with relevant planning policy and legislation, we do not object to the proposals due to their location outside of the World Heritage Site, site-specific considerations and the current implications of the Covid-19 pandemic.

However, we strongly advise that moving forward Edinburgh's festivals develop in a way that is sensitive to our historic environment, contributes to its conservation, and respects the needs of local communities and businesses. We refer to the recommendations provided as part of the Winter Festivals consultation (summarised below) and look forward to further engagement on this matter.

This is particularly important given the potential for UNESCO to place Venice on the World Heritage Site 'at risk' (from loss of status) list due to their imbalance between cultural heritage and tourism.

#### **STRATEGIC FESTIVALS ADVICE**

Edinburgh's festivals are an important part of the city's rich cultural heritage, as well as being a source of pride and enjoyment for residents and visitors. The city's historic environment, including our ancient buildings and monuments, and our renowned parks and gardens, form a dramatic backdrop to the festivals, and was a key reason the city was chosen as the location for the first International Festival in 1947.

The festivals make a notable positive contribution to our historic environment. Concerts and live performances help provide uses for many buildings, which might otherwise be

considered vacant or at risk. Large numbers of visitors from diverse backgrounds and all age groups come to the city as a result of the festivals and are able to enjoy and feel a strong connection to its unique environment. The festivals also continue the long tradition of music and performance which form part of the city's intangible cultural heritage.

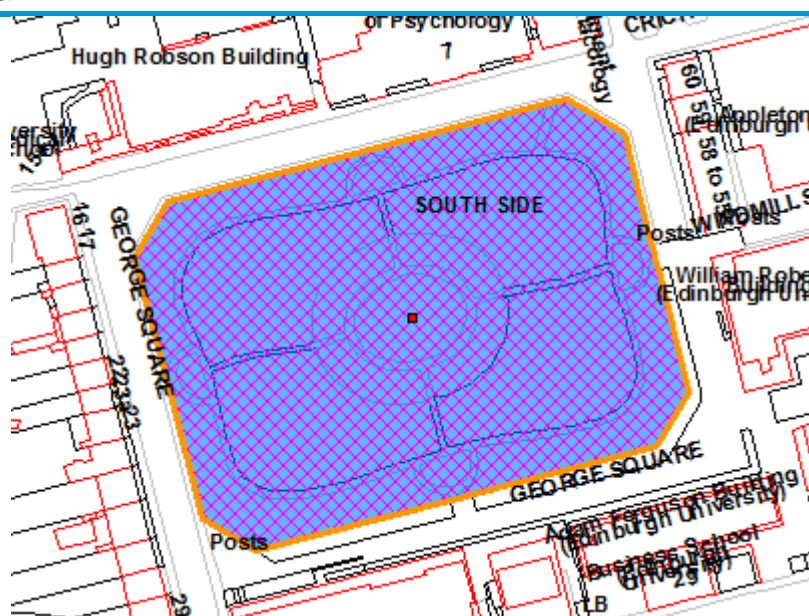
For the future, we would expect all of Edinburgh's festivals to develop in a way that is sensitive to our historic environment, contributes to its conservation, and respects the needs of local communities and businesses. As part of the Winter Festivals consultation, we have provided a series of recommendations to the City of Edinburgh Council to enable festivals to achieve a better balance and 'positive loop' with heritage and local communities moving forward. This advice applies to all festivals and can be summarised as follows:

- o We recommend that the footprint of the festivals are broadened to reduce over-concentration and impact and engage visitors with heritage in wider areas.
- o We recommend that any intervention conserves or enhances the Outstanding Universal Value of the World Heritage site, and any attributes or individual assets which contribute to it.
- o We recommend that proportionate Heritage Statements are produced at a relatively early stage to clarify the heritage values potentially affected by any proposals, identify principles for any intervention, and develop proposals to protect or enhance the identified heritage values. This should be done on an area/street basis in order to reflect the varied characteristics and values between locations.
- o We recommend that an overall or area-based mission statement/brief (or equivalent) should set out key principles or actions for how heritage values are to be conserved or enhanced - including but not limited to considerations of location, scale, style, lighting, materials, public realm interventions and management considerations. The engagement of heritage professionals throughout the development of proposals will aid in this, help mitigate any risks associated heritage designations and facilitate a balanced outcome.
- o We recommend that proposals are developed in line with relevant adopted and developing strategies, including but not limited to: the Tourism Strategy for 2030, World Heritage Site Management Plan (currently gearing up for renewal in 2022), Public Space Management Plan and area strategies. Edinburgh World Heritage has responded to these consultations, and these should be referred to as relevant.
- o We recommend that opportunities are sought to establish positive cyclical re-investment to support heritage through tourism - e.g. through the Transient Visitor Levy.
- o We recommend that local communities are engaged in how to reform better, and their cultural resilience supported.

As always, we advise you engage the heritage expertise within your planning department to inform the wider heritage considerations and detail of this application.

## Location Plan

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END



## Development Management Sub Committee

Wednesday 4 August 2021

**Application for Planning Permission 20/05668/FUL  
at land 292 metres west of 10 Gilmerton Station Road,  
Edinburgh.  
Site remix and erection of 2 additional dwelling houses to  
development consented under planning permission  
17/05883/AMC (as amended).**

**Item number**

**Report number**

**Wards**

B16 - Liberton/Gilmerton

### Summary

The principle of residential dwellings in this site has been established through the previous planning consents for the site. The details of the proposals are in accordance with the LDP and there are no material considerations that outweigh this conclusion.

### Links

[Policies and guidance for this application](#)

LDPP, LHOU01, LHOU02, LHOU06, LDES01, LDES02, LDES03, LDES04, LDES05, LDES06, LDES07, LDEL01, LEN06, NSGD02, LTRA02, NSG,

# Report

## **Application for Planning Permission 20/05668/FUL at land 292 metres west of 10 Gilmerton Station Road, Edinburgh. Site remix and erection of 2 additional dwelling houses to development consented under planning permission 17/05883/AMC (as amended).**

### **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 site comprises phase two of allocated housing proposal HSG 24 Gilmerton Station Road in the adopted Edinburgh Local Development Plan. The development of the site is currently underway with the first three phases of four having been commenced.

The site is located on the edge of the city to the south of Gilmerton village. It is bounded by the ongoing development of phase one to the north-east and Ravenscroft Gardens to the north. Gilmerton Station Road and the former railway line lie to the east. To the south and west is phase three of the Gilmerton Station Road development, which is currently underway.

This application site is located within the Gilmerton Conservation Area.

#### **2.2 Site History**

On 30 April 2014, an application was submitted for planning permission in principle (application reference 14/01649/PPP) for a residentially led mixed use development. The applicant appealed against the failure of the planning authority to issue a decision within the prescribed period. The Scottish Ministers allowed the appeal and granted the planning permission subject to 11 conditions and the signing of a planning obligation. The planning obligation covered contributions relating to transport, education and provision of affordable housing. The date of the appeal decision is 18 January 2016.

22 December 2016 - Application for approval of matters specified in condition 1.a) a site development layout and phasing plan showing a phased implementation programme for built development, road and footpath provision, open space provision, tree and shrub planting and woodland management (as amended) approved (application reference: 16/03299/AMC).

## **HSG 24 Gilmerton Station Road - Phase Two**

25 June 2018 - Application for approval of matters specified in conditions 1 (b)-(j)i, iv and 6 of planning permission in principle 14/01649/PPP for the erection of 293 residential units with associated infrastructure works (as amended) approved (application reference: 17/05883/AMC).

6 March 2019 - Application for approval of matters specified in conditions 1(j) ii & iii of planning permission in principle 14/01649/PPP relating to landscaping proposals approved (application reference: 18/03996/AMC).

### **Main report**

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

The application seeks to remix the approved house types on two specific areas of the site and the inclusion of two additional houses to the scheme.

The changes involve the replacement of three detached homes with a terrace of four and a detached house of a different type. Elsewhere on the site, one detached home will be replaced by another of a different house type.

The dwellings will be of a similar style to those throughout this phase of the development and will be finished in brick with tiled roofs and uPVC windows and doors.

#### Scheme One

Scheme one sought a site remix and the erection of eight additional houses.

#### **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 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 proposal is acceptable in principle;
- b) The proposal will adversely affect the character and appearance of the conservation area;
- c) The proposal is acceptable in terms of scale, design and materials;
- d) There would be any adverse impact on neighbouring residential properties;
- e) There are any other material considerations and
- f) Any public comments have been addressed.

#### a) Principle

Policy Hou 1 (Housing Development) of the Edinburgh Local Development Plan (LDP) states that priority will be given to the delivery of the housing land supply. The site is allocated housing site HSG 24 in the Plan and detailed consent has been approved for residential development, with this site comprising phase two of the wider development. Therefore, the principle of the development has been accepted.

#### b) Conservation Area

Policy Env 6 (Conservation Areas - Development) advises that development within a conservation area or affecting its setting will be permitted if it preserves or enhances the special character or appearance of the conservation area.

A small section of the site's north-west boundary is next to the Gilmerton Conservation Area. In terms of the current application, there are no changes proposed within the part of the site that is close to the conservation area boundary. The proposed changes are of a limited nature and will have no adverse effect on the character or appearance of the Gilmerton Conservation Area.

#### c) Scale, Design and Materials

Policies Des 1 to Des 7 of the LDP outline a requirement for proposals to be based on an overall design concept which draws on the positive characteristics of the surrounding area, with the need for high quality design which is appropriate in terms of scale, form, design and layout. The proposal seeks to amend the previously approved consent by changing one four-bedroom house for another four-bedroom property with a different layout. The proposal also seeks to replace three detached homes on neighbouring plots with a terrace of four homes and a detached house of a different type. There is no significant change to the housing mix with an adequate range of home types and sizes provided in compliance with policy Hou 2 (Housing Mix).

The proposed house types have already been approved and utilised elsewhere within the development. The dwellings are compatible with those in the wider development site in terms of scale, design and materials.

#### d) Neighbouring Amenity

LDP policy Des 5 (Development Design - Amenity) states that planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments is not adversely affected in relation to noise, daylight, sunlight, privacy or immediate outlook.

The amended house types will have rear gardens with a minimum distance of 12 metres to their boundary with the existing properties at Ravenscroft Gardens. The length of the gardens and the height of the proposed houses will ensure that there are no detrimental impacts on neighbouring properties in terms of daylight, sunlight or privacy.

The addition of a lane to allow owners access to the rear of the terraced properties has provoked security concerns from some neighbours. However, although the lane is open, it is a narrow passage between two gables within a cul-de-sac. Considering its proximity to the two houses it runs between, the lane will be perceived as a private space and is unlikely to be utilised by anyone other than those whose property it provides access to. There is a good degree of overlooking of the lane from surrounding properties and the proposal is not considered to have any significant impact in relation to security.

#### e) Other Considerations

##### *Legal Agreement*

The application forms part of a wider development site where contributions are controlled by an existing S.75 legal agreement. The consideration of this application relates only to the acceptability of the modification of the housing units on the two small parts of the site identified on the submitted plans. The remainder of the development phase will be carried out under the previously approved consent 17/05883/AMC. The terms of the existing S.75 are sufficient to deliver the infrastructure requirements for this phase of the development and it is not necessary to require a separate legal agreement for this standalone application. The developer of this phase has begun making the contributions set out in the S.75 and the requirements of this agreement will remain enforceable against the developer.

The developer of each phase is required to provide 25% of their housing units as affordable housing. Of the 295 housing units now proposed, 74 will be delivered as affordable tenures in compliance with the 25% requirement.

Overall, the additional two housing units does not have any significant impacts on infrastructure that would require additional contributions to be sought.

##### *Transport*

The addition of two properties will give rise to a negligible increase in car trips in the context of the wider development site. There are no outstanding transport matters to be addressed.

#### f) Public Comments

- Increased loss of light from terraced rather than detached houses - addressed in section 3.3d;
- Overshadowing of neighbouring properties - addressed in section 3.3d;
- Increased overlooking from additional households - addressed in section 3.3d;
- The lane behind the properties will give rise to security concerns - addressed in section 3.3d;
- Increase in car parking and traffic - addressed in section 3.3e;
- The area is green belt - addressed in section 3.3a;

#### Conclusion

The principle of residential dwellings in this site has been established through the previous planning consents for the site. The details of the proposals are in accordance with the LDP and there are no material considerations that outweigh this conclusion.

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

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

##### **Conditions :-**

1. For the avoidance of doubt, this permission relates to plots 700 - 705 only, as shown on approved drawing number 03A (plan marked SG-02-01-REMIX Rev. G and dated 22 June 2020).

##### **Reasons:-**

1. To reflect the limited nature of the application.

##### **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 each phase 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**

Pre-application discussions took place on this application.

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

The application was advertised on 22 January 2021. Eight representations were received objecting to the application.

An assessment of the material considerations raised is provided within section 3.3f) of the 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**

The site is in the urban area and forms part of housing proposal HSG 24 as allocated in the adopted Edinburgh Local Development Plan (LDP).

**Date registered**

18 January 2021

**Drawing numbers/Scheme**

01, 03A, 04-13,

Scheme 2

**David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Alex Gudgeon, Planning Officer

E-mail:alexander.gudgeon@edinburgh.gov.uk

**Links - Policies**

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**Relevant Policies:****Relevant policies of the Local Development Plan.**

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

# Appendix 1

**Application for Planning Permission 20/05668/FUL  
At Land 292 Metres West Of , 10 Gilmerton Station Road,  
Edinburgh  
Site remix and erection of 2 additional dwelling houses to  
development consented under planning permission  
17/05883/AMC (as amended).**

## Consultations

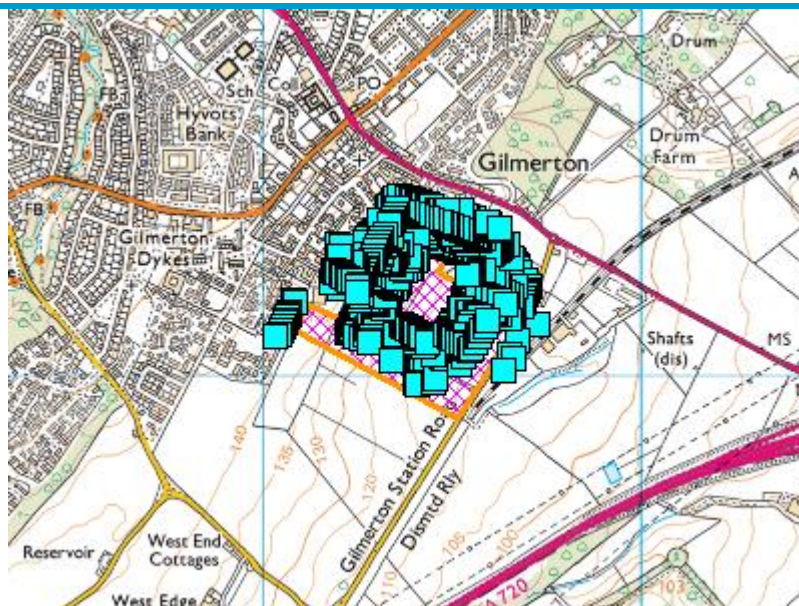
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### Transport

*No objections.*

### Location Plan

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**END**

## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/02351/FUL  
at 1F2 68B Grassmarket, Edinburgh, EH1 2JR.  
Change of use from residential to short term business /  
holiday accommodation.**

**Item number**

**Report number**

**Wards**

B11 - City Centre

### Summary

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The proposal is contrary to adopted Edinburgh Local Development Plan policy Hou 7 (Inappropriate Uses in Residential Areas) as it would have a detrimental effect on the living conditions of nearby residents.

### Links

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[Policies and guidance for this application](#)

LDPP, LEN01, LEN04, LEN06, LHOU07, HES, HESUSE, NSG, NSLBCA, OTH, CRPOLD, NSBUS,

# Report

## **Application for Planning Permission 21/02351/FUL at 1F2 68B Grassmarket, Edinburgh, EH1 2JR. Change of use from residential to short term business / holiday accommodation.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The site is an early nineteenth century four storey, four bay classical style tenement building situated on the northern side of the Grassmarket.

The premises are category B listed (listing date 14 December 1970, listing reference: 28940).

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

#### **2.2 Site History**

19 March 2018 - Listed building consent granted to replace three existing single glazed windows with three double glazed, twelve pane windows and removal of external paintwork (as amended) (application reference: 18/00039/LBC).

16 April 2018 - Planning permission granted to replace three existing single glazed windows with three double glazed, twelve pane windows removal of external paintwork (as amended) (application reference: 18/01075/FUL).

21 February 2020 - an enforcement notice was served on the basis of unauthorised use as a short term let (enforcement reference: 19/00896/ESHORT)

11 January 2021 - Appeal against enforcement notice (appeal reference: 20/00038/ENFORC). The enforcement notice was upheld.

12 February 2021 - The enforcement case for alleged unauthorised change of use was closed on the basis the use had ceased (enforcement reference: 19/00896/ESHORT).

## Main report

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### 3.1 Description of the Proposal

The application is for planning permission for the change of use from residential to short term business/holiday accommodation. No alterations are proposed.

### 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 is acceptable;
- b) the proposals preserve the character and setting of the listed building;
- c) the proposals preserve or enhance the character and appearance of the conservation area;
- d) the proposals harm the Outstanding Universal Value of the defined World Heritage Site;
- e) the development raises any issues in respect of car and cycle parking and
- f) comments raised have been addressed.

### a) Principle of the Proposal

The application site is situated in the City Centre as defined in the adopted Edinburgh Local Development Plan (LDP).

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand and
- The nature and character of any services provided.

The guidance states that proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents.

In connection to short stay lets it states - "The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

The guidance states that a change of use of flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs.

There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

Recent appeal decisions stress that the frequent movement by tourists, and other itinerant residents, of baggage along landings and stairwells as well as the necessity for daily servicing of the apartment all lead to a pattern of intense usage of the access stairs and communal areas beyond that which may otherwise be expected from the flat in normal residential use. All of which creates the potential for unacceptable noise and disturbance to existing residents.

The applicant has submitted supporting documents stating the recent appeal decision at Johnston Terrace sets a precedent for allowing short stay lets in shared stairs. However, the Reporter's decision was based on the very close proximity to the Esplanade and parking for coaches outside. Therefore, the Reporter decided that the occupiers are already used to the noise. Additionally, it was pointed out that most of the flats within the building were operating on a short term lets basis even though they are not authorised.

It is acknowledged that Grassmarket is a busy central location and residents would be accustomed to some degree of ambient noise/ disturbance from outside. However, the residential properties nearby and within these stairs are located on the upper floors, which are isolated to a degree from the noise associated with the ground floor uses and the street traffic around.

The change of use proposed of the proposed property for the proposed SVCAs would mean that there would be direct interaction between users of the short term letting accommodation and long term residents of the surrounding residential properties as the property forms part of a shared stair.

The proposed use would enable new individuals to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is also no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than long standing residents. Concerns raised by objectors, emphasise concerns relating to buzzers being pressed for access, the noise of suitcases going up and down and visitors arriving at unsociable hours.

This would be significantly different from the ambient background noise that residents are no doubt used to. The proposed change of use could instead bring noise and disturbance directly into the stairwells and properties in which they live.

Environmental Protection has stated it cannot fully support the application due to concerns regarding the proposals potential impact upon neighbouring residential amenity. Additionally, Environmental Protection has confirmed that a complaint has been received in the past specifically about anti-social noise being caused by guests staying at this property when being occupied during a short-term-let. On the balance of probability, there could be the potential for disturbance to the living conditions of neighbouring occupiers and a detrimental impact on residential amenity.

Tourism is important to the Edinburgh economy and the provision of short stay lets helps to meet accommodation demands. However, this has to be balanced with the need to ensure existing communities are not affected to an unacceptable degree in terms of noise and disturbance. In this case, the impact on residential amenity is deemed to be unacceptable and the benefits to tourism do not outweigh this.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. The site lies within the City Centre and policy Del 2 reflects SPP by stating it supports a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. However, the promotion of mixed uses has to be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

The proposal is contrary to LDP policy Hou 7 as it cannot be demonstrated that the proposal will not have a materially detrimental impact on the living conditions of nearby residents.

#### b) Impact on 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."*

Policy Env 4 (Listed buildings- Alterations and Extensions) states that proposals to alter or to extend listed buildings will be permitted where those alterations are justified; would not result unnecessary damage to historic structures or diminution of its interests; and where any additions would be in keeping with other parts of the building.

Historic Environment Scotland's (HES) guidance note Managing Change in the Historic Environment: Re-use and Adaptation of Listed buildings, sets out the principles that apply to altering historic buildings. It stresses that changes may be required to find a new use for a listed building. The guidance advises that changes to specific assets and their context should be managed in a way that protects the historic environment and that careful consideration is required to avoid harming the building's special interest. It recognises that listed buildings will be adapted for new uses and that small-scale alterations will be required.

The applicant has not submitted any changes to the floor plans or any internal alterations to the existing property. In this case, there is no overriding need to find a new use for the property as residential use is viable.

There is no proposal for key boxes in the application but these may require listed building consent depending on the location.

The proposal will preserve the character and setting of the listed building and accord with section 59 of the Planning (Listed Buildings and Conservation Area) (Scotland) Act 1997. It also complies with Env 4 of the LDP and HES managing Change guidance.



### c) Old Town 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."*

LDP policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted which preserves or enhances the special character and appearance of the conservation area and which is consistent with the relevant character appraisal.

The Old Town Conservation Area Character Appraisal identifies the key characteristics of this part of the Old Town as:

*"The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community".*

There are no external alterations proposed to the building. The surrounding area is vibrant and has a large variety of different uses. The proposal complies with LDP policy Env 6 and the Old Town Conservation Area Character Appraisal.

### d) World Heritage Site

LDP Policy Env 1 states development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted.

The inscription reasons are set out in the Edinburgh World Heritage Site Management Plan as follows:

The Old and New Towns of Edinburgh World Heritage Site (WHS) met two criteria -

Criterion (ii) - Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts, or town planning and landscape design. The successive planned extensions of the New Town, and the high quality of its architecture, set standards for Scotland and beyond, and exerted a major influence on the development of urban architecture and town planning throughout Europe, in the 18th and 19th centuries.

Criterion (iv) - Be an outstanding example of a type of building or architectural ensemble or landscape which illustrates (a) significant stage(s) in human history.

The use of the property as short stay visitor accommodation does not affect the reasons for the inscription and therefore meets policy Env 1.

#### e) Transport

Policies Tra 2 (Private Car Parking) of the LDP sets out the requirement for private car parking. The car parking standards are contained in the Edinburgh Design Guidance.

The zero car parking provision is acceptable. The application property is well served by public transport and within walking or cycling distance of local amenities and many tourism venues.

There is no requirement for cycle parking.

The proposal complies with LDP policies Tra 2.

#### f) Public comments

##### **Material Comments: Objection:**

- Loss of amenity - addressed in 3.3 a)
- Noise and disruption - addressed in 3.3 a)
- Privacy and security of the common stair is infringed by the coming and going of strangers - addressed in 3.3 a)
- This application is against the Policy Housing 7 'Inappropriate Uses in Residential Areas' - addressed in 3.3 a)
- The development is contrary to Scottish Planning Policy on "socially sustainable places" - addressed in 3.3 a)
- Undermines any balanced economic model for the tourism sector addressed in 3.3a)
- Negative environmental impact - addressed in 3.3 a)
- Short-term letting businesses are incompatible with tenement buildings and cause severe disruption to residents - addressed in 3.3a)
- Damage the historic environment with key boxes leaching to the doorways of listed buildings and ornate railings across the World Heritage Site - addressed in 3.3 b)

##### **Non- Material Comments: Objection:**

- Too many properties in Edinburgh are allowed to be short term let - there are currently no policies restricting the number of short stay lets.
- Rises rent and house prices - this is not a material planning consideration.
- Example of recent appeal at Johnston Terrace should not be taken as a precedent - there is no precedent in planning law.
- Dangerous for elderly occupiers - this is not a material planning consideration.
- Intimidation when pleaded with guests and the owners for quiet and respect - this is a matter for Police Scotland.
- Litter and other waste left in the building for the residents to clean up - this relates to the management of the property which the planning system cannot control.

- The owner has second AIRBNB in the same building without planning permission - this is not a material planning consideration.
- Leaving the pend gate open thereby compromising our security and encouraging revellers to use our pend as a toilet - this relates to the management of the property which the planning system cannot control.
- Residents are forced out to move from the city centre - this is not a material planning consideration.
- A tenement stair is not commercial property - this is not a material planning consideration.
- Lack of regulation of SLTs creating safety hazard for other residents - this is not a material planning consideration. A new licensing system is being brought in to address this issue.
- These premises are residential and should be maintained as such - there are currently no policies on loss of residential use.
- Housing shortage in Edinburgh - there are currently no policies on loss of residential use and housing shortages are addressed in housing allocations.
- Sets a precedent for more properties to become short term lets - there is no precedent in planning law
- The development is contrary to emerging policies in the City Plan - 9A - Protecting the loss of Edinburgh's homes to other uses - the draft plan has not been published yet and this is therefore not material.
- Anti-social behaviour - this is a matter for Police Scotland.
- The development is contrary to the Scottish Government Housing policy on More Homes - there are currently no policies on loss of residential use and this policy does not address change of use to short term lets.
- Difficulties of shared maintenance - this is not a material planning consideration.

### **Community Council: Objection:**

The Old Town Community Council

- Objects in principle to any extension of short term letting in the Old Town.

### **Material Comments: Support:**

- Self-catering unit is extremely unlikely to have material effect on the amenity of the area.
- We need tourism and a variety of accommodation. Sustainable and responsible tourism should be encouraged.
- Disruptive or anti-social behaviour is just as likely in residential use as self-catering use.
- The incremental disturbance from normal activity of people using a short-term let is relatively immaterial.
- The main entrance and vennel is used for commercial access from several businesses already at all hours without detriment impact.
- Holiday accommodation will not impact on privacy in the area, the appearance, noise, etc as these are already influenced by the other amenities.

- The Grassmarket and Royal Mile are also within walking distance of nearly all of the city's key tourist sights which means that tourists are unlikely to bring cars into the city centre which has to be a positive thing from an environmental perspective.
- Short term let flats should be able to operate in such a busy tourist area.
- Massive boost to the local economy - supports local business.

#### **Non-Material Comments: Support:**

- The owner goes out of her way to ensure the communal stairs are well kept and maintained.
- Short let should be promoted.
- Flexible and affordable accommodation for different people.
- Freedom of use your property as you wish.
- Planning permission is not required.
- It will not reduce housing crisis.
- Good for community.
- Short-term letting is a relatively minor inconvenience.
- Short term let are very important for Edinburgh and will play a key role in getting us out of this pandemic.

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

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

#### **Reasons:-**

1. The proposal is contrary to adopted Edinburgh Local Development Plan policy Hou 7 (Inappropriate Uses in Residential Areas) as it would have a detrimental effect on the living conditions of nearby residents.

## **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**

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

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

## **Consultation and engagement**

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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**

The scheme has received a total of 567 representations, 287 objecting and 280 supporting the application. In certain cases, the wrong option has been chosen therefore a number of objectors/supporters have been amended. Within those objections, a number of associations have raised their objections.

The Old Town Community Council has objected.

## **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**

Edinburgh Local Development Plan - Urban Area

**Date registered**

13 May 2021

**Drawing numbers/Scheme**

01,

Scheme 1

**David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

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**Links - Policies**

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**Relevant Policies:**

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

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

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 Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

## **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.

## **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.

## **Other Relevant policy guidance**

**The Old Town Conservation Area Character Appraisal** emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community

**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.

# Appendix 1

## **Application for Planning Permission 21/02351/FUL At 1F2 68B Grassmarket, Edinburgh, EH1 2JR Change of use from residential to short term business / holiday accommodation.**

### **Consultations**

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#### **Environmental Protection**

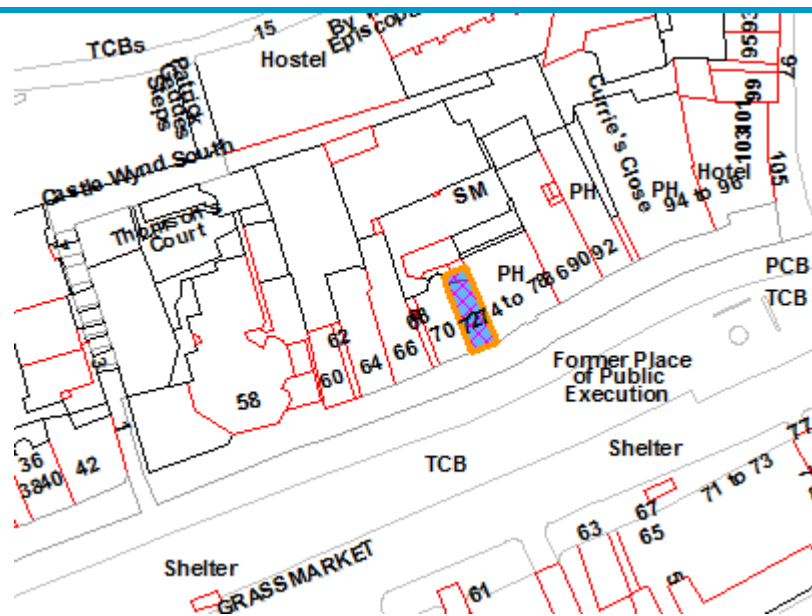
*The main issues Environmental Health have with short- term lets is the impacts they can have on neighbouring residential amenity. This can be from a regular flow of visitors entering and exiting the property with suitcases. This property is accessed via a common door and common stair, so this is an issue. The other noise concern we have is the noise being generated by guests. However this can vary, but nevertheless there can be guests that stay over who can cause issues with playing loud music, banging around, shouting, or making noise outside if smoking. The applicant has confirmed that the property has been historically used as a short-term-let. Environmental Health have received a complaint specifically about anti-social noise being caused by guests staying at this property when being occupied during a short-term-let. This case was further investigated by the then Community Safety Team who were responsible for following up complaints of anti-social behaviour.*

*It is noted that there are no floorplans or elevations submitted with this application.*

*Environmental Protection recommend this application is refused due to the likely adverse impacts the use would have on neighbouring residential amenity.*



## Location Plan



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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/00880/FUL  
at 49 Mitchell Street, Edinburgh, EH6 7BD.  
Extension to hotel.**

**Item number**

**Report number**

**Wards**

B13 - Leith

### Summary

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The proposed extension is within the same use as the existing building. The proposed extension will be of a suitable design and scale appropriate to the building and wider area. It will preserve the special architectural and historical interest and setting of the listed building and the character and appearance of Leith Conservation Area. The proposal will not have an unacceptable impact on neighbouring amenity.

The proposal complies with the Local Development Plan and there are no material considerations which override this conclusion.

### Links

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[Policies and guidance for this application](#)

LDPP, LEMP10, LEN04, LEN03, LEN06, LDES01, LDES03, LDES04, LDES05, LTRA02, LTRA03, LTRA04, LDEL01, NSG, NSLBCA, OTH, HES, CRPLEI,

# Report

## **Application for Planning Permission 21/00880/FUL At 49 Mitchell Street, Edinburgh, EH6 7BD Extension to hotel.**

### **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 is 49 Mitchell Street, a single storey rear offshoot which currently forms the back area of a 12 bedroom hotel fronting onto Constitution Street. 57/57b Constitution Street and 49, 51/1 and 2 Mitchell Street form a category B listed building associated with the former Leith Post Office (listed 14 December 1970, reference 27174).

The listing describes the buildings as dating from 1875 and designed by Robert Matheson as a 2-storey and attic 5-bay Italianate post office in cream sandstone with coursed and squared rubble to side extension.

At the corner with Constitution Street and Mitchell Street, there are further listed buildings in a mix of commercial and residential uses. Leading east, Mitchell Street contains a variety of buildings including more recent flatted residential developments.

This application site is located within the Leith Conservation Area.

#### **2.2 Site History**

12 August 1992 - Planning permission granted for change of use to offices (including excavation of front basement area on Constitution Street) (planning reference: 91/02050/FUL).

20 July 2011 - Listed building consent granted for internal alterations (planning reference: 11/01866/LBC).

24 November 2011 - Planning permission refused for change of use at 57 Constitution Street from dental surgery/offices to guest house (planning reference: 11/01867/FUL).

11 June 2012 - Appeal allowed against refusal of change of use to guest house (planning reference: 12/00010/REF).

3 September 2014 - Listed building consent granted for internal alterations (planning reference: 14/03004/LBC).

15 July 2015 - Planning permission granted for material variation to hotel to include a public bar area (planning reference: 15/00487/FUL).

17 May 2017 - Planning permission granted for change of use and extension of residential accommodation (ancillary to a hotel) to form an independent house over three floors with one car parking space (as amended) (17/01352/FUL).

1 June 2021 - Concurrent listed building consent application (21/03006/LBC)

## **Main report**

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

It is proposed to extend the existing hotel by adding a two-storey extension. The extension would contain 13 additional hotel bedrooms and access stair.

The existing single storey off shoot would be integrated into the extension with coursed rubble sandstone walls retained to Mitchell Street. The extension would have a flat roof and rendered walls and would be built off the retained boundary wall. An existing opening would be retained to a small rear parking area for 5 cars. The stairwell at the back of the main building will be in ashlar stone.

#### Previous scheme

The application has been revised to include sandstone as the main material to the stairwell and include cycle parking.

### **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 proposal is acceptable in principle;
- b) the proposal will preserve the character and setting of the listed building/s;
- c) the proposal will preserve or enhance the special character or appearance of the conservation area;
- d) the proposal is of an acceptable scale, form and design;
- e) the impact on amenity is acceptable;
- f) the proposal will have any transport impacts;
- g) there are any other material considerations and
- h) any comments raised have been addressed.

#### a) Principle

Local development Plan (LDP) Policy Emp 10 (Hotel Development) criteria (c) permits hotel development in locations within the urban area with good public transport access to the city centre.

The site is an existing Class 7 hotel use and is within the urban area with existing good public transport access and is in accordance with policy Emp 10. The proposed extension is acceptable in principle, subject to compliance with other plan policies.

It should be noted that a Class 7 use includes hotels, hostels, boarding and guest houses under the Town and Country Planning (use Classes) (Scotland) Order 1997.

#### b) Setting of Listed Buildings

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.*

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

LDP Policy Env 4 (Listed Buildings - Alterations and Extensions) permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.

HES Managing Change guidance on extensions states new alterations or additions, which are of high design quality sympathetic to the character of the building, form part of its continuum. Most historic buildings can sustain some degree of sensitive alteration or extension to accommodate continuing or new uses. Specifically, it states *An addition or extension should play a subordinate role. It should not dominate the original building as a result of its scale, materials or location, and should not overlay principal elevations.*

The offshoot area to the rear is notably different from the elevations of the listed building on the corner with Constitution Street and Mitchell Street which contribute to the special interest of the listed building. The rear area appears to be potentially of a later date and altered since its initial design. However, the rear frontage will be retained and converted with the extension added to the upper level. The loss of the existing roof, consisting of two slated pyramid form areas, will not be detrimental to the listed building as a whole. Internally, there are no remaining internal features worthy of retention. The proposed extension will not cover any notable features of the main listed building and whilst the rear will be obscured by the new extension, this is a secondary elevation.

The extension is of a relatively plain design and the use of render for the main extension will ensure that the listed building will still appear dominant. The extension will appear as a subservient addition. The windows are horizontal in form but this reads well with the plain design. No details of window materials have been provided but a condition has been applied to ensure materials are a suitable quality for this addition to the listed building.

The proposed extension will preserve the character of the listed building and its setting and complies with Policy Env 3 and 4 and Managing Change guidance.

#### c) Conservation Area

LDP Policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted which preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant character appraisal.

The Leith Conservation Area Character Appraisal emphasises the area's unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value.

The non-statutory guidance on Listed Buildings and Conservation Areas states that the aim of development should be to preserve the spatial and structural patterns of the historic fabric and the architectural features that make it significant.

As noted above the proposed extension will be in a secondary space to the rear of the building. The increase in building height will sit appropriately within a context of larger scale and more modern flatted residential development. It will be located to the edge of the conservation area.

The use of sandstone to the stairwell element and retention of the lower façade will ensure the development is appropriate within its immediate context and from views along Mitchell Street.

The proposal will preserve the character or appearance of the conservation area.

#### d) Scale, Form and Design

LDP Policy Des 1 (Design Quality and Context) requires development proposals to create or contribute towards a sense of place. The design should be based on an overall design concept that draws upon the positive characteristics of the surrounding area.

LDP Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) states that planning permission will be granted for development where it is demonstrated that existing characteristics and features worthy of retention on the site and in the surrounding area, have been identified, incorporated and enhanced through its design.

LDP Policy Des 4 (Development Design - Impact on Setting) requires development proposals to have a positive impact on its surroundings, including the character of the wider townscape, having regard to its height and form, scale and proportions, including the spaces between the buildings, position of the buildings and other features on the site; and the materials and detailing.

The proposed development is of an appropriate scale and design relative to its surroundings, where there are both historic and modern architectural styles. The design preserves existing features on site. The materials are of good quality.

The proposals comply with design policies.

#### e) Amenity

LDP Policy Des 5 (Development Design - Amenity) requires development proposals to demonstrate that neighbouring amenity of a development will have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook. It further requires new development to offer suitable level of amenity to future residents.

The proposal will adjoin number 43-45 Mitchell Street, a modern flat development. Environmental Protection was consulted on the proposal and is satisfied that the development will not have detrimental impacts on the neighbouring properties including transference of noise from the adjoining wall and use of bathroom extractor fans.

The building will sit within a tight urban context where the existing buildings sit in close proximity to each other. To the north, the proposed extension will face a lane area used for car parking and 3-5 Mitchell Street, a bonded warehouse offering office accommodation. The garden ground and parking area of number 55 Constitution Street is enclosed by high walls and lies opposite the proposed stairwell. There will be no unreasonable loss of amenity in terms of overshadowing.

To the south there is a blank façade forming the side elevation of 61 Constitution Street. Windows to 59 Constitution Street sit at a 45 degree angle approximately 10 metres away from the proposed extension which will minimise any increase in overlooking.



The extensions orientation and position on site, relative to other habitable dwellings, will not give rise to significant overshadowing or loss of daylight. There would be some loss of daylight to the windows at No. 45 Mitchell Street, but given the tight urban context, this is considered acceptable in this instance.

There are no unacceptable impacts on neighbouring amenity in respect of privacy, noise or daylight and sunlight.

#### f) Transport

LDP Policies Tra 2 - Tra 4 sets out the requirements for private car and cycle parking. The Council's Parking Standards are set out in the Edinburgh Design Guidance.

The site contains five existing car parking spaces. No new car parking is proposed as part of the development. This meets with the car parking standards set out in the Edinburgh Design Guidance.

Following the Roads Authority comments requesting consideration of the provision of one cycle space, the applicant has indicated provision of two cycle spaces within the car parking area.

The Roads authority has no objections, and the proposal complies with LDP policies Tra 2, Tra 3 and Tra 4.

#### g) Developer Contributions

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) deals with contributions to infrastructure. Accompanying Supplementary Guidance has been finalised which shows contribution zones and contribution rates.

The site falls within the Tram Contribution Zone 1. The applicant will be required to contribute the sum of £55,643 (based on 13 hotel rooms in Zone 1) to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report. The sum to be indexed as appropriate and the use period to be 10 years from date of payment.

#### h) Public Comments

### **Material - Objection**

- loss of amenity including overlooking, daylight and sunlight and noise - this is addressed in section 3.3 (e);
- inadequate parking and increased traffic - this is addressed in section 3.3 (f);
- impact on conservation area and listed buildings - this is addressed in section 3.3 (b) and (c);
- modern extension overdevelopment and inappropriate to character - this is addressed in section 3.3 (b) -(d);
- lack of site notices - the requirement for the display of site notices was temporarily suspended through the Coronavirus (Scotland) Act 2020 at the time of the application's submission.

## **Non-Material - Objection**

- existing properties poorly managed by applicant - this is an operational matter outwith the control of the planning authority;
- disruption during construction including access - this is not a material planning consideration;
- impact on property values - this is not a material planning consideration;
- overprovision of type of rental/ temporary accommodation in area - this is not a material planning consideration;
- will make area unsafe, increase in antisocial behaviour, drug and alcohol use - this is a matter for Police Scotland;
- Council not tackling homelessness appropriately - this is not a material planning consideration;
- additional hotels increase Covid risk - this is not a material planning consideration;
- amenity for hotel occupiers - the amenity of hotel visitors is not protected.

## **Material - Neutral General**

- windows should be of a material and form compatible with nearby historic buildings - the materials and details are subject to condition;
- windows should have a portrait orientation - design is assessed in section 3.3 (b) to d).

## **Community Council**

Leith Links Community Council did not request to be a statutory consultee but have objected on the follow grounds:

- site used a temporary accommodation for the homeless - Class 7 use includes hotels, hostels, boarding and guest houses under the Town and Country Planning (use Classes) (Scotland) Order 1997 for which the site has existing consent;
- should be limits on provision of such accommodation in area - this is not within the control of the Planning Authority;
- impact on the living standards of existing residents - amenity is assessed under 3.3 (e);
- not clear on applicant's intentions for use - as noted above the extension is within the same use class as existing;
- proposal not in accordance with LDP policies and conservation area - these are addressed in section 3.3 (a) to (g).

## **Conclusion**

The proposed extension is within the same use as the existing building. The proposed extension will be of a suitable design and scale appropriate to the building and wider area. It will preserve the special architectural and historical interest and setting of the listed building and the character and appearance of Leith Conservation Area. The proposal will not have an unacceptable impact on neighbouring amenity.

The proposal complies with the Local Development Plan and there are no material considerations which override this conclusion.

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.

#### **Reasons:-**

1. In order to enable the planning authority to consider this/these matter/s in detail.

#### **Informatives**

It should be noted that:

1. Consent shall not be issued until a suitable legal agreement, including those requiring a financial contribution payable to the City of Edinburgh Council, has been concluded in relation all of those matters identified in the proposed Heads of Terms. -

These matters are:

Tram contribution

The applicant will be required to:

- Contribute the sum of £55,643 to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report. The sum to be indexed as appropriate and the use period to be 10 years from date of payment;

A legal agreement will be required to secure these funds.

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.

## **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 is not subject to 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**

The application received 14 objections and one neutral comment.

## 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**

Edinburgh Local Development Plan - Urban Area

**Date registered**

2 March 2021

**Drawing numbers/Scheme**

01-07, 08A, 09-11, 12A, 13A,

Scheme 3

**David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

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**Links - Policies**

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**Relevant Policies:**

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

LDP Policy Emp 10 (Hotel Development) sets criteria for assessing sites for hotel development.

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

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

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

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

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

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

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

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

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

### **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.

### **Other Relevant policy guidance**

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

**The Leith Conservation Area Character Appraisal** emphasises the area's unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value

# Appendix 1

## **Application for Planning Permission 21/00880/FUL At 49 Mitchell Street, Edinburgh, EH6 7BD Extension to hotel.**

### **Consultations**

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#### Environmental Protection

*Environmental Protection has no objection to this application.*

#### *Assessment*

*The application is for the extension to an existing hotel at 49 Mitchell Street, Edinburgh. The extension is over the rear car park and vennel access and will provide additional bedrooms to the hotel. The extension will be structurally attached to the 4 storey residential apartment building to the east and overlooks a house to the south. To the north on the opposite side of the street is an office.*

*There were concerns that the development would have caused increased noise transfer between the hotel and the adjacent apartment building. However, details of the construction provided assurance that this would be very unlikely. The bedrooms would only use individual extract fans for ventilation which would not be anticipated to generate noise complaints and the existing heating system will be used.*

*Therefore, Environmental Protection have no concerns with the proposed development and offer no objection.*

#### Roads Authority

#### *Full Response*

*No objections to the application subject to the following being included as conditions or informatives as appropriate:*

- 1. The applicant will be required to contribute the sum of £55,643 (based on 13 hotel rooms in Zone 1) to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report. The sum to be indexed as appropriate and the use period to be 10 years from date of payment;*
- 2. The applicant should consider providing the following:*
  - a. Cycle Parking;*
  - b. Accessible Car Parking;*
  - c. Electric vehicle charging points;*

*Note:*



The application has been assessed under the current parking standards for the additional 13 hotel rooms. These are as follows:

- o A maximum of 6 car parking spaces (1 space per 2 rooms). 5 car parking spaces are being retained this is considered acceptable;
- o A minimum of 1 cycle parking space (1 space per 10 rooms). No cycle parking is proposed;
- o Due to the size and nature of the development, no requirement for Accessible, EV and motorcycle car parking;

### Archaeology

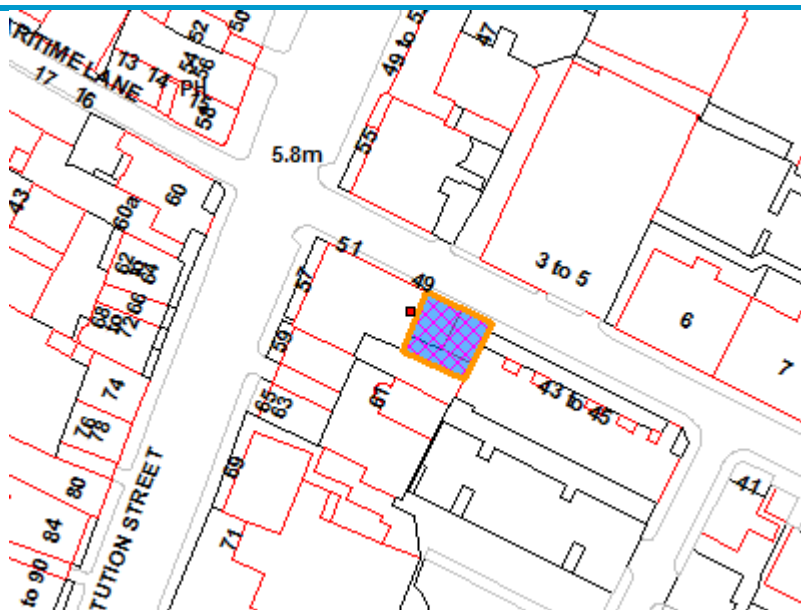
The application concerns the B-listed 1875 former Leith Post Office building recently converted into a hotel located within the historic core of the Port of Leith and constructed over the ports 16-17th century defences. Having assessed these plans it is considered that these proposals will not have a significant archaeological impact upon the building's historic fabric nor underlying archaeological remains.

Accordingly, it has been concluded that there are no significant archaeological implications in regard to this application.

### Historic Environment Scotland (HES)

No comments.

## Location Plan



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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Listed Building Consent 21/03006/LBC  
at 49 Mitchell Street, Edinburgh, EH6 7BD.  
Extension to hotel.**

**Item number**

**Report number**

**Wards**

B13 - Leith

### Summary

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The proposed extension will be of a suitable design and scale appropriate to the building and wider area. It will preserve the special architectural and historical interest and setting of the listed building and the character and appearance of Leith Conservation Area.

The proposal complies with the Local Development Plan and HES Managing Change Guidance and there are no material considerations which override this conclusion.

### Links

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[Policies and guidance for this application](#)

LDPP, LEN04, LEN06, HES, HESEXT,

# Report

## **Application for Listed Building Consent 21/03006/LBC at 49 Mitchell Street, Edinburgh, EH6 7BD.**

Extension to hotel.

### **Recommendations**

---

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

### **Background**

---

#### **2.1 Site description**

The application site is 49 Mitchell Street, a single storey rear offshoot which currently forms the back area of a 12 bedroom hotel fronting onto Constitution Street. 57/57b Constitution Street and 49, 51/1 and 2 Mitchell Street form a category B listed building associated with the former Leith Post Office (listed 14 December 1970, reference 27174).

The listing describes the buildings as dating from 1875 and designed by Robert Matheson as a two storey and attic 5-bay Italianate post office in cream sandstone with coursed and squared rubble to side extension.

At the corner with Constitution Street and Mitchell Street, there are further listed buildings in a mix of commercial and residential uses. Leading east, Mitchell Street contains a variety of buildings including more recent flatted residential developments. This application site is located within the Leith Conservation Area.

#### **2.2 Site History**

12 August 1992 - Planning permission granted for change of use to offices (including excavation of front basement area on Constitution Street) (planning reference: 91/02050/FUL).

20 July 2011 - Listed building consent granted for internal alterations (planning reference: 11/01866/LBC).

24 November 2011 - Planning permission refused for change of use at 57 Constitution Street from dental surgery/offices to guest house (planning reference: 11/01867/FUL).

11 June 2012 - Appeal allowed against refusal of change of use to guest house (planning reference: 12/00010/REF).

3 September 2014 - Listed building consent granted for internal alterations (planning reference: 14/03004/LBC).

15 July 2015 - Planning permission granted for material variation to hotel to include a public bar area (planning reference: 15/00487/FUL).

17 May 2017 - Planning permission granted for change of use and extension of residential accommodation (ancillary to a hotel) to form an independent house over three floors with one car parking space (as amended) (17/01352/FUL).

23 February 2021 - Concurrent planning application (21/00880/FUL)

## **Main report**

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

It is proposed to extend the existing hotel by adding a two-storey extension. The extension would contain 13 additional hotel bedrooms and access stair.

The existing single storey off shoot would be integrated into the extension with coursed rubble sandstone walls retained to Mitchell Street. The extension would have a flat roof and rendered walls and would be built off the retained boundary wall. An existing opening would be retained to a small rear parking area. The stairwell at the back of the main building will be in ashlar stone.

#### Previous scheme

The application has been revised to include sandstone as the main material to the stairwell.

### **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 preserve the character and setting of the listed building/s;
- b) the proposal will preserve or enhance the special character or appearance of the conservation area and
- c) any comments raised 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.*

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

LDP Policy Env 4 (Listed Buildings - Alterations and Extensions) permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.

HES Managing Change guidance on extensions states new alterations or additions, which are of high design quality sympathetic to the character of the building, form part of its continuum. Most historic buildings can sustain some degree of sensitive alteration or extension to accommodate continuing or new uses. Specifically, it states *An addition or extension should play a subordinate role. It should not dominate the original building as a result of its scale, materials or location, and should not overlay principal elevations.*

The offshoot area to the rear is notably different from the elevations of the listed building on the corner with Constitution Street and Mitchell Street which contribute to the special interest of the listed building. The rear area appears to be potentially of a later date and altered since its initial design. However, the rear frontage will be retained and converted with the extension added to the upper level. The loss of the existing roof, consisting of two slated pyramid form areas, will not be detrimental to the listed building as a whole. Internally, there are no remaining internal features worthy of retention. The proposed extension will not cover any notable features of the main listed building.

The extension is of a relatively plain design and the use of render for the main extension will ensure that the listed building will still appear dominant. The extension will appear as a subservient addition. The windows are horizontal in form but this reads well with the plain design. No details of window materials have been provided but a condition has been applied to ensure materials are a suitable quality for this addition to the listed building.

The proposed extension will preserve the character of the listed building and its setting and complies with Policy Env 3 and 4 and Managing Change guidance.

## b) Conservation Area

LDP Policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted which preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant character appraisal.

The Leith Conservation Area Character Appraisal emphasises the area's unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value.

The non-statutory guidance on Listed Buildings and Conservation Areas states that the aim of development should be to preserve the spatial and structural patterns of the historic fabric and the architectural features that make it significant.

As noted above the proposed extension will be in a secondary space to the rear of the building. The increase in building height will sit appropriately within a context of larger scale and more modern flatted residential development. It will be located to the edge of the conservation area.

The use of sandstone to the stairwell element and retention of the lower façade will ensure the development is appropriate within its immediate context and from views along Mitchell Street.

The proposal will preserve the character and appearance of the conservation area.

## c) Public Comments

### **Material comments - Neutral General**

- windows should be of a material and form compatible with nearby historic buildings - addressed in section 3.3(a)
- windows should have a portrait orientation - addressed in section 3.3 (a)

### **Community Council**

Leith Links Community Council did not request to be a statutory consultee but have objected on the follow grounds:

- site used a temporary accommodation for the homeless - this is not material in terms of listed building consent;
- impact on the living standards of existing residents - this is not material in terms of listed building consent;
- not clear on applicant's intentions for use - this is not material in terms of listed building consent;
- proposal not in accordance with LDP policies and conservation area - these are addressed in section 3.3 (a) to (b).

## Conclusion

The proposed extension will be of a suitable design and scale appropriate to the building and wider area. It will preserve the special architectural and historical interest and setting of the listed building and the character and appearance of Leith Conservation Area.

The proposal complies with the Local Development Plan and HES Managing Change Guidance and there are no material considerations which override this conclusion.

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.

#### **Reasons: -**

1. In order to enable the planning authority to consider this/these matter/s in detail.

#### **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.
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 is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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

Pre-application discussions took place on this application.

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

The application received one objection from Leith Links Community Council and one neutral comment.

## **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**

<b>Date registered</b>	1 June 2021
<b>Drawing numbers/Scheme</b>	01-07, 08A, 9-13,  Scheme 2

**David Givan**  
Chief Planning Officer  
PLACE  
The City of Edinburgh Council

Contact: Lynne McMenemy, Senior Planning Officer  
E-mail: [lynne.mcmenemy@edinburgh.gov.uk](mailto:lynne.mcmenemy@edinburgh.gov.uk)

## **Links - Policies**

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### **Relevant Policies:**

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

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.

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

Managing Change in the Historic Environment: Extensions sets out Government guidance on the principles that apply to extending listed buildings.

# Appendix 1

## Application for Listed Building Consent 21/03006/LBC At 49 Mitchell Street, Edinburgh, EH6 7BD Extension to hotel.

### Consultations

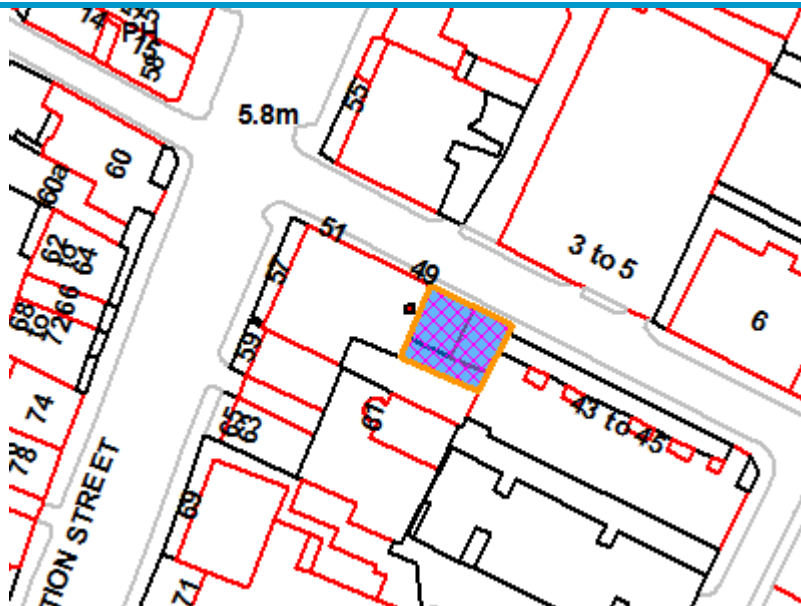
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*Historic Environment Scotland (HES)*

*No comments.*

### Location Plan

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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/01786/FUL  
at 2 Mortonhall Park Terrace, Edinburgh, EH17 8SU.  
To create a 2 bedroom level access house in the garden of  
No. 2 Mortonhall Park Terrace.**

**Item number**

**Report number**

**Wards**

B16 - Liberton/Gilmerton

### Summary

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The proposal is contrary to the Edinburgh Local Development Plan.

The proposal is of an inappropriate design in scale, form and position that will have a detrimental impact on the established character of the townscape. It will result in the substantive loss of corner plot green space which is a positive characteristic of the surrounding area and will be damaging to its character and appearance.

The proposal will result in loss of open space that is of amenity value and will have a harmful impact on the quality and character of the local environment. The design of car parking is inappropriate, as it is visually dominant on the street frontage and is at the expense of private open space.

The applicant has submitted information identifying that the proposal is designed for the owner with protected characteristics.

On balance, the resultant adverse impact on the quality and character of the local environment and detriment to the public interest are not outweighed by the benefit to the applicant as a person with protected characteristics, or, the level of benefit the proposal may have to advancing identified issues of equality of opportunity.

## Links

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### [Policies and guidance for this application](#)

LDPP, LDES01, LDES04, LDES05, LEN09, LEN18, LEN21, LTRA02, LTRA03, LTRA04, LHOU01, LHOU03, NSG, NSGD02,

# Report

## **Application for Planning Permission 21/01786/FUL at 2 Mortonhall Park Terrace, Edinburgh, EH17 8SU. To create a 2 bedroom level access house in the garden of No. 2 Mortonhall Park Terrace.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The proposal site is garden space within the grounds of a semi-detached dwelling located on a corner plot, at the north-west end of Mortonhall Park Terrace at its junction with Mortonhall Park Drive.

The site is bordered by a hedgerow of varying density and height on the boundary with the public footway.

The immediate area is primarily residential in character. Two-storey semi-detached properties of a consistent scale, form and design to the south of the site on Mortonhall Park Terrace. Two storey detached dwellings to the north-east on Mortonhall Park Drive.

#### **2.2 Site History**

21 May 2018 - Planning application refused for the erection of a two bedroom, single storey, detached house and walled garden in the side garden of the existing house on grounds that the proposal was contrary to LDP policies Env 18, Hou 3, Des 1, and Tra 4) - (application reference: 18/01678/FUL).

20 August 2018 - Resultant review against refusal of planning application 18/01678/FUL upheld by the Local Review Body (review reference: 18/00107/REVREF) on grounds that the proposal was contrary to LDP policies Hou 3, Des 1 and Tra 4.

## **Main report**

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

The planning application is for the erection of a single storey residential property with associated garden ground, boundary fencing and one car parking space.

The building has a maximum height of 3.2m, maximum width of 8.5m and depth of approximately 16m. The proposed materials include Siberian Larch stained black and a green roof. Large, glazed openings would face the south-west side of the site onto the boundary with Mortenhall Park Drive.

The property contains an internal floor space of 85 square metres including two bedrooms and a bathroom. The living and dining room face the rear of the property providing access to the private garden via glazed patio doors. The rear garden consists of lawn and paving of 45 sqm in total.

A vehicular access will be formed from Mortenhall Park Terrace at the north-east boundary of the site. This will provide access to one car parking space via a car port. A pedestrian access will also be formed here.

### **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 proposal is acceptable in principle;
- b) The proposal is of an acceptable scale, form and design;
- c) The proposal will result in loss of open space;
- d) The proposal will result in the creation of a satisfactory residential environment;
- e) The proposal will have a detrimental impact on the amenity of neighbouring residents;
- f) The proposal will have transport impacts;
- g) The proposal will not lead to an increased flood risk;
- h) The proposal will does not raise matters of archaeology;
- i) The proposal raises issues of equalities or human rights;
- j) Material issues raised in representations have been addressed.



#### a) Principle of the Proposal

The proposal site is located in the urban area as designated in the Local Development Plan (LDP). LDP Policy Hou 1 (Housing Development) prioritises the delivery of housing land supply and the relevant infrastructure and identifies four criteria (a-d) on where this can be achieved.

Criteria d) prioritises the delivery of housing on other suitable sites in the urban area in recognition that windfall sites can contribute to land supply. To comply with Hou 1 d), proposals must be compatible with other policies in the plan.

The site is located adjacent to existing residential development and is served by Lothian and Borders bus services on Howden Hall Road and Frogston Road East. These services are accessible via existing public footways around the residential estate, that link to these main roads. Howden Hall Road via a public footpath accessed from Mortonhall Park Crescent east of the site, and Frogston Road East via the footways from Mortonhall Park Gardens to the south.

The site is located in proximity to sustainable modes of transport and there is established residential development in the surrounding area. The site is a suitable location for new housing, subject to compliance with all other relevant policies. These are outlined below.

#### b) Scale, form, design and neighbourhood character

LDP policy Des 1 - Design Quality and Context, states development will be granted for development that contributes towards a sense of place. Design should be based on an overall design concept that draws upon positive characteristics of the surrounding area. Permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area.

Supporting paragraph 151 states the purpose of the policy is to encourage innovation in design and layout, provided the existing quality and character of immediate and wider environment are respected and enhanced.

LDP policy Des 4 - Development Design - Impact on Setting, states permission will be granted for development where it is demonstrated that it will have a positive impact on its surroundings, character of the wider townscape and landscape including, height and form, scale and proportions, position, materials and detailing.

There is a regular pattern to development in the immediate area. Corner plots of greenspace retain a sense of openness to the estate that contribute positively to the character of the area. On Mortonhall Park Terrace, properties are set back from the street separated from the footpath by front gardens, driveways and garages, and small areas of greenspace. This arrangement: the regular scale, form, position and spacing of properties along the street creates a settled townscape character.

The proposed dwelling will appear entirely incongruous in these surroundings. Its position forward of the building line, form, layout and coverage of the site is at odds with the settled townscape character. Its height, elongated form and positioning are alien to the area's established character and it does not comply with policy Des 4. The dwelling's position and layout results in the substantive loss of corner plot greenspace which will result in damage to the character and appearance of the area.

It is recognised there are existing driveways and car parking spaces on the street frontage. Notwithstanding this, the setback position of properties along the south side of Mortonhall Park Terrace and retention of soft landscaping and pockets of greenspace helps create interest to the street frontage. Removal of the proposal site's corner plot greenspace results in loss of a positive feature characteristic of the surrounding area. The inclusion of a dwelling of the position, scale, and layout proposed fails to respect or enhance the townscape character.

The proposal is therefore contrary to LDP policy Des 1- Design Quality and Context and Des 4 - Development Design - Impact on Setting.

#### c) Open Space

LDP policy Env 18 - Open Space, states, proposals involving the loss of open space will not be permitted unless certain criteria are met.

Open space is defined in the LDP as 'greenspace' and 'civic space' consisting of squares, market places and other paved or hard landscaped areas with a civic function. Greenspace is defined in the LDP as *Any vegetated land or structure, water or geological feature in the urban area including playing fields, grassed areas, trees, woodlands and paths.*

The policy aims to protect all open spaces, both public and privately owned that contribute to the amenity of their surroundings and the city, provide or are capable of providing for the recreational needs of residents and visitors or are an integral part of the city's landscape and townscape character. It sets out the following criteria for compliance:

*Proposals involving the loss of open space will not be permitted unless it is demonstrated that:*

- a) there will be no significant impact on the quality or character of the local environment and*
- b) the open space is a small part of a larger area or of limited amenity or leisure value and there is a significant over-provision of open space serving the immediate area and*
- c) the loss would not be detrimental to the wider network including its continuity or biodiversity value and either*
- d) there will be a local benefit in allowing the development in terms of either alternative equivalent provision being made or improvement to an existing public park or other open space or*

*e) the development is for a community purpose and the benefits to the local community outweigh the loss.*

A previous planning application, (ref:18/01678/FUL) was submitted on the site for a new dwelling of a consistent footprint and design to this submission. This application was refused at delegated level and a reason for refusal was on the grounds of Env 18 - Open Space Protection, as the wider area did not have a surplus of open space and the existing space is important to the amenity of the estate.

The decision to refuse the application was upheld by the Local Review Body (LRB) at appeal however not on the grounds of Env 18 as the garden area was not identified as Open Space in the Local Development Plan. The application was refused on Hou 3 - Private Green Space, as the proposal removed an open space serving the amenity needs of the wider estate. The current proposal is assessed against policy Hou 3 in section e) below.

The Proposals Map identifies all significant areas of open space. This does not preclude other areas of open space, of lesser scale for example, that contribute in amenity terms to their surroundings and the city, being assessed against policy Env 18.

The site is an area of open space located on the north-west corner of Mortonhall Park Terrace bordering Mortonhall Park Drive. The location of this green space on a corner plot is characteristic of the surrounding estate. These areas of greenspace make a positive contribution to the quality and character of the area by enhancing its landscape value, creating a sense of openness and spaciousness that is part of the character of the townscape.

The open space is bordered by hedging near the footway. However, it still occupies a visible location from the public realm. This space is therefore of amenity value, and it is applicable to assess the loss of this area against the criteria of LDP policy Env 18 - Open Space Protection.

The proposed development will result in a significant encroachment of this open space with over 100m<sup>2</sup> of land developed. Reducing and enclosing this open space by the proposed dwelling and boundary treatment will have a detrimental impact on the open character of the local environment. There is not a significant over-provision of open space in the area. The site is standalone but is part of a network of green spaces in the locality which are an important part of its character. No alternative equivalent provision is proposed to make up for the loss and the proposal is not for a community purpose. The proposal therefore does not meet the requirements of any criteria of Policy Env 18.

#### d) Amenity of Neighbouring Residents

LDP Policy Des 5 (Design-Amenity) supports proposals that have no adverse impact on neighbouring developments in regard to noise, daylight, sunlight, privacy or immediate outlook.

Edinburgh Design Guidance outlines that private garden space of a minimum depth of 9 metres should be provided.

The new housing unit and curtilage would result in the sub-division of existing garden ground at 2 Mortons Park Terrace. As outlined in the submitted design statement, over 100m<sup>2</sup> of private garden would be retained for occupiers of this existing property which would still provide an adequate provision of amenity space. All other residential properties nearby are served by private gardens, and there would be no loss of private amenity space for these occupiers.

In regard to privacy, all proposed windows face the applicant's own garden space, street and proposed boundary treatments. The distance retained from these openings to all neighbouring properties will prevent any material loss of privacy.

Overshadowing as a result of the development will fall primarily on the applicant's own garden space, side gable of the adjacent property, garage and driveway. No overshadowing will occur on neighbouring property's private gardens.

In regard to daylight and outlook, the scale of the proposal in tandem with the retained distances to all neighbouring properties will prevent any adverse impact on neighbouring windows.

The proposal complies with LDP policy Des 5.

#### e) Creation of a Satisfactory Residential Environment

LDP policy Des 5 also states that planning permission will be granted for developments where it is demonstrated that future occupants will have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

LDP policy Hou 3 states that planning permission will be granted for development which makes an adequate provision for greenspace to meet needs of future residents.

The Edinburgh Design Guidance (EDG) outlines that new build two-bedroom residential properties should have a minimum floor area of 66m<sup>2</sup>. The proposal has an internal floorspace of 85m<sup>2</sup> and therefore exceeds these standards.

The proposed bedroom windows are located in close proximity to the boundary treatment which would result in restricted levels of outlook and light to these habitable rooms. However, overall an adequate level of light and outlook would be achieved for future occupiers by virtue of the scale of the glazed openings serving the open plan living and dining room on the south-west elevation facing the rear garden.

Privacy would be achieved for future occupiers by the orientation of all windows facing the boundary fence bordering the site boundary. The rear garden would occupy a partially visible location where privacy is somewhat compromised by proximity to street and the sloped nature of the site. There are front and rear gardens in the area that are located near the street therefore this arrangement is not uncommon in the surrounding residential environment. No unacceptable impact on privacy of future occupiers would occur as a result.

As noted, a reason for refusal from previous application (18/01678/FUL) was on the grounds of the proposal being contrary to LDP policy Hou 3 as the proposal removed open space serving the amenity needs of the wider estate.

The policy requires adequate provision of greenspace in new housing developments to meet the needs of future residents.

The site accommodates approximately 45 m<sup>2</sup> of usable greenspace. The private garden mainly achieves a maximum length of over 9m in line with EDG. Whilst this proportion of amenity space is less than that typical of surrounding residential properties, it is of a size that provides an adequate level of amenity space for future occupiers. The garden space is south-west facing, its orientation and separation distances to the neighbouring properties is sufficient in order to achieve appropriate levels of sunlight.

The greenspace subject to the proposal site is of wider amenity value as it contributes to the open character of the estate. However, policy Hou 3, seeks to ensure an adequate provision of green space is met for future residents. It is considered the proposal delivers adequate greenspace for future residents of the proposal site. Therefore the loss of this open space is not contrary to LDP policy Hou 3.

Adequate greenspace is retained for future occupiers of the proposal site in compliance with this policy.

The proposal will result in the creation of a satisfactory residential environment for future occupants of the proposal site and complies with LDP policy Des 5.

#### f) Transport

LDP policy Tra 2 - Private Car Parking states that car parking provision should comply with and not exceed the levels set out in Council guidance.

LDP policy Tra 3 - Private Cycle Parking states cycle parking and storage provision should comply with the standards set out in Council guidance.

The site is identified within the Edinburgh Design Guidance Parking Standards as being within the Zone 2. The EDG identifies that residential properties within this area should have a maximum car parking provision of 1 space per dwelling. There is no minimum parking provision. The proposal includes provision for one parking space in total and complies with LDP Tra 2.

The EDG standards state that residential properties within Zone 2 should have a minimum cycle parking provision of 2 spaces for a 2 bedroom dwelling.

No specific cycle storage is shown on the plans. However, this could reasonably be achieved within the curtilage of the existing property.

LDP policy Tra 4 - Design of Off-Street Car and Cycle Parking, states design considerations for parking including that these should not be located in front of buildings where the building would otherwise create an active frontage on a public space or street, car parking should preferably not be located at ground level where at the expense of an active frontage, public or private open space.

Previous planning application 18/01678/FUL on-site was in part refused at appeal on the grounds of the proposal being contrary to LDP policy Tra 4 as the position of the car port and relationship to the road would be visually dominant in the street. The position and layout of the car parking design for this proposal is consistent with this previous application.

The proposed car parking space will be located at the front of the property in a visible location adjacent to the street edge. Whilst there are existing driveways bordering the street, the location of the proposed car parking space in tandem with the dwelling's footprint will remove all existing greenspace to the front and is therefore at the expense of private open space on the property's frontage.

The design of the car park space is therefore contrary to LDP policy Tra 4 - Design of Off-Street Car and Cycle Parking.

#### *Road and pedestrian safety*

The position of the proposed development (dwelling, boundary treatments, vehicular access and car port) is near the junction between Mortonhall Park Terrace and Mortonhall Park Drive. Representations have raised concern regarding the potential impact of this location on road safety, pedestrian safety, access issues and congestion. It is noted road safety concerns were expressed during the considerations of the previous planning application.

The above considerations are noted. The Roads Authority has assessed the proposals from a roads perspective and have raised no objections. The proposal therefore does not raise any specific road or pedestrian safety issues that in isolation would justify the refusal of planning permission.

#### g) Flooding

Policy Env 21 (Flood Prevention) states that planning permission will not be granted for development that would increase a flood risk or be at a risk of flooding itself, impeded the flow of flood water or be prejudice to existing or planned flood defence systems.

An extract has been submitted from the SEPA Flood maps within the submitted Design Statement which states there is no risk of flooding from river or surface water. No further information has been submitted in regard to flood mitigation measures.

A surface water management plan is normally required in order to ensure surface water management is adequately controlled.

Should permission be granted, the submission of a surface water management plan would have been required prior to the commencement of development.

#### h) Archaeology

LDP Policy Env 9 (Development Sites of Archaeological Significance) aims to protect archaeological remains.

The City Archaeologist has been consulted and has raised no objections. There are no known archaeological implications in relation to this application.

i) Material Considerations

*Equalities and Human Rights*

The submitted design statement states the proposal is to create a single storey, level access dwelling for the owner of 2 Mortonhall Park Drive who is registered disabled, impacting on mobility and self-care independence. In addition, further information has been received in respect to the applicant's protected characteristics during the application process.

The statement details that it is the intention for one of the bedrooms to be occupied by a resident carer, the main space to be open plan enabling direct access to a garden and the bathroom designed suitably for wheel-chair use. The dwelling is to be built for the owner for permanent residence that will be near family members. This is a substantive reason for the location of the property.

Representations have detailed that the proposal supports community inclusivity through the provision of a home that provides varying needs, supported by the Scottish Government. Further, that an adaptable user-friendly home will enable enhanced independent living for a disabled individual. In addition, that granting of planning permission would demonstrate positive ethos by the City Council in promoting inclusivity and variety in homes.

The planning application raises matters of equality as the purpose of the proposal is to provide a home that is designed suitably to meet the identified needs of a disabled individual and this is a material planning consideration.

The Local Planning Authority has a legal obligation to have due regard to persons with protected characteristics under Section 149 - Public Sector Equality Duty of the Equality Act 2010. The Council in determining the planning applications under Section 25 of the Town and Country Planning (Scotland) Act 1997, must consider whether this material consideration outweighs any potential non-compliance with the Edinburgh Local Development Plan.

In terms of equalities there are merits to the scheme for the applicant. The design of the dwelling as single storey with level access would provide ease of use for wheelchair users. The scale of the building on-site, has the potential to deliver a good standard of living space internally, appropriate for the use of this individual with protected characteristics. An open-plan living, dining and kitchen space with access to the garden, a second bedroom for a resident carer and proximity to a wheelchair-accessible bathroom.

The internal arrangement cannot be controlled under planning. However, it is recognised that the overall scale, design and footprint of the dwelling proposed would enable suitable accommodation to be achieved for a disabled individual, and resident carer. Further, that adaptation of the existing property may still present challenge in terms of the owner's ability to adequately use the upper floor level.

Under Section 149 - Public Sector Equality Duty of the Equality Act 2010, the public authority must have due regard to the need to advance equality of opportunity between persons who share a protected characteristic and persons who do not.

In this case, the delivery of an accessible home designed to accommodate a person's disability has the potential to advance equality of opportunity between persons who share a protected characteristic and persons who don't.

There is an identified shortage of accessible and wheelchair accessible homes at national level. This is highlighted in the 2018 Equality and Human Rights Commission (EHRC) Report which states that 61,000 people are in need of adaptations to their home and almost 10,000 disabled persons are on housing waiting lists.

Further, a principle of the Scottish Government's 'Housing to 2040' - Scotland's National Housing Strategy, is the delivery of homes that meet people's needs. The strategy states that in order to tackle inequality, and advance equality we must understand and respond to housing experiences of different groups. A core aim of Housing 2040 is identified as advancing equality of opportunity and housing outcomes between those who share a protected characteristic and those who don't.

In respect to the above, the proposal would deliver an accessible home for a disabled person where there is identified need for this house type. It is therefore recognised that delivery of this home, albeit on a small-scale, has the potential to contribute to advancing the equality of opportunity for persons who share a protected characteristic.

In considering whether this material consideration outweighs any potential non-compliance with the Edinburgh Local Development Plan, a number of factors have to be considered. Planning permission relates to the use of the land and it would not be appropriate to apply a personal consent to the future occupancy of a private dwelling house as the house would then have to be removed when the applicant no longer lives there.

Unless a legal agreement is put in place, it would not be possible to ensure that the house, if granted planning permission, is occupied by a disabled person. An Occupancy Restriction under a Section 75 legal agreement could be applied restricting the occupation of the property to people with a disability (and their dependents) as set out under the Equality Act 2010. However, the legal agreement would be tied to the property and future occupiers would have to abide by the occupancy restriction.

On balance, the non-compliance with the LDP is not outweighed by the benefits to an individual with a protected characteristic. As stated above, there are significant breaches of LDP policies Des 1, Des 4 and Env 18 and ultimately Hou1. These are not minor infringements of LDP policy but substantial ones that would cause significant harm to the neighbourhood if built.



## j) Public Comments

### **Material Comments - Objection**

- Proposals contrary to Edinburgh Local Development Plan - Addressed through consideration of LDP policies in the above report;
- Concerns about design - addressed in section 3.3 b) of the above report;
- Loss of open space -addressed in section 3.3 c) of the above report;
- Concerns about loss of amenity and greenspace- addressed in sections 3.3 d) and e) of the above report ;
- Potential pedestrian and road safety issues - addressed in section 3.3 f) of the above report
- Impact of greenspace on mental health: These matters cannot quantifiably be assessed as part of this planning application. The impact on provision of greenspace on the amenity of the area has been assessed through section 3.3 b and c) ;
- Previous planning application was refused: Referenced in sections 3.3 c) and e) of the above report.

### **Material Comments - Support**

- Proposal site ground offers no public or private amenity; addressed in sections 3.3 b) and c) of the above report.
- Design in scale, form and position is appropriate to area and will add variety - addressed through section 3.3 b) of the above report;
- Limited visual impact on neighbouring properties, neighbourhood and environment - addressed through sections 3.3 b) and c) of the above report;
- Adequate garden space for current and future occupiers - Addressed in sections 3.3 d) of the above report;
- No adverse impact on amenity - Addressed in sections 3.3 e) of the above report;
- Adequate parking provision for occupier -addressed in section 3.3 f) of the above report
- Positive impact on applicant as a result of proposal through proximity to disabled family member, increased independence and well-being - addressed in section 3.3 i) of the above report;

- Enhanced quality of life for persons with reduced mobility - addressed in section 3.3 i) of the above report;
- Simple and valid solution to provide appropriate, user-friendly home for independent living for a disabled individual- addressed in section 3.3 i) of the above report
- Proposal meets Scottish Government objectives of housing provision and community inclusiveness; addressed through section 3.3 i) of the above report

### **Non-Material Considerations**

- Positive impact on provision of housing stock for potential buyers: This matter cannot materially be assessed under this planning application.
- Occupation, current and future residence of owner: This matter cannot be controlled by the Planning Authority;
- Location and number of cars parked in area and resultant impact traffic on surrounding area; Potential future parking arrangements out with the proposal site boundary cannot materially be assessed as part of this planning application;
- Housing mix on other developments and adequate provision of housing in area ; Each planning application is assessed on its own merits having regard to relevant policy and guidance.
- Impact on views: The protection of existing views cannot be guaranteed under the planning process;
- Noise and disturbance from construction activities: Impacts from operational or construction activities cannot materially be assessed as part of this proposal;
- Existing home may have potential to be modified and adapted to suit accessibility needs of applicant: Potential alternate schemes cannot be considered as part of this planning application;
- Potential conflict with title conditions / deeds: This is a private, civil or legal matter which cannot materially be assessed under this planning application;
- Alterations to existing houses in the area: Each planning application is assessed on its own merits having regard to relevant policy and guidance. The character and appearance of the area has been assessed through section 3.3 b) of the above report;
- Potential impact on greenfield plots: This matter cannot materially be assessed under this planning application;
- Positive impact on value of area: This matter cannot materially be assessed under this planning application;

## Conclusion

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, determination of a planning application shall be made in accordance with the local development plan, unless material considerations indicate otherwise.

The proposal in form, scale, proportions and position is incongruous to its surroundings and will have a significantly detrimental impact on the established townscape character. It will result in the substantive loss of corner plot green space, which is a positive characteristic of the surrounding area, and is of an overall design that will be damaging to its character and appearance.

The proposal will result in loss of open space that is of amenity value that contributes to the open character of the area, which will result in a detrimental impact on the quality and character of the local environment.

The design of the off-street car parking is visible on the street frontage and is at the expense of private open space.

In light of the above, the proposal not in accordance with the Edinburgh Local Development Plan as it is contrary to policies Des 1, Des 4, Env 18 and Tra 4.

The applicant has submitted information stating the proposal is designed for a person with protected characteristics. This is a material planning consideration. There is a duty under the Equality Act 2010 for the Local Planning Authority to assess the weight to be given to this material consideration in determining the planning application against the LDP, and all other relevant factors.

This material planning consideration brings significant merit to the scheme, the provision of an accessibly designed home would help to meet the required needs of a disabled individual. The proposal would provide a level access dwelling appropriately designed for wheelchair use, with a second bedroom providing space for a resident carer.

The proposal is contrary to several LDP policies therefore the degree of departure from the Edinburgh Local Development Plan is not minor. On balance, the resultant adverse impact on the quality and character of the local environment and detriment to the public interest are not outweighed by the benefit to the applicant as a person with protected characteristics, or, level of benefit to advancing identified issues of equality of opportunity. It is not considered that an occupancy restriction or any other restriction via a legal agreement or condition would satisfactorily address the significant departures from the Edinburgh Local Development Plan.

In light of the above, it is recommended that the planning application be refused for the following reasons.

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

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

#### **Reasons:-**

1. The proposal is contrary to Edinburgh Local Development Plan Policy Des 1 - Design Quality and Context, as the proposal fails to draw upon positive characteristics of its surroundings and is of an inappropriate design that will be damaging to the character and appearance of the area.
2. The proposal is contrary to Edinburgh Local Development Plan Policy Des 4 - Development Design - Impact on Setting, as the form, scale, proportions and position of the dwelling is an incongruous addition in its surroundings that will have an unacceptable impact on the established character of the townscape.
3. The proposal is contrary to Edinburgh Local Development Plan Policy Env 18 - Open Space, as the development will result in the loss of open space on a corner plot that is of amenity value and will have a significant impact on the quality and character of the local environment.
4. The proposal is contrary to Edinburgh Local Development Plan Policy Tra 4 - Design of Off-Street Car and Cycle Parking as the position of the car port and driveway will results in a car park dominated street frontage at the expense of private open space.

### **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**

---

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

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

## **Sustainability impact**

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

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

## **Consultation and engagement**

---

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

There is no pre-application process history.

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

37 representations have been received (21 supporting comments and 16 objections)

## **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**

Urban Area

**Date registered**

1 April 2021

**Drawing numbers/Scheme**

01-06,

Scheme 1

**David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Lewis McWilliam, Planning Officer

E-mail: [lewis.mcwilliam@edinburgh.gov.uk](mailto:lewis.mcwilliam@edinburgh.gov.uk)

**Links - Policies**

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**Relevant Policies:**

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

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

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

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

LDP Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

LDP Policy Env 18 (Open Space Protection) sets criteria for assessing the loss of open space.

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

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

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

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

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

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

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

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

# Appendix 1

## Application for Planning Permission 21/01786/FUL At 2 Mortonhall Park Terrace, Edinburgh, EH17 8SU To create a 2 bedroom level access house in the garden of No. 2 Mortonhall Park Terrace.

### Consultations

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#### Archaeology:

*The 1892-1905 25" OS map overlay below shows the site overlying the western side of a large sand quarry pit dating to the second half of the 19th century and infilled by the 1930s.*

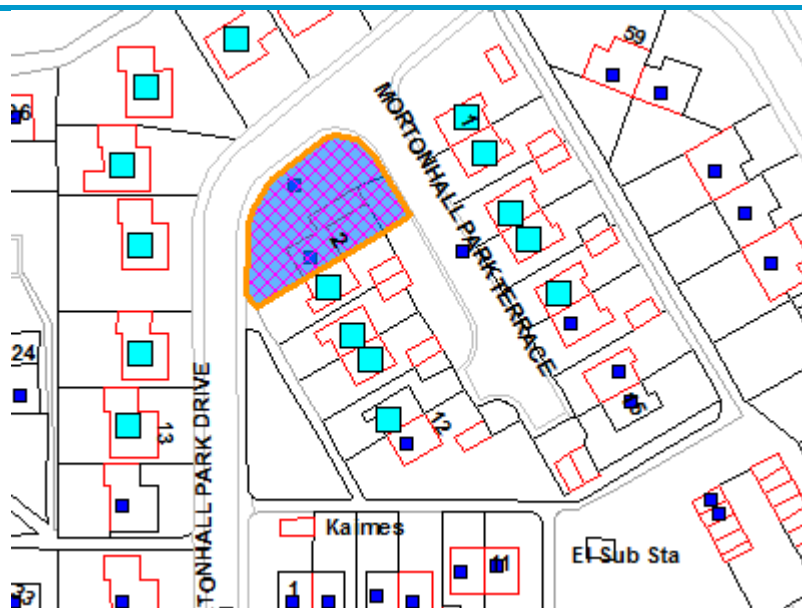
*Given this recent development history and scale of the proposed development, it has been concluded that there are no known archaeological implications in relation to this application.*

#### Transport:

*No objections.*

### Location Plan

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**END**



## Development Management Sub Committee

Wednesday 04 August 2021

### Confirmation of Tree Preservation Order No. 195 (82 Newbattle Terrace, Edinburgh)

Item number

Report number

Wards

Ward 10 – Morningside

#### Summary

---

Tree Preservation Order TPO No. 195 (82 Newbattle Terrace, Edinburgh) was made on 18 February 2021 to protect a mature sycamore tree in the interests of amenity. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 18 August 2021 to ensure the Order provides permanent protection for the trees.

It is recommended that Committee confirms Tree Preservation Order No. 195 (82 Newbattle Terrace, Edinburgh).

#### Links

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[Policies and guidance for this application](#)

CDP ENV12

# Report

## Confirmation of Tree Preservation Order No. 195 (82 Newbattle Terrace, Edinburgh)

### Recommendations

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1.1 It is recommended that Committee confirms the Order.

### Background

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#### 2.1 Site description

The site consists of the garden ground and large detached residential property (approx. 0.11 ha), which contain several individual, mature trees to the west and east of the property. The tree in question, a mature open grown sycamore is located in the north west part of the site towards the corner on Newbattle Terrace and Eden Lane. This site is within the Grange Conservation Area.

Photographs of the tree taken from Google Street View are provided in Appendix 3.

#### 2.2 Site History

6 June 2006 - planning application (reference 06/01825/FUL) for an extension to the existing house was withdrawn after the advice was given that the application would be refused.

24 February 2020 – preapplication consultation for the subdivision to accommodate a new dwelling (reference 20/00907/PREAPPP).

17 August 2020 – Notice of intent received to fell the sycamore tree to accommodate the extension of the property (reference 20/02366/TCO). Withdrawn after applicant was advised the felling of the tree should be dealt with as part of any planning application for the development.

11 January 2021 – Notice of intent received to fell the sycamore tree (reference 21/00088/TCO) due to negative impact on amenity of the occupier.

18 January 2021 – TPO No.195 made due to concern that, without a TPO being made, the tree could be felled upon the expiry of the statutory 6 weeks-notice (reference 21/00088/TCO) for tree work in conservation areas.

## **Main report**

---

### **3.1 Description of The Proposal**

This report deals with the confirmation of Tree Preservation Order TPO No.195. (82 Newbattle Terrace, Edinburgh).

A request for pre-application advice (20/00907/PREAPP) in respect of a proposed new building was received in 2020. Advice was given that the proposed development would lead to the loss of a large sycamore tree (which is the subject of this report) and perhaps others and unless it was shown that the trees were not worthy of retention, the proposals would not be supported.

There have since been two notifications of intent to fell the sycamore tree. The first (reference 20/02366/TCO) was on the grounds that the tree was in the way of a proposed building extension. The notice was withdrawn after the applicant was advised that the felling of the tree should be dealt with as part of a planning application for the development.

A second notification (reference 21/00088/TCO) of intent to fell the tree was received. The reason given was that the tree was having a negative impact on the amenity of the owner. The notice would have allowed the tree to be felled on the expiry of 6 weeks from the date of the notice. The tree was considered to be a prominent specimen contributing significantly to amenity. The effect on the amenity of the owner was not considered to outweigh the amenity provided by the tree. The applicant's agent was advised that the proposal would result in a Tree Preservation Order being made and was offered the opportunity to withdraw the notification as an alternative to making the Order. This was declined.

The Tree Preservation Order was made under delegated powers on 18 January 2021 to provide protection for the sycamore tree, a mature open grown specimen which is very prominent and considered to contribute significantly to the attractiveness and character of the locality. A Tree Preservation Order allows the Council to prevent tree removal where it would harm amenity and allow it to impose conditions on any consent for tree work including replacement planting.

### **3.2 Determining Issues**

Section 160 of the Town and Country Planning (Scotland) Act 1997 states that a planning authority may make an order specifying any trees, groups of trees or woodlands in their district and providing for their preservation if it is a) expedient in the interests of amenity to make that provision, or b) that the trees, groups of trees or woodlands are of cultural or historical significance.

The planning authority must consider any representations made in accordance with the Tree Preservation Order and Trees in Conservation Regulations before the tree preservation order is confirmed.

### **3.3 Assessment**

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

- a) the making of the Order is expedient in the interests of amenity or whether the trees, groups of trees or woodlands are of cultural or historical significance;
- b) the proposal complies with the development plan;
- c) equality and human rights issues have been addressed; and
- d) any representations received require the Order to be abandoned, or confirmed with modifications.

#### **a) Amenity and Expediency**

The tree in question is of amenity value due to its prominence in the locality and its open grown form. The tree appears in reasonable health and condition with considerable future life expectancy and likely to be an attractive, enduring feature in the locality.

The expediency in making the Order relates to the receipt of a notice of intent to fell the tree which would allow the proposed work to be carried out after the expiry of 6 weeks. After consideration of the notice, there was not considered to be any grounds that would outweigh the amenity value of the tree and justify its felling. The only mechanism a planning authority has to provide long term protection to trees is through the use of a Tree Preservation Order. If the Order is not confirmed the tree can be felled after the expiry of six months from the making of the Order.

The making of the Tree Preservation Order was therefore expedient in the interests of amenity.

The tree is not considered to be cultural or historic significance.

#### **b) Development Plan**

Policy 'ENV 12' of the Edinburgh Local Development Plan 2016 states that where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders.

In view of the amenity provided by the tree, the proposal complies with the development plan.

c) Equalities and Human Rights

The proposals raise no equalities or human rights concerns.

The statutory requirement on planning authorities is to make Orders where this is in the interests of amenity. Amenity in this context is interpreted as extending beyond the amenity of an individual party and being of wider public benefit. An Order allows any person to apply for permission to carry out tree pruning, felling etc at any time; at that time the individual circumstances of the case must be assessed and a decision on tree work proposals reached. There is a right of appeal against the decision of a planning authority.

d) Representations

The Planning Authority is required to consider any objection or representation made within 28 days of making and advertising a Tree Preservation Order. The making of the TPO was advertised in the normal manner. One representation was timeously received and this was from the owner's agent objecting to the Order on the grounds that

- the tree is not special in terms of its species or prominence as it is obscured by a high wall and other features including the flats at Eden Terrace,
- that the removal of the tree would enhance the residential amenity of both the owner's garden ground by removing a cause of shading and sticky sap fall and bird droppings onto a patio and cars. It would also remove shading of and blocked views from the adjacent flats at Eden Terrace.

The issues raised in the objection have been considered. It is not the case that a tree has to be special to warrant the making of a TPO, simply that making an Order must be expedient in the interests of amenity or that a tree have cultural or historic value. The tree in question is an open grown tree so has had an opportunity to develop a full balanced crown. It is also situated in a prominent location where it can readily be readily seen from the public realm. The tree is valuable as part of the collective contribution trees make to the character and amenity of the locality but also as an individual open grown specimen.

While it is acknowledged that large trees cause shade and debris falling from trees and along with bird dropping can cause a nuisance to residents, these are not normally reasons to justify the felling of trees which contribute to wider amenity. The objection in respect of the disputed visual prominence of the tree has also been considered but the premise that the tree is obscured by high walls and building and that the majority of passers-by would be unaware of this tree unless looking up, is not considered a reasonable assessment of the value of the tree. Pictures of the tree can be seen at Appendix 3.

## Conclusion

The sycamore tree in question is of significant amenity value and contributes to the attractiveness and character of the area. The making of the Tree Preservation Order was expedient as otherwise the tree could have been felled after 6 weeks. The confirmation of the Order is necessary to prevent the felling of the tree. There are no grounds presented which would outweigh providing protection under a Tree Preservation Order to the tree,

It is recommended that the Tree Preservation Order be confirmed.

The Tree Preservation Order map and Schedule are enclosed at Appendices 1 and 2.

## **Financial impact**

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

Costs are accommodated through existing budgets.

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

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5.1 Provided Tree Preservation Orders are confirmed 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**

---

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

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

## **Consultation and engagement**

---

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

Not applicable.

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

The Order was advertised in accordance with regulatory requirements. Copies were not displayed in the local library and at the Planning and Building Standards reception in Waverley Court due to COVID restrictions but electronic copies could be requested by email.

## **Background reading/external references**

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- [Planning guidelines](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

## **Statutory Development**

### **Plan Provision**

Where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders (ENV12).

### **Date registered**

N/A

### **Drawing numbers/Scheme**

N/A

## **David Givan**

Chief Planning Officer  
PLACE  
City of Edinburgh Council

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## **Links - Policies**

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### **Relevant Policies:**

#### **Local Development Plan**

##### **LDP Policy ENV12 (Trees)**

Development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or other tree worthy of retention unless necessary for good arboricultural reasons. Where such permission is granted, replacement planting of appropriate species and numbers will be required to offset the loss to amenity.

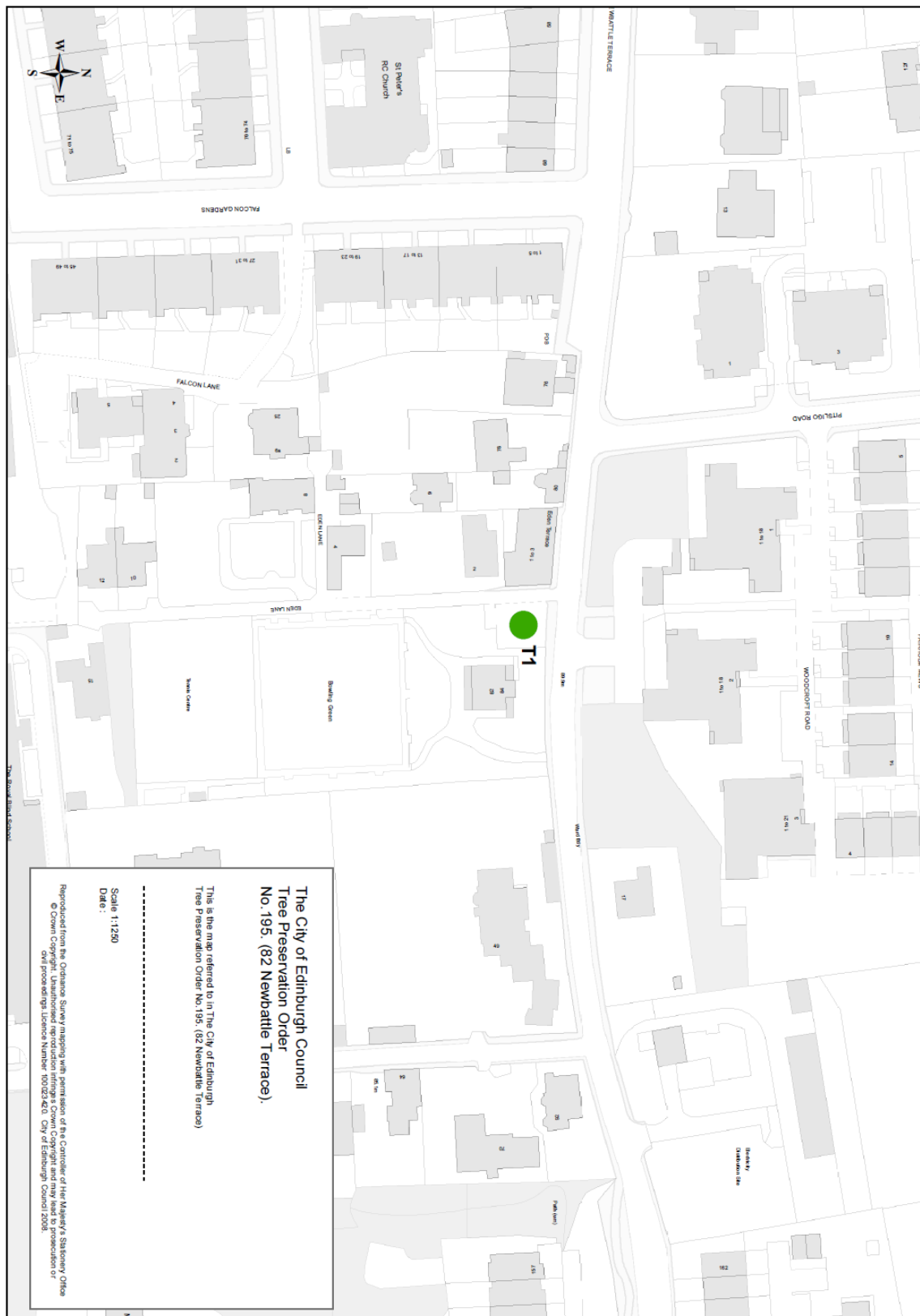
This policy recognises the important contribution made by trees to character, biodiversity, amenity and green networks. In assessing proposals affecting trees, the Council will consider their value, taking into account status such as Tree Preservation Order, heritage tree, Ancient Woodland and Millennium Woodland, and information from tree surveys.

Where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders.



# Appendix 1

## Tree Preservation Order Map



# Appendix 2

## Tree Schedule

<b>Trees Specified Individually (marked in green on the maps)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
T1	Sycamore	
<b>Trees Specified by Reference to an Area (within a solid black line on the map)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
	None	
<b>Groups of Trees (within a broken black line on the maps)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
	None	
<b>Woodlands (Within a red line on the maps)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
	None	

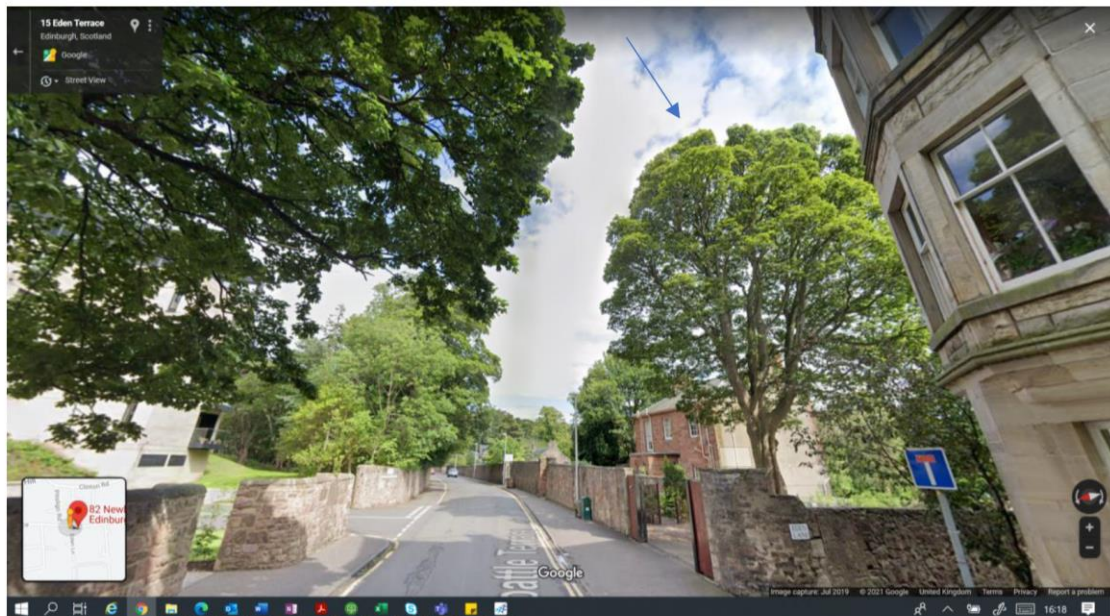
# Appendix 3

## Photographs

Sycamore tree looking west on Newbattle Terrace



Sycamore tree looking east on Newbattle Terrace



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## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/01222/FUL  
At 126 - 130 Raeburn Place, Edinburgh, EH4 1HG  
Section 42 Application seeking variation to condition No.9 of  
Planning Permission 12/03567/FUL, to allow the use of  
acoustic glazing on the elevation fronting onto Comely Bank  
Road.**

**Item number**

**Report number**

**Wards**

B05 - Inverleith

### Summary

The proposal is an application made under Section s42 of the Town and Country Planning Act; it is for a proposed change to the requirements and wording of condition 9 of planning permission 12/03567/FUL.

The proposal will result in no material change to the external appearance of the building and will preserve the character and appearance of the Inverleith Conservation Area.

The proposal to amend condition 9 will not have a detrimental impact on the living conditions of nearby residents and complies with LDP policy Hou 7. The principle of the use and development has been established under planning permission 12/03567/FUL.

Planning conditions to be attached to the permission shall ensure the development does not have an unacceptable impact on neighbouring residential amenity; condition 9 is updated to reflect this. Informatives include the requirement for a new s75 legal agreement which would be attached to this new planning permission. There are no other material considerations which outweigh this conclusion.

### Links

[Policies and guidance for this application](#)

LDPP, LEN06, LHOU07, LDEL01, NSG, NSLBCA, SGDC,

# Report

## **Application for Planning Permission 21/01222/FUL At 126 - 130 Raeburn Place, Edinburgh, EH4 1HG Section 42 Application seeking variation to condition No.9 of Planning Permission 12/03567/FUL, to allow the use of acoustic glazing on the elevation fronting onto Comely Bank Road.**

### **Recommendations**

---

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

### **Background**

---

#### **2.1 Site description**

The site lies to the north side of Comely Bank Road. The development has been recently under construction and is almost complete. Some commercial units on the ground floor are occupied. The building is set back from the main road. There are commercial units with tenemental flats above on the opposite side of Comely Bank Road. The rugby grounds and stadium are directly to the north, with Inverleith Park further beyond this.

There are residential properties along North Park Terrace to the north west. There is an existing public house/ restaurant directly to the east of the site. Portgower Place lies to the east and links through to Inverleith Park. There are some commercial premises with residential above at the first part of Portgower Place.

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

#### **2.2 Site History**

31 October 2013 - Conservation area consent was granted for the demolition of part of the existing site boundary wall to Comely Bank Road and North Park Terrace and alterations to Portgower Place (revised scheme 2) (application reference: 12/03567/CON).

2 July 2014 - Planning permission was granted for the erection of stands, clubhouse and facilities, associated commercial, business and retail uses including museum, licensed premises and function space, retail units, alterations to external landscape, car and coach parking, sports pitch realignment, sport floodlighting and alterations to vehicular access points and boundary walls. A condition was imposed on the planning permission (condition 9) which required that the development be completed in accordance with all of the construction and other details specified in sections 7 to 10 in the submitted Noise Impact Assessment (October 2012).



The proposal was subject to a s75 legal agreement which required the following i) Public realm; ii) Pitch upgrade works at Inverleith; ii) Transport infrastructure improvements; and iv) provision for replacement street tree planting to semi-mature woodland as required. (application reference: 12/03567/FUL)

27 February 2017 - Variation approved for non material works (application reference: 12/03567/VARY)

7 May 2019 - Variation approved for non material works (application reference: 12/03567/VAR2)

30 June 2020 - Permission was granted for installation of an additional double glazed door into the existing glass screen at ground floor level (application reference: 20/01853/FUL)

## **Main report**

---

### **3.1 Description Of The Proposal**

The proposal is an application under section 42 to alter condition 9 of planning approval 12/03567/FUL which proposes potential noise from the first floor front elevation of the building being dealt with by enhanced acoustic glazing instead of the use of room buffers etc.

The applicant has confirmed that the acoustic glazing would be to the same performance glazing already installed along the north facade. It would have a sound insulation of  $R_w$  50 dB and comprises an outer pane of 8.8mm acoustic laminated glass, a 24mm cavity, and an inner pane 12.8mm acoustic laminated glass.

The upper floor uses are proposed to be altered to include a fitness suite, bar and offices instead of the previously approved function suite, bar and offices.

The original approved plans (and subsequent variation 2) proposed that the first floor function suite was to be separated from the Comely Bank Road frontage by other less noisy uses. Sets of door openings were also used to provide separation. These mechanisms to reduce noise were included in the Noise Impact Assessment for the original planning approval, and condition 9 relates/ refers to these specifically in the NIA. The proposed bar areas were also included in the NIA as potentially creating noise from some live music etc.

The proposed bar, fitness suite and break out spaces proposed to the first floor of the building will be mechanically ventilated. The applicant has confirmed that all windows will be permanently locked and only open in the event of an emergency. Also, a noise level limiter will be installed in the bar area which will cut off the power to the sound system if the level exceeds 90dBA.

The applicant states that the access doors to the south facing roof via the bar and break out spaces are for maintenance access only and will be locked. They will only be opened when these areas are not in use to carry out periodic maintenance.

An updated Noise Impact Assessment has been submitted in support of the application.

### **3.2 Determining Issues**

Section 42 of the Town and Country Planning (Scotland) Act 1997 requires that the planning authority must consider only the question of conditions to which planning permission should be granted.

Should planning permission be granted subject to conditions different from those imposed on the previous permission?

Should planning permission be granted unconditionally?

Should planning permission be granted subject to the same conditions resulting in a refusal of planning permission to develop the land without complying with the conditions subject to which planning permission was previously granted?

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 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 s42 application affects the principle of the development
- b) the proposal affects the character or appearance of the conservation area
- c) the proposed changes affect residential amenity
- d) public comments have been addressed

#### **a) Principle of the development**

The principle of the development was established under application 12/03567/FUL; this remains extant and the development is almost completed on site.

At the time of determination of the original planning application, the adopted local plan was the Edinburgh City Local Plan. In terms of land designation there is no change in



the now adopted Edinburgh Local Development Plan; the majority of the site is designated as an area of open space and it is adjacent to the Stockbridge Town Centre. There would be no additional S75 requirements as required by policy Del1 (Developer Contributions and Infrastructure Delivery) of the LDP. Contributions have already been paid via the S75 attached to the original planning permission to the total sum of £383,450 for bus stop improvements, TRO contribution, pitch upgrade and public realm works. Since payment, the contribution of £30,000 has been repaid in relation to bus stop improvements as they were no longer required, and £63,948.50 repaid for pitch upgrade works as works carried out were at a cost lower than originally estimated. The proposed new s75 is updated to reflect these changes and would require a total financial contribution of £289,501.50. This would comprise £34,501.50 for pitch upgrade works, £250,000.00 for public realm works and £5,000 for a TRO.

Issues raised relating to parking problems and anti social behaviour on match days cannot be re-visited through this S42 planning application.

#### b) Character or appearance of the 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."

The installation of the acoustic glazing would not have any impact on the character or appearance of the Inverleith Conservation Area.

#### c) Amenity of neighbouring property

The proposed change to noise protection measures to the front facade of the first floor of the property needs to be assessed in terms of its potential impact on the amenity of neighbouring residential properties. Local Development Plan policy Hou 7 (Inappropriate uses in residential areas) 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.'

The planning permission is for a range of uses, and this current proposal indicates the re-arrangement/ relocation of uses on the first floor of the building; bar and function rooms are no longer proposed at first floor level and, instead, a bar and fitness suite are proposed. Condition 9 requires noise control by means of building fabric, location and number of access doors etc. The proposal is to install enhanced acoustic glazing instead as a method of noise control.

The building has permission for stands, clubhouse and facilities, associated commercial, business and retail uses including museum, licensed premises and function space and retail units. The fitness suite proposed on the upper floor would fall within the uses approved at the site.

The main potential adverse noise impact is from amplified music noise from both the bar and fitness suite. The updated Noise Impact Assessment states that the roof of the development is a concrete construction; the weakest element in the sound insulation of

the building envelope is the glazed facades. The north facade glazing is already upgraded to have an enhanced sound insulation of  $R_w$  50 dB and the glazing now proposed for the south elevation is also to be enhanced to this specification. Calculations have been carried out to demonstrate that a relatively high level of music noise - 90 dB(A) - commensurate with a very busy bar or loud gym class, would be inaudible in the nearest residential premises to the south across Comely Bank Road.

The Noise Impact Assessment confirms that bar and fitness suite spaces will have to be mechanically ventilated to avoid the need to have windows opened for ventilation while any loud activities take place. The original design for first floor level was a mix of natural ventilation and mechanical. The applicant confirms that the proposed ventilation systems are designed to meet a noise limit of NR55 at 3 metres from any rooftop plant item or louvres on the building facade. The Noise Impact Assessment clarifies that this will ensure noise meets the local authority criterion of NR25 inside the nearest dwellings with the windows open for ventilation. and that this criterion should be readily achievable with standard building services noise control measures such as atmospheric side attenuators to extract fans.

The building management system (BMS) will automatically close any windows that are open in order for the mechanical plant to operate as designed, mechanically ventilating the space. The applicant also states that a noise level limiter will be installed in the bar area which will cut off the power to the sound system if the level exceeds 90dBA. Access doors (labelled A & B on the plan) to the south facing roof/ terrace area via the bar and break out spaces are confirmed as being for maintenance access only.

Environmental Protection consider the revised noise protection measures to be acceptable. They state that both the bar and the fitness suite will need to be mechanically ventilated and that the applicant has advised that only doors for servicing and maintenance would be openable on this façade. Environmental Protection confirm that if this is the case and adequate space ventilation is provided then they support this approach.

The proposal would not raise any additional amenity issues in terms of noise. The proposal to amend condition 9 will not have a detrimental impact on the living conditions of nearby residents and complies with LDP policy Hou 7.

#### d) Public comments

##### **Public comments - Objections:**

- parking potentially a problem on match days; assessed in part a) of this assessment.
- anti social behaviour and amenity issues; assessed in part a) of this assessment and
- details should be provided and demonstrated that proposed noise protection measures are acceptable before any permission is granted; assessed in part c) of this assessment.

## Conclusion

The proposal will result in no material change to the external appearance of the building and will preserve the character and appearance of the Inverleith Conservation Area.

The proposal to amend condition 9 will not have a detrimental impact on the living conditions of nearby residents and complies with LDP Hou 7. The principle of the use and development has been established under planning permission 12/03567/FUL. The development is near completion, and conditions and informatives have been removed or updated to reflect this.

Condition 9 is updated to ensure the development does not have an unacceptable impact on neighbouring residential amenity. Informatives include the requirement for a new s75 legal agreement which would be attached to the new planning permission. The updated s75 reflects changes in terms of amount of monies required due to repayments which have been previously made.

There are no other material considerations which outweigh this conclusion and approval is recommended.

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

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

1. The approved tree works shall be carried out prior to the commencement of all other site operations and in accordance with BS 3998:2010 Tree Work Recommendations and the approved Arboricultural Implications Assessment and Method Statement dated October 2012. No other tree works or removal shall be carried out without the prior written approval of the Head of Planning and Building Standards.
2. The approved site landscape scheme EFR.AR.(PL)025\_B and approved external works to Comely Bank Road shall be implemented within six months of completion of the development.
3. The completed landscape scheme shall be maintained by the applicants and their successors in accordance with the approved landscape management plan. This shall include the replacement of any plant stock which fails to survive for whatever reason within a period of 5 years from implementation, to ensure its establishment in accordance with the approved landscape scheme.
4. The development shall be completed in accordance with all of the construction and other details specified in sections 7 to 10 in the Noise Impact Assessment (October 2012) with the exception of the noise protection measures to the first floor south elevation. This shall be completed as detailed in the updated Noise Impact Assessment (March 2021) and as shown on drawing EFR4.AR.(PL)012\_B. It shall be installed prior to occupation and associated use

of the first floor of the development and retained in situ, unless otherwise agreed in writing with the Planning Authority.

5. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment.
6. The development shall be designed and constructed so that any noise associated with the electrical substation complies with NR20 when measured within any nearby living apartment with the windows open for adequate ventilation.
7. No more than three flagpoles shall be erected on each street frontage. Details of the location of these will be agreed in writing by the Planning Authority prior to their erection.
8. The maximum gross floor area of individual commercial / retail units on the ground floor fronting Comely Bank Road shall be limited to a maximum of 500sqm each.
9. Hours of operation of the floodlighting system shall be restricted to 0800 hours to 2200 hours daily.
10. A Final Travel Plan shall be submitted to the Planning Authority within 12 months of the date of submission of the Draft Travel Plan..

**Reasons:-**

1. In order to safeguard protected trees.
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 the approved landscaping works are properly established on site.
4. In order to safeguard the amenity of neighbouring residents and other occupiers.
5. In order to safeguard the amenity of neighbouring residents and other occupiers.
6. In order to safeguard the amenity of neighbouring residents and other occupiers.
7. To avoid visual clutter
8. To support the aims, objectives and policies of Edinburgh City Council's Local Transport Strategy and Edinburgh City Local Plan policies on parking requirements and retail developments to reflect the character of Stockbridge town centre.

9. In order to safeguard the amenity of neighbouring residents and other occupiers.
10. To support a sustainable form of development.

## **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. The applicant shall advise the Council's event planning team and police traffic management section to arrange traffic and pedestrian management of large events (those expected to attract over 1,000 spectators).
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.
4. The proposed lighting should be directed only to where it is needed; light spillage should be minimised through the design of the luminaire and by using appropriate hoods, cowls, louvres and shields to direct light to the intended area only. UV filtering should be fitted to the floodlights to reduce their attractiveness to nocturnal insects.
5. The applicant shall enter into a suitable legal agreement in respect of the following:
  - i) Public realm works to sum of £250,000.00;
  - ii) Pitch upgrade works at Inverleith to sum of £34,501.50;
  - iii) Transport infrastructure improvements to the sum of £5,000.00 for Traffic Regulation Order; and
  - iv) Provision for replacement street tree planting to semi-mature woodland as required.
6. It should be noted that when designing the exhaust ducting, Heating, ventilation and Air Conditioning (HVAC) good duct practice should be implemented to ensure that secondary noise is not generated by turbulence in the duct system. It is recommended that the HVAC Engineer employed to undertake the work, undertakes the installation with due cognisance of the Chartered Institute of Building Services Engineers (CIBSE) and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guidance.

## **Financial impact**

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

The application is subject to a legal agreement for developer contributions.

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

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### **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**

Pre-application discussions took place on this application.

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

The application was advertised on 26 March 2021 and 11 June 2021 . Two letters of objection were received.

## **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****Local Development Plan**

The site is within an area of open space. It lies adjacent to the Stockbridge Town Centre and is within an area of importance for flood management. The majority of the site is within the Stockbridge Conservation Area.

**Date registered**

9 March 2021

**Drawing numbers/Scheme**

1-3,

Scheme 1

**David Givan**  
**Chief Planning Officer**  
PLACE  
The City of Edinburgh Council

Contact: Karen Robertson, Senior planning officer  
E-mail: [karen.robertson@edinburgh.gov.uk](mailto:karen.robertson@edinburgh.gov.uk)

**Links - Policies**

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**Relevant Policies:****Relevant policies of the Local Development Plan.**

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

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

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

## **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.

Draft Developer Contributions and Infrastructure Delivery SG sets out the approach to infrastructure provision and improvements associated with development.



# Appendix 1

## **Application for Planning Permission 21/01222/FUL At 126 - 130 Raeburn Place, Edinburgh, EH4 1HG Section 42 Application seeking variation to condition No.9 of Planning Permission 12/03567/FUL, to allow the use of acoustic glazing on the elevation fronting onto Comely Bank Road.**

### **Consultations**

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#### **Environmental Protection**

*We are satisfied with what is being proposed as per the submitted drawing EFR4.AR.(PL)012\_B which is referenced as Appendix A in the supporting noise impact assessment 20351-R01-C dated 8 March 2021. Both the bar and the fitness suite will need to be mechanically ventilated to avoid needing to open windows or other ventilation openings directly in the building envelope when any louder activities such as bar music or gym classes take place. The applicant had previously advised that only doors allowing for servicing and maintenance would be openable on this façade. If this is the case and adequate space ventilation is provided then this could be supported.*

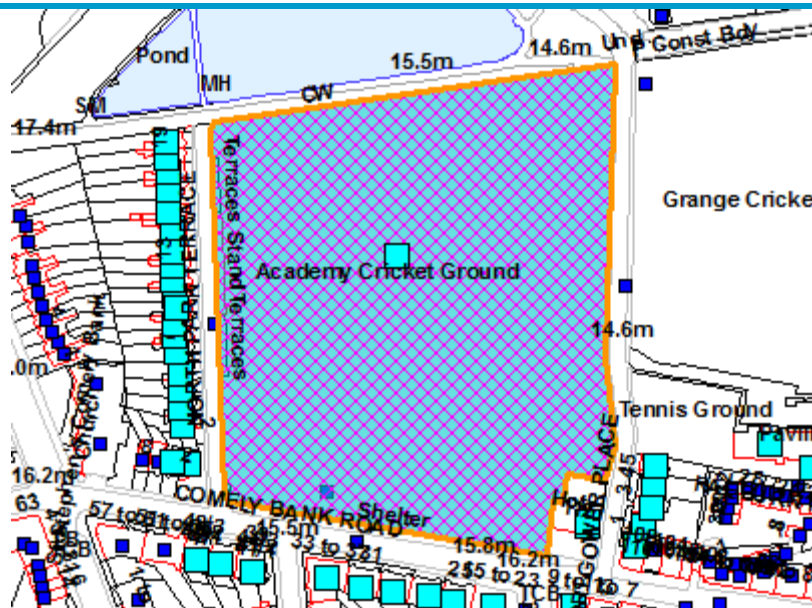
*To control building services plant noise to meet our required criterion (NR25), external building services plant items and louvres to the environment will need to meet a noise limit of NR55 at 3 metres. The applicant has advised that this could be achievable but may require atmospheric side attenuators on extract fans depending on fan noise levels. We will need the applicant to ensure that NR25 is achieved in the nearest residential property allowing for their windows to be open we recommend an informative and condition for plant noise. If new condition(s) are required we would recommend;*

- 1. The acoustic glazing highlighted in drawing EFR4.AR.(PL)012\_B shall comprise of as a minimum an outer pane of 8.8 mm acoustic laminated glass, a 24 mm cavity, and an inner pane 12.8 mm acoustic laminated glass. This shall be installed prior to occupation and to the satisfaction of the Planning Authority.*
- 2. Prior to occupation of the development, details demonstrating that noise from all plant complies with NR25 shall be submitted for written approval by the Planning Authority.*

#### **Recommended Informative:**

*It should be noted that when designing the exhaust ducting, Heating, ventilation and Air Conditioning (HVAC) good duct practice should be implemented to ensure that secondary noise is not generated by turbulence in the duct system. It is recommended that the HVAC Engineer employed to undertake the work, undertakes the installation with due cognisance of the Chartered Institute of Building Services Engineers (CIBSE)*

## Location Plan



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**END**

## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 21/01541/FUL  
At 17 Spring Gardens, Edinburgh, EH8 8HU  
Change of Use from dwelling to holiday-let (in retrospect).**

**Item number**

**Report number**

**Wards**

B14 - Craigentinny/Duddingston

### Summary

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The change of use to short-term holiday/commercial visitor accommodation (SCVA) is not acceptable in principle in this location. Whilst the development will not harm the special interest of the listed building, it will result in an unreasonable loss of amenity for neighbouring residential properties. The proposal does not comply with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

### Links

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[Policies and guidance for this application](#)

LDPP, LHOU07, LEN03, LEN04, NSG, NSBUS, HES, HESUSE,

# Report

## **Application for Planning Permission 21/01541/FUL At 17 Spring Gardens, Edinburgh, EH8 8HU Change of Use from dwelling to holiday-let (in retrospect).**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The application property dates from the late 18th or early 19th century and is a symmetrical, 2-storey and attic 3-bay villa with later (19th century) single storey wing and conservatory to the east.

It is a detached property with quite large front and rear gardens and a private access. There are residential properties to the east, west and south of the site, whilst there is a railway line directly to the north.

The building is Category B listed. It was listed on 14 December 1970 (Listing reference: LB 29801).

#### **2.2 Site History**

24 December 2020 - Retrospective planning application for the change of use of the house to a 6 bedroom furnished holiday let (short term commercial let) received (application reference: 20/05822/FUL). This application was subsequently returned on 5 January 2021 following a change of plans by the applicant resulting from the on-going Covid 19 restrictions.

7 January 2021 - an enforcement investigation into alleged unauthorised use as short term visitor accommodation was closed on the basis the use had ceased (enforcement reference 20/00477/ESHORT)

### **Main report**

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#### **3.1 Description Of The Proposal**

The application proposes the change of use of the existing dwelling house to a short-term holiday/commercial visitor accommodation (SCVA). This is a sui generis use. The property has 6 bedrooms and has a maximum capacity of housing 16 visitors at a time.

It is understood that the SCVA had been operational since August 2015 although this has stopped since the pandemic.

### 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.

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 proposal is acceptable in principle and whether it will have a materially detrimental effect on the living conditions of nearby residents;
- b) the development has special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest;
- c) the development raises any issues in respect of car and cycle parking and road safety; and
- d) comments raised have been addressed.

#### a) Principle of the proposal and effect on living conditions of nearby residents

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP).

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The guidance states that proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents.

There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the property. Generally, the smaller the property the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

The property is located on a residential street. The property is detached, has quite large garden grounds and its own private access. However, the dwelling is quite substantial in size and it can host up to 16 visitors at a time.

The proposed use would enable a large number of new individuals to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is also no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than long standing residents. The applicant has also stated that the property has had 345 bookings and approximately 4140 visitors since it was first utilised as an SCVA in 2015.

Environmental Protection was consulted on the application and stated that it had concerns in relation to the proposals potential impact upon the amenity of nearby residents. It also raised concerns about how the property could be managed in terms of ensuring there would be no noise disruption from occupants.

Given the above, on the balance of probability, it is likely that the SCVA would result in an unacceptable impact upon existing levels of residential amenity.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits, including that of tourism, are a material planning consideration. However, these considerations do not outweigh the detrimental impacts of the proposal on nearby residential amenity.

The proposal is not acceptable in principle and is contrary to LDP policy Hou 7 as it cannot be demonstrated that it will not have a materially detrimental impact on the living conditions of nearby residents.

#### b) Impact on the 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."*

No external or internal alterations to the building are indicated on the submitted plans or are stated within the development description. The proposal will therefore have no impact upon the setting of the building or on any features of special architectural or historical interest which it possesses.

#### *Use and adaptation*

Historic Environment Scotland's (HES) Managing Change in the Historic Environment guidance note on the use and adaptability of listed buildings is applicable. It states that *"for a building to remain in use over the long term, change will be necessary. This reflects changes over time in how we use our buildings and what we expect from them. The listed buildings in Scotland reflect a wide range of our history and culture, they contribute to our well- being culturally, socially and economically. We can't have these benefits without caring for these buildings. We need to make sure they have a long term future if we want to benefit from them in the long term"*

*"A building's long-term future is at risk when it becomes hard to alter and adapt it when needed. Proposals that keep buildings in use, or bring them back into use, should be supported as long as they do the least possible harm. Once a building is empty or underused its long term future is immediately at risk"*

Historic Environment Scotland's guidance note on the use and adaptability of listed buildings explains that the process of converting a building will have some impact on a building's special interest, regardless of how well it is handled.

No external or internal alterations are indicated on the submitted plans or are stated within the development description relating to the proposed change of use. The proposal therefore complies with Historic Environment Scotland's Managing Change in the Historic Environment guidance notes. There is no suggestion that the property needs to be SCVA to be a viable use for the building.

### c) Parking and Road Safety

LDP Policy Tra 2, (Private Car Parking), and LDP Policy Tra 3, (Private Cycle Parking), state that planning permission will be granted for development where proposed car and cycle parking provision complies with and does not exceed the parking levels set out in the Non-statutory Edinburgh Design Guidance.

The guidance does not define car or cycle parking standards for a SCVA. Bikes could be stored within the garden of the property. The property has a driveway for the off street parking of cars.

The proposal complies with LDP Policy Tra 2 and LDP Policy Tra 3.

### d) Public Comments

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

- Does not comply with LDP policy Hou 7 in terms of potential noise and disruption. This is addressed in section 3.3 a)
- Impact on traffic and road safety. This is addressed in section 3.3 c.
- Unauthorised use - This planning application has been submitted to formalise the use.

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

- Pollution and littering- This is not a material consideration in assessment of SCVAs.
- Impact on safety- This is not a material planning consideration. Any concerns over personal safety should be raised with Police Scotland.

#### **Material Comments- Support**

- Complies with LDP policy Hou 7 in terms of noise and disruption. This is addressed in section 3.3 a.
- No impact in terms of parking. This is addressed in section 3.3c.

#### **Non Material Comments Support**

- No objections to the change of use.

#### **Material Neutral Comment**

- How will potential noise and disruption be managed. This is addressed in section 3.3a.



## **Non Material Neutral Comment**

- Property did not operate within published restrictions.

### Conclusion

The change of use to short-term holiday/commercial visitor accommodation (SCVA) is not acceptable in principle in this location. Whilst the development will not harm the special interest of the listed building, it will result in an unreasonable loss of amenity for neighbouring residential properties. The proposal does not comply with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

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

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

#### **Conditions:-**

#### **Reasons:-**

1. The proposal is contrary to adopted Edinburgh Local Development Plan policy Hou 7 (Inappropriate Uses in Residential Areas) as it would have a detrimental effect on the living conditions of nearby residents by virtue of increased noise and disturbance to the detriment of residential amenity.

#### **Informatives:-**

### **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 is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## Consultation and engagement

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### 8.1 Pre-Application Process

Pre-application discussions took place on this application.

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

Three objection comments, 3 letters of support and one letter of neutral comment were received. A full assessment of the matters raised can be found in section 3.3 of the main 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** 24 March 2021

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

Scheme 1

**David Givan**  
**Chief Planning Officer**  
PLACE  
The City of Edinburgh Council

Contact: Robert McIntosh, Planning Officer  
E-mail: [robert.mcintosh@edinburgh.gov.uk](mailto:robert.mcintosh@edinburgh.gov.uk)

## Links - Policies

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### Relevant Policies:

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

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

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.

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

**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.

# Appendix 1

## Application for Planning Permission 21/01541/FUL At 17 Spring Gardens, Edinburgh, EH8 8HU Change of Use from dwelling to holiday-let (in retrospect).

### Consultations

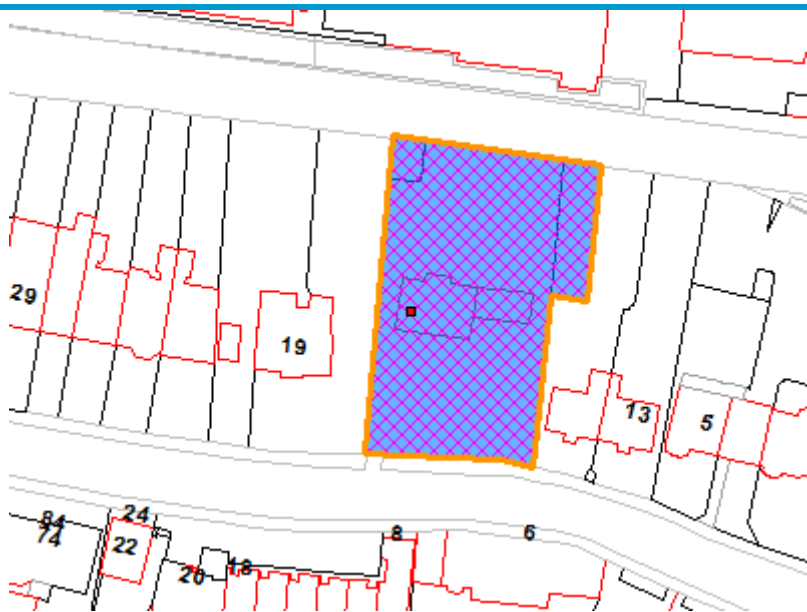
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#### *Environmental Protection*

*The application for the change of use to a short-term let is a cause for concern. Its such a large property with extensive grounds and in a residential area it could be used for very large bookings that could lead to problems with impacts on the neighbouring amenity. It is noted that the current owner has a management plan in place and does not allow certain types of bookings due to negative experiences in the past. A management plan is not something we can condition and if the property changes hands then it would be possible for the property to be used more intensely and cause problems.*

### Location Plan

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END

## Development Management Sub Committee

**Wednesday 4 August 2021**

**Application for Planning Permission 20/05008/FUL  
At 24 Westfield Road, Edinburgh, EH11 2QB  
Application under Section 42 to vary condition 3 of consent  
19/01970/FUL for erection of student accommodation,  
ancillary uses and associated landscaping and  
infrastructure.**

**Item number**

**Report number**

**Wards**

B07 - Sighthill/Gorgie

### Summary

The proposal is an application made under Section S42 of the Town and Country Planning Act; it is for a proposed change to the requirements and wording of condition 3 of planning permission 19/01970/FUL.

The variation to the condition does not affect the principle and detail of the development which remains consistent with the Edinburgh Local Development Plan.

For the avoidance of doubt, as a new permission is granted, conditions placed on the previous approval have been applied to this permission. Informatives include the requirement for a new s75 legal agreement. On this basis the variation of the condition is acceptable. There are no other material considerations which outweigh this conclusion.

### Links

[Policies and guidance for this application](#)

LDPP, LHOU01, LHOU08, LHOU04, LDES01, LDES04, LDES05, LTRA02, LTRA03, LEN21, LEN22, NSG, NSGSTU, NSGD02, LEN09,

# Report

## **Application for Planning Permission 20/05008/FUL At 24 Westfield Road, Edinburgh, EH11 2QB Application under Section 42 to vary condition 3 of consent 19/01970/FUL for erection of student accommodation, ancillary uses and associated landscaping and infrastructure.**

### **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 site covers approximately 0.31 hectares and is located on the corner of Westfield Avenue and Westfield Road, within the Gorgie/Dalry area of Edinburgh, west of the City Centre.

The site was previously occupied by a furniture showroom, an office building and a car park associated with the showroom. The buildings have been demolished and the development is on site.

The surrounding area is mixed use in nature. The site is bound to the north by a showroom and factory. There is a residential flatted development to the north west of the site on Westfield Avenue.

Access is via the shared vehicular access with Sainsbury's filling station which bounds the site to the north-east. A Wickes Store is situated to the south-west of the site and to the south-east lies a row of traditional tenements and Sainsbury's car park.

#### **2.2 Site History**

3 September 2020 - Planning permission granted to erect purpose built student accommodation, ancillary uses and associated landscaping and infrastructure (planning reference: 19/01970/FUL).

15 Oct 2020 - Non-material variation approved for minor amendments to existing approved scheme (planning reference: 19/01970/VARY)

## Main report

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### 3.1 Description Of The Proposal

The application seeks to vary a condition that relates to the noise environment of planning application 19/01970/FUL. This condition applied noise protection measures based on the Noise Impact Assessment (NIA).

Design changes have been progressed as part of the non-material variation (planning reference 19/01970/VARY) which necessitated an update to the Noise Impact Assessment/Acoustic Report. As Condition 3 attached to the consent (planning reference: 19/01970/FUL) refers to the previous NIA/Acoustic Report, it therefore requires to be amended to reflect the updated report to enable the condition to be complied with.

The updated report has investigated the potential for noise impacts from the neighbouring road and surrounding commercial/industrial uses, including Grant Westfield, the Murrayfield Petrol Station and Wickes Superstore, on the proposed student residential properties.

This development site will be exposed to various noise sources and the updated NIA identifies that this may adversely impact the amenity of the students unless mitigated.

The applicant has confirmed that by providing an acoustic barrier with a surface density of at least 20 kg/m<sup>2</sup> will reduce the noise affecting the external amenity space and ground floor rooms. The upper floors will not be protected by the acoustic barrier. Therefore, the applicant proposes using the acoustic glazing units to mitigate the noise impacting the upper floors. As the noise level that the façade is exposed to varies depending upon its proximity to the main noise sources around the site, various specifications are proposed for different parts of the site.

The applicant proposes to amend the text of the condition to reflect this.

Condition 3 of planning permission 19/01970/FUL states:

*The following noise protection measures to the proposed student accommodation, as defined in the appendix 9 of the New Acoustics Noise Impact Assessment' report (Ref 6833), dated 18 April 2019:*

- *Glazing units with a minimum insulation value of 10/12/6.4 mm double glazing shall be installed for the external doors and windows of the bedrooms and living areas facing onto Westfield Road and back to R25 (7m back from the front façade) prior to the development being occupied.*
- *Glazing units with a minimum insulation value of 6/12/6 mm double glazing shall be installed for the external doors and windows of the bedrooms and living areas on all other facades prior to the development being occupied.*
- *An acoustic barrier with a surface density of at least 20 kg/m<sup>2</sup> shall be erected to reduce the noise affecting the external amenity space and ground floor rooms..*

**Proposed Condition text:**

The application seeks to alter condition 3 of permission 19/01970/FUL to state:

*The following noise protection measures to the proposed student accommodation, as defined in the PDA Noise Impact Assessment' report (Ref: ECE/J003065/4556/03), dated 4 May 2021:*

- *Glazing units with a minimum insulation value of 6/16/10.8mm double glazing shall be installed for the external doors and windows of the bedrooms areas in facades highlighted in the acoustic report in red. A ventilator with a minimum sound reduction level of 46dB Dn,e,w shall be installed;*
- *Glazing units with a minimum insulation value of 6/16/10.8mm double glazing shall be installed for the external doors and windows of the living/dining/kitchen areas in facades highlighted in the acoustic report in red. A ventilator with a minimum sound reduction level of 40dB Dn,e,w shall be installed;*
- *Glazing units with a minimum insulation value of 6/16/10mm double glazing shall be installed for the external doors and windows of the bedrooms and living/dining/kitchen areas in facades highlighted in acoustic report in orange. A ventilator with a minimum sound reduction level of 30 dB Dn,e,w shall be installed;*
- *Glazing units with a minimum insulation value of 6/16/6mm double glazing shall be installed for the external doors and windows of the bedrooms and living/dining/kitchen areas in facades highlighted in acoustic report in green. A ventilator with a minimum sound reduction level of 30 dB Dn,e,w shall be installed;*
- *An acoustic barrier with a surface density of at least 20 kg/m<sup>2</sup> shall be erected to reduce the noise affecting the external amenity space and ground floor rooms;*

*The above shall be carried out in full and completed prior to the development being occupied.*

The applicant's supporting statement is available on the Planning Portal.

### **3.2 Determining Issues**

Section 42 of the Town and Country Planning (Scotland) Act 1997 requires that the planning authority must consider only the question of conditions to which planning permission should be granted.

Should planning permission be granted subject to conditions different from those imposed on the previous permission?

Should planning permission be granted unconditionally?



Should planning permission be granted subject to the same conditions resulting in a refusal of planning permission to develop the land without complying with the conditions subject to which planning permission was previously granted?

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 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 original condition should be varied, added to or removed;
- b) other material considerations; and
- c) issues raised in material representations have been addressed.

#### a) Variation of condition

The scope of the assessment for this planning application is limited to the condition that the applicant wishes to amend and any other material considerations.

The proposal must be considered in the context of LDP policy Des 5 (Development Design - Amenity) criterion a) which seeks to ensure good levels of amenity in relation to noise. The Council's non-statutory Student Housing Guidance (February 2016) must also be considered. The guidance recognises that student accommodation is a primary place of residence and requires design of student accommodation to be of a high quality with adequate amenity to contribute to healthy and sustainable lifestyles.

The implementation of the condition which places requirements on glazing and ventilation specifications in relation to noise management at the development would ensure future occupants enjoy a satisfactory internal environment and suitable levels of amenity.

Environmental Protection raised concerns about the level of amenity that could be achieved within this development within their consultee response to application 19/01970/FUL, and recommended refusal of the application. The application was put forward to the Development Management Sub-Committee with a recommendation to refuse planning permission. However, the recommendation to refuse planning permission was overturned at the DM Sub Committee, and the application was granted

subject to a legal agreement, with conditions attached at the request of the Committee. This included Condition 3 in respect of noise mitigation.

The Council's Environmental Protection service has been consulted as part of this current assessment.

Environmental Protection is of the opinion that the acoustic mitigation measures will not be adequate to protect amenity, and that the updated Noise Impact Assessments (NIA) do not capture the worst-case scenarios.

Environmental Protection remain of the opinion that If built out with even the above conditioned noise mitigation measures, it is likely that noise complaints will be received and, therefore, its position remains as previously stated in the original consultation response to planning application 19/01970/FUL. The Committee was aware of Environmental Protection's concerns when granting planning permission and the variation of the condition does not materially change the substance of the noise protection measures.

Notwithstanding the above objection from Environmental Protection, the principle of the use of the development has already been granted. The proposed variation to the condition does not materially deviate from the scheme previously granted permission by Committee and refusal of this application would not be warranted. The proposal continues to comply with the relevant policies of the Local Development Plan and the Council's non-statutory guidance on Student Housing.

#### b) Other material considerations

There has been no change to the Edinburgh Local Development Plan or relevant council guidance since the planning permission was granted.

All other material matters were addressed in the assessment of the planning application and there are no new matters to consider in relation to the variation of condition 3.

The principle of the development remains acceptable in the context of the Edinburgh Local Development Plan and guidance.

As the effect of granting permission for a section 42 is to create a separate permission, there is the need to attach the conditions from the previous approval.

A legal agreement was concluded for 19/01970/FUL. As this is a new application, a new legal agreement will be required to be concluded to reflect the heads of terms of the existing agreement.

#### c) Public comments

Two letters were received objecting to the application. The submitted comments did not raise any material considerations relevant to the Section 42 application.

### **Non-material considerations:**

- Over provision of student accommodation;
- Lack of affordable flats;
- Parking; and
- Noise disturbance caused by students.

### **Conclusion**

The principle of the development remains consistent with the Edinburgh Local Development Plan and the Council's non-statutory guidance. A change in the wording of condition 3 to allow alternative management of the noise environment in parts of the development is acceptable.

For the avoidance of doubt, the other conditions placed on the previous approval Have been applied to this consent. There are no material 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. 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. Prior to the commencement of construction works on site:
  - a) A site survey (including intrusive investigation where necessary) must be carried out to establish, 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 required remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning Authority. ii) 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 for the approval of the Planning Authority.
3. The following noise protection measures to the proposed student accommodation, as defined in the PDA Noise Impact Assessment' report (Ref: ECE/J003065/4556/03), dated 04 May 2021:

- Glazing units with a minimum insulation value of 6/16/10.8mm double glazing shall be installed for the external doors and windows of the bedrooms areas in facades highlighted in the acoustic report in red. A ventilator with a minimum sound reduction level of 46dB Dn,e,w shall be installed;
- Glazing units with a minimum insulation value of 6/16/10.8mm double glazing shall be installed for the external doors and windows of the living/dining/kitchen areas in facades highlighted in the acoustic report in red. A ventilator with a minimum sound reduction level of 40dB Dn,e,w shall be installed;
- Glazing units with a minimum insulation value of 6/16/10mm double glazing shall be installed for the external doors and windows of the bedrooms and living/dining/kitchen areas in facades highlighted in acoustic report in orange. A ventilator with a minimum sound reduction level of 30 dB Dn,e,w shall be installed;
- Glazing units with a minimum insulation value of 6/16/6mm double glazing shall be installed for the external doors and windows of the bedrooms and living/dining/kitchen areas in facades highlighted in acoustic report in green. A ventilator with a minimum sound reduction level of 30 dB Dn,e,w shall be installed;
- An acoustic barrier with a surface density of at least 20 kg/m<sup>2</sup> shall be erected to reduce the noise affecting the external amenity space and ground floor rooms;

The above shall be carried out in full and completed prior to the development being occupied.

4. No demolition/development shall take place on the site until the applicant has secured and implemented a programme of archaeological work (excavation, reporting and analysis) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

#### **Reasons:-**

1. In order to enable the Planning Authority to consider this/these matter/s in detail.
2. In the interests of public safety.
3. In order to protect the amenity of the occupiers of the development.
4. In order to safeguard the interests of archaeological heritage.

#### **Informatives**

It should be noted that:

1. This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started

within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

#### 4. Developer Contributions Informative

Consent shall not be issued until a suitable legal agreement, including those requiring a financial contribution payable to the City of Edinburgh Council, has been concluded in relation to all of those matters identified in the proposed Heads of Terms. -

These matters are:

A financial contribution of £198,402 (based on 12,323 sq.m student/residential institution in Zone 1 minus the previous use) to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report. The sum to be indexed as appropriate and the use period to be 10 years from date of payment.

In support of the Council's LTS Cars1 policy, the applicant should contribute the sum of £7,000 (£1,500 per order plus £5,500 per car) towards the provision of car club vehicles in the area.

A legal agreement will be required to secure these funds.

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.

#### 5. Roads Authority Informative

In accordance with the Council's LTS Travplan3 policy, the applicant should consider developing a Travel Plan including provision of pedal cycles (inc. electric cycles), secure cycle parking, 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), timetables for local public transport;

In addition, all disabled persons parking places should comply with Disabled Persons Parking Places (Scotland) Act 2009. The Act places a duty on the local authority to promote proper use of parking places for disabled persons' vehicles.

The applicant should therefore advise the Council if he wishes the bays to be enforced under this legislation. A contribution of £2,000 will be required to progress the necessary traffic order but this does not require to be included in any legal agreement. All disabled persons parking places must comply with Traffic Signs Regulations and General Directions 2016 regulations or British Standard 8300:2009 as approved. Tran

## **Financial impact**

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

The application is subject to a legal agreement for developer contributions.

## **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 is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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

Pre-application discussions took place on this application.

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

Two letters of representation were received objecting to the application.

## **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**

Edinburgh Local Development Plan.

**Date registered**

24 November 2020

**Drawing numbers/Scheme**

01,

Scheme 1

**David Givan**  
**Chief Planning Officer**  
 PLACE  
 The City of Edinburgh Council

Contact: Sonia Macdonald, Planning Officer  
 E-mail:sonia.macdonald@edinburgh.gov.uk

## **Links - Policies**

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### **Relevant Policies:**

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

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

LDP Policy Hou 8 (Student Accommodation) sets out the criteria for assessing purpose-built student accommodation.

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

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

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

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

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

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

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

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

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

**Non-statutory guidelines** Student Housing Guidance interprets local plan policy, supporting student housing proposals in accessible locations provided that they will not result in an excessive concentration.

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

LDP Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.



# Appendix 1

## **Application for Planning Permission 20/05008/FUL At 24 Westfield Road, Edinburgh, EH11 2QB Application under Section 42 to vary condition 3 of consent 19/01970/FUL for erection of student accommodation, ancillary uses and associated landscaping and infrastructure.**

### **Consultations**

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#### **Roads Authority Issues**

*No objections to the application.*

#### **Environmental Protection response**

*Environmental Protection raised concerns about the level of amenity that could be achieved within this development when the 19/01970/FUL application was assessed. However consent has been granted with the following condition attached;*

*Condition 3 states*

*3. The following noise protection measures to the proposed student accommodation, as defined in the appendix 9 of the New Acoustics Noise Impact Assessment' report (Ref 6833), dated 18th April 2019:*

- Glazing units with a minimum insulation value of 10/12/6.4 mm double glazing shall be installed for the external doors and windows of the bedrooms and living areas facing onto Westfield Road and back to R25 (7m back from the front façade) prior to the development being occupied.*
- Glazing units with a minimum insulation value of 6/12/6 mm double glazing shall be installed for the external doors and windows of the bedrooms and living areas on all other facades prior to the development being occupied.*
- An acoustic barrier with a surface density of at least 20 kg/m<sup>2</sup> shall be erected to reduce the noise affecting the external amenity space and ground floor rooms.*

*In our opinion the above acoustic mitigation measures will not be adequate to protect amenity. The applicant has submitted two noise impact assessments, both of which have not captured the worst case scenarios. The latest assessment has been taken when during likely reduced traffic flows and business operations due to COVID. This latest survey did not mention any noise from the neighbouring dance school, this was picked up as a dominant noise in the previous survey. The levels of noise measured*

*are still a concern and likely to cause disturbance to residents, the context of the location is now changing from commercial to residential amongst commercial industrial. We would have also needed a frequency analysis conducted. If built out with even the above conditioned noise mitigation measures it is likely that noise complaints will be received. This will then involve an investigation of a period of time that could ultimately result in the businesses needing to take measures to mitigate any noise nuisance and adversely impact their operation.*

*We understand that this is a section 42 application - we need the applicant to detail specifically what they are wanting amended.*

## **Environmental Protection response updated**

*Environmental Protection raised concerns about the level of amenity that could be achieved within this development when the 19/01970/FUL application was assessed. We have included our consultation response below which did not recommend any conditions. However, consent was granted with the following condition attached;*

*Condition 3 states*

*3. The following noise protection measures to the proposed student accommodation, as defined in the appendix 9 of the New Acoustics Noise Impact Assessment' report (Ref 6833), dated 18th April 2019:*

- Glazing units with a minimum insulation value of 10/12/6.4 mm double glazing shall be installed for the external doors and windows of the bedrooms and living areas facing onto Westfield Road and back to R25 (7m back from the front façade) prior to the development being occupied.*
- Glazing units with a minimum insulation value of 6/12/6 mm double glazing shall be installed for the external doors and windows of the bedrooms and living areas on all other facades prior to the development being occupied.*
- An acoustic barrier with a surface density of at least 20 kg/m<sup>2</sup> shall be erected to reduce the noise affecting the external amenity space and ground floor rooms.*

*Environmental Protection are of the opinion that the acoustic mitigation measures will not be adequate to protect amenity. The applicant has submitted two noise impact assessments, both of which have not captured the worst-case scenarios. The latest survey did not mention any noise from the neighbouring dance school, this was picked up as a dominant noise in the previous survey. The levels of noise measured are still a concern and likely to cause disturbance to residents, the context of the location is now changing from commercial to residential amongst commercial industrial. We would have also needed a frequency analysis conducted. If built out with even the above conditioned noise mitigation measures it is likely that noise complaints will be received. Therefore, Environmental Protection are still of the same opinion as previously stated in the consultation response 19/01970/FUL.*

*As this is a section 42 application - we needed the applicant to detail specifically what they are wanting amended. The applicant has provided the following specific details that if planning consent this application would need to condition.*

*1. The following noise protection measures to the proposed student accommodation, as defined in the PDA Noise Impact Assessment' report (Ref: ECE/J003065/4556/03), dated 04 May 2021:*

*o Glazing units with a minimum insulation value of 6/16/10.8mm double glazing shall be installed for the external doors and windows of the bedrooms areas in facades highlighted in the acoustic report in red. A ventilator with a minimum sound reduction level of 46dB Dn,e,w shall be installed;*

*o Glazing units with a minimum insulation value of 6/16/10.8mm double glazing shall be installed for the external doors and windows of the living/dining/kitchen areas in facades highlighted in the acoustic report in red. A ventilator with a minimum sound reduction level of 40dB Dn,e,w shall be installed;*

*o Glazing units with a minimum insulation value of 6/16/10mm double glazing shall be installed for the external doors and windows of the bedrooms and living/dining/kitchen areas in facades highlighted in acoustic report in orange. A ventilator with a minimum sound reduction level of 30 dB Dn,e,w shall be installed;*

*o Glazing units with a minimum insulation value of 6/16/6mm double glazing shall be installed for the external doors and windows of the bedrooms and living/dining/kitchen areas in facades highlighted in acoustic report in green. A ventilator with a minimum sound reduction level of 30 dB Dn,e,w shall be installed;*

*o An acoustic barrier with a surface density of at least 20 kg/m2 shall be erected to reduce the noise affecting the external amenity space and ground floor rooms;*

*shall be carried out in full and completed prior to the development being occupied.*

#### *Original Consultation Response*

*The applicant proposed developing a 394 bedroom student accommodation block with 4 parking spaces with 360 indoor bike spaces. The applicant also proposes the installation of an energy centre with power output of 663Kw. The sites most recent use was a retain furniture store.*

*The development is located on a former commercial site adjacent to the Westfield Road. The site is bounded to the south by Westfield Road, to the west, by Westfield Avenue beyond which are residential flats and Wickes, to the north by Grant Westfield and the east by Murrayfield Petrol Filling Station.*

*The applicant has submitted a supporting noise and air quality impact assessment. This has investigated the potential for noise and air quality impacts from the neighbour road and commercial/industrial uses on the proposed student residential properties. The development site will be exposed to various noise sources. The applicants noise impact assessment has identified that this may adversely impact the amenity of the students unless mitigated. The applicant has confirmed that by providing an acoustic*

*barrier with a surface density of at least 20 kg/m<sup>2</sup> will reduce the noise affecting the external amenity space and ground floor rooms.*

*The upper floors will not be protected by the acoustic barrier therefore the applicant proposes using the acoustic glazing units to mitigate the noise impacting the upper-floors*

*It is noted that the developer proposes all living accommodation being provided with mechanical ventilation with heat recovery (MVHR) allowing windows to remain closed with no loss of ventilation. It should be noted that Environmental Protection do not accept a closed window standard to protect all the bedroom and living areas from commercial/industrial noise. Environmental Protection are also of the opinion that the worst-case scenario has not been measured and fully consider in the noise impact assessment. The assessment has considered most of the noise elements from the petrol Filling Station but has not considered their cumulative impacts for example if the Hoover and car wash were being used simultaneously. The Petrol Filling Station has around 4-5 deliveries of fuel by articulated tanker per week (limited to 1 in 24 hours). Each takes between 40-60 minutes. These deliveries are always out of hours mostly between 00:00-05:00. The noise impact assessment has not covered this operation which has the potential to regularly disturb the sleep of any future tenants.*

*The proposed end use may require a Houses in Multiple Occupation Licence (HMO). The applicant should contact the HMO team to ensure that what they are proposing would comply with the Housing (Scotland) Act 2006. The application site is well located with regards sustainable transport and it is noted that they propose a low level of car parking which is welcomed, however the applicant should install electric vehicle charging points for the use of staff, residents, service vehicles and taxis.*

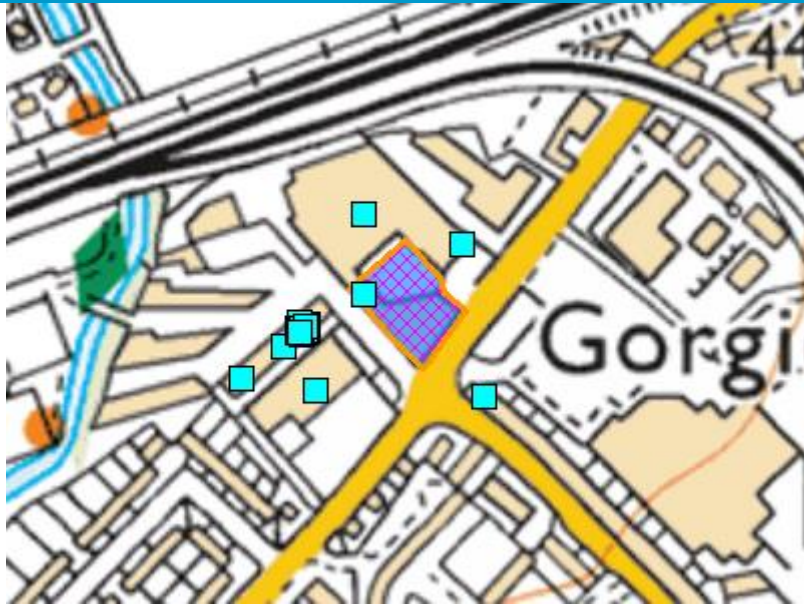
*The applicant has submitted a chimney height calculation within the submitted air quality impact assessment.*

*Ground conditions relating to potential contaminants in, on or under the soil as affecting the site will require investigation and evaluation, in line with current technical guidance such that the site is (or can be made) suitable for its intended new use/s. Any remediation requirements require to be approved by the Planning & Building Standards service. The investigation, characterisation and remediation of land can normally be addressed through attachment of appropriate conditions to a planning consent (except where it is inappropriate to do so, for example where remediation of severe contamination might not be achievable). The applicant has submitted site investigation reports. They are being assessed by Environmental Protection separately and until completed we recommend a condition is attached to any consent regarding land contamination.*

*Therefore, Environmental Protection recommend that the application is refused due to the poor levels of amenity that will be afforded to the future students.*

## Location Plan

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**END**

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