

# Notice of meeting and agenda

## Development Management Sub-Committee

**10.00 am Wednesday, 24th August, 2022**

Dean of Guild Court Room - City Chambers / 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 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 22 August 2022** (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 None.

## 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.

- 4.1** Gas Holder North of Waterfront Broadway, Edinburgh - To repair and refurbish the existing Granton Gas Holder Category B Listed Guide Frame - application no. 22/01327/LBC – Report by the Chief Planning Officer 7 - 16
- It is recommended that this application be **GRANTED**.
- 4.2** Headstart Nursery, 64 - 68 Morningside Drive, Edinburgh - Proposed demolition of existing nursery school and construction of seven flats with associated landscaping and cycle parking - application no. 22/01916/FUL – Report by the Chief Planning Officer 17 - 30
- It is recommended that this application be **GRANTED**.
- 4.3** Headstart Nursery, 64 - 68 Morningside Drive, Edinburgh - Complete Demolition in a Conservation Area - application no. 22/01915/CON – Report by the Chief Planning Officer 31 - 38
- 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** 134 Constitution Street, Edinburgh, EH6 6AJ - Change of use from office to form dwelling including timber clad first floor extension (AS AMENDED) - application no. 21/05544/FUL – Report by the Chief Planning Officer 39 - 48

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

- 5.2** 11A James' Court, 493 Lawnmarket, Edinburgh - Proposed refurbishment of and extension to the existing retail/store unit at 11A James Court including provision of ancillary coffee bar, external seating area and formation of a connection to the existing retail unit at 497 Lawnmarket - application no. 21/04237/FUL – Report by the Chief Planning Officer 49 - 62

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

- 5.3** The Grange Club, 7 Portgower Place, Edinburgh - Installation of 2 tennis courts covered by an air supported dome, 2 padel tennis courts covered by steel frame structures with associated works to provide new access paths, fencing, landscaping and tree removal work. (As amended) - application no. 21/06513/FUL – Report by the Chief Planning Officer 63 - 84

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

## **6. Applications for Hearing**

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

- 6.1** None.

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

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

- 7.1** None.

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

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

8.1 None.

## **Nick Smith**

Service Director – Legal and Assurance

## **Committee Members**

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Councillor Hal Osler (Convener), Councillor Alan Beal, Councillor Chas Booth, Councillor Lezley Marion Cameron, Councillor James Dalgleish, Councillor Neil Gardiner, Councillor Euan Hyslop, Councillor Tim Jones, Councillor Amy McNeese-Mechan, Councillor Joanna Mowat and Councillor Kayleigh O'Neill

## **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. This meeting of the Development Management Sub-Committee is being held in the Dean of Guild Court Room in the City Chambers on the High Street in Edinburgh and remotely by Microsoft Teams.

## **Further information**

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If you have any questions about the agenda or meeting arrangements, please contact Jamie Macrae, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, email [martin.scott@edinburgh.gov.uk](mailto:martin.scott@edinburgh.gov.uk) / [taylor.ward@edinburgh.gov.uk](mailto:taylor.ward@edinburgh.gov.uk).

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

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## Development Management Sub-Committee Report

**Wednesday 24 August 2022**

**Application for Listed Building Consent  
Gas Holder north of Waterfront Broadway, Edinburgh.**

**Proposal: To repair and refurbish the existing Granton Gas Holder  
Category B Listed Guide Frame.**

**Item – Delegated Decision  
Application Number – 22/01327/LBC  
Ward – B04 - Forth**

### **Reasons for Referral to Committee**

The application has been submitted by the Council and is for more than a routine minor development. It is also significant in terms of the wider public interest as it is associated with a significant listed structure in this part of the city.

### **Recommendation**

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

### **Summary**

The proposals will not have an adverse impact on the special architectural character or historic interest of the listed structure and are therefore judged to be in accordance with Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

## **SECTION A – Application Background**

### **Site Description**

The site, covering 1.48 hectares, is rectangular in shape and consists of the gasholder which is category B listed (LB reference 45793, listed 10/11/1998) and the surrounding land.

The gasholder was designed by WR Herring and was built between 1898 and 1902. It was part of the Granton Gasworks which served the City of Edinburgh and the surrounding district throughout the 20th Century.

The steel frame consists of a series of double lattice columns positioned equidistantly around its perimeter, with curved lattice box girders spanning between the columns to complete the circular configurations at four levels. Lateral stability is provided by two planes of diagonal cross bracing between the lattice columns, over the full height of each bay. The entire holder frame is founded on the circular perimeter wall of the substantial brick and concrete tank recessed into the ground. It is approximately 76 metres wide and 46m tall above ground level. Much of the frame is now in poor condition.

The land around the gasholder that forms the application site is vacant scrubland. The northern edge is defined by an existing stone wall, which runs east/west and will be retained as part of the initial works to the gasholder and associated public realm. There is a significant level change from the gasholder 'plateau' down to the wall.

To the north are various industrial uses which sit at a much lower level to the site. To the northeast is the Social Bite village which supports people affected by homelessness. Vacant land is to the east, south and west of the site. Further to the southwest is the Forthquarter Park and to the southeast is the Scottish Gas office building. The wider area is one of ongoing development and regeneration.

Access to the site is currently from the junction of Waterfront Broadway and Caroline Park Avenue.

The site is located within the Urban Area as shown on the Local Development Plan proposals map. The land is identified as being within Edinburgh Waterfront. Proposal EW 2a (Forth Quarter) states that the area is for a housing-led mixed use development. It sets out a number of Development Principles for the area.

## **Description of the Proposal**

The proposal is to repair and refurbish the gasholder guide frame. The main elements of the proposal are:

- sections of the steelwork are to be repaired and replaced as necessary.
- replacement of the top hat (curved) section of the main columns outer face with a flat plate. Glass Reinforced Plastic (GPR) is proposed to replicate the top hat appearance. Rivets are to be replaced with round-headed bolts;
- removal of the access ladders fixed to the guide frame and
- removal of parts of the existing structural cross bracing at ground level to allow access into the central area

The bellhousing will also be removed. However, this currently benefits from an earlier extant consent approved under application reference 00/01169/LBC.

## **Supporting Information**

- Heritage Statement (Revised)
- Planning Statement
- Guide Frame Refurbishment Methodology Study;



- Granton Gasholder Preliminary Environmental Dismantling Assessment Report and
- Granton Gasholder, Derivation of Infill Criteria.

### **Relevant Site History**

00/01169/OUT

11 West Shore Road

Edinburgh

EH5 1RH

(4 Marine Drive/ 11 West Shore Rd) Outline planning permission for mixed use development (including retail, food and drink, public house, residential education, business, leisure/assembly/hotel, open space, and assoc. landscaping)(as amended)

Granted

28 February 2001

00/01169/LBC

11 West Shore Road

Edinburgh

EH5 1RH

(4 Marine Drive/ 11 West Shore Road) Listed Building Consent for the demolition of Gas Holder Number 1, the fitting shop, the stores block and the control house

Granted

13 March 2001

08/02357/LBC

11 West Shore Road

Edinburgh

EH5 1RH

Demolition of category B listed gasholder

Refused

25 November 2010

12/04566/LBC

11 West Shore Road

Edinburgh

EH5 1QB

Proposed demolition of Category B listed gasholder at Forthquarter, Granton.

withdrawn

20 April 2018

22/01324/FUL

Gas Holder North Of

Waterfront Broadway

Edinburgh

Public realm improvements to the site surrounding the Gas Holder. The design proposals for the public realm element have been set out to create a multi-functional public space, which aims to respect and complement the existing Listed-B Gas Holder frame, whilst remaining flexible to future change and uses.

## Other Relevant Site History

Planning Committee approved the Granton Waterfront Development Framework as non-statutory planning guidance to guide development, service delivery and investment decisions for the regeneration of Granton Waterfront.  
29 February 2020

## Pre-Application process

There is no pre-application process history.

## Consultation Engagement

Historic Environment Scotland

Archaeologist

Refer to Appendix 1 for a summary of the consultation response.

## Publicity and Public Engagement

**Date of Neighbour Notification:** Not Applicable

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 25 March 2022;

**Site Notices Date(s):** 22 March 2022;

**Number of Contributors:** 0

## Section B - Assessment

### Determining Issues

This application for listed building consent is required to be assessed against Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- Having due regard to HES Policy and guidance, do the proposals harm a listed building or its setting?
- If the proposals do comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for not approving them?
- If the proposals do not comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for approving them?

## Assessment

To address these determining issues, it needs to be considered whether:

### a) The proposals harm the listed building or its setting?

The following Historic Environment Scotland (HES) guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Engineering Structures

HES's guidance on Managing Change in the Historic Environment: Engineering Structures set out the principles that apply and how they should inform planning policies. The guidance states that work to historic engineering structures must be based on a thorough understanding of their design, construction and use of materials.

The gasholder provides a distinctive connection to the local history of the area. It was an essential piece of the gasworks and the most visible representation of it. The gasholder also reinforces the significance of other structures retained from the gasworks site and their relationship to the earlier use of the site.

Although previous demolitions and redevelopment of the wider site have weakened its setting, the gasholder survives largely in its original form and much as it was when added to the statutory list.

The application has been supported by several technical studies. The Refurbishment Methodology Study considered options for repairing the structure and settles on the refurbishing the guide frame in situ as the most appropriate method. This approach is supported.

The 'Managing Change' guidance goes on to state that existing materials should be replaced only where essential to structural stability or other safety related issues, and where the consequences of that intervention are understood. In general, existing material should be retained and augmented, rather than replaced, by new construction where stability or other safety-related issues are of concern.

The focus of the work is repairing and replacing the frame as required on a like-for-like basis, these elements in themselves would not require listed building consent.

The main components of the proposal consist of the removal of access ladders, removal of some sections of cross bracing at the ground level and replacement of top hats (and replacement of rivets with bolts). These are all relatively minor matters that although will change the appearance do not ultimately alter the overall structure or significance of the holder.

Historic Environment Scotland are supportive of the proposal and indicate that it hopes the application will be approved due to the significant heritage and regeneration benefits that will be secured by the completed project. Having reviewed the proposals it comments that the alterations proposed are minor and in context of the considerable conservation and regeneration benefits that will be achieved by the project, appear reasonable.

Overall, there are some alterations to the listed structure, but these have been proposed in a sympathetic manner. It is acknowledged that elements such as the top hats and associated rivets will be altered, and openings will be created, but this allows for the long-term survival of a neglected structure and appropriate reuse.

### **Conclusion in relation to the listed building**

The proposals will not adversely impact on the special architectural character or historic interest of the listed structure and are therefore judged to be in accordance with Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) There are any other matters to consider?**

The following matters have been identified for consideration:

#### Archaeology

The Archaeology Officer notes that the Gasholder is of historic and industrial archaeological significance and that the site also has the potential for earlier remains. Although there will be localised significant adverse impacts from the works, these are seen as necessary to restore and rejuvenate this nationally important industrial structure and wider area. Accordingly, the Archaeology Officer supports the proposals and recommends a condition for a programme of archaeology work.

#### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

#### Public representations

No representations have been received.

### **Conclusion in relation to other matters considered**

The proposals are in compliance with the other material considerations that have been identified above.

### **Overall conclusion**

The proposals will not have an adverse impact on the special architectural character or historic interest of the listed structure and are therefore judged to be in accordance with Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following:-

### Conditions :-

1. No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (Historic building recording, excavation, analysis & reporting, conservation, interpretation, public engagement, publication) 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 safeguard the interests of archaeological heritage.

### 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.

### Background Reading/External References

To view details of the application go to the [Planning Portal](#)

### Further Information - Local Development Plan

**Date Registered: 17 March 2022**

### Drawing Numbers/Scheme

01-06

Scheme 1

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

Contact: Kenneth Bowes, Senior Planning officer  
E-mail: kenneth.bowes@edinburgh.gov.uk

## Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: HES support the proposal. We hope the application will be approved due to the significant heritage and regeneration benefits that will be secured by the completed project.

Supporting information shows that the significance of the guide-frame has been an important consideration throughout the development of the project.

The repair and refurbishment works do not necessarily need listed building consent, including replacement of corroded steel components with steel.

Advice is that consent should be for those aspects of the project that will alter - or permanently remove parts - of the guide-frame. Main parts are:

- Content with the changes to replace the top hat (curved) section of the main columns outer face with a flat plate.
- Content with the permanent removal of access ladders fixed to the guide-frame.
- Supportive of the permanent removal of parts of the existing structural cross bracing at ground level and insertion of horizontal cross beams which will help access the landscaped interior.

Overall, these alterations are minor and, in context of the considerable conservation and regeneration benefits that will be achieved by the project, appear reasonable.

Understand a 2001 approval remains live and therefore do not expect listed building consent is need for the removal of the bell and the decommissioning works

Our view is that the proposals do not raise historic environment issues of national significance and therefore we do not object.

DATE: 13 April 2022

NAME: Archaeologist

COMMENT: The Gasholder is of historic and industrial archaeological significance. The site also has the potential for containing earlier remains dating back to the 9th Millennium BC

Historic Building: Gasholder - proposals will have localised significant adverse impacts, these are not considered overall to be significant and are seen as necessary to restore and rejuvenate this nationally important industrial structure and wider area.

Accordingly, we support this application. However, it is essential that a programme of archaeological work is carried out prior to any alterations and during conservation.

Buried Remains - it is recommended that a programme of archaeological mitigation is undertaken during ground-breaking works to record, analyse and excavate any surviving significant remains and publish the results.

Public Engagement - programme of archaeological public engagement should be undertaken

Recommended that the following condition is attached if permission is granted to ensure that this programme of archaeological mitigation is undertaken:

'No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (Historic building recording, excavation, analysis & reporting, conservation, interpretation, public engagement, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

DATE: 5 April 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

## Location Plan



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## Development Management Sub-Committee Report

**Wednesday 24 August 2022**

**Application for Planning Permission.  
Headstart Nursery 64 - 68 Morningside Drive, Edinburgh.**

**Proposal: Proposed demolition of existing nursery school and construction of seven flats with associated landscaping and cycle parking.**

**Item – Committee Decision  
Application Number – 22/01916/FUL  
Ward – B10 - Morningside**

### **Reasons for Referral to Committee**

The application has attracted more than six material objections and determination by the Development Management Sub Committee therefore is required.

### **Recommendation**

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

### **Summary**

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals will not harm the character and appearance of the conservation area.

The proposals do not comply with policy Hou 3 as five units will not have private green space within the development. As future occupiers will still have a high level of living amenity within the development and the site is located close to a nearby park, the infringement of policy Hou 3 therefore is acceptable. Neighbouring amenity will not be adversely affected. The development design is acceptable. The proposal is therefore acceptable with regards to the Edinburgh Local Development Plan and there is no material consideration that outweighs this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The site currently forms the premises of the existing Headstart Nursery which is a single storey flat roof building and is located on the north side of Morningside Drive. It is a single unit that was previously amalgamated from three shop units. The building projects in front of the neighbouring two storey and an attic Victorian terrace to the west of the site. The site to the north is immediately bordered by an electric substation and Morningside Park beyond. Access to the park is on the east side of the site with Morningside Cemetery located nearby to the northeast of the site.

The building has operated as the Headstart nursery since the early 1990s before the area was designated as a conservation area in 2010. Historical maps suggest that the building was constructed some 20 years after the construction of its neighbouring Victorian terraces to the west of the site.

The surrounding area is predominately residential with a mix of detached, semi-detached villas and terraces from the Edwardian and Victorian period. To the east of the site, within Morningside Court is a 1960's flatted development where the architecture is at odds with the character of the surrounding area.

### **Description of the Proposal**

The proposal is to demolish the existing single storey nursery building and to erect a flatted development for 7 units. The development will be three storeys in height with a recessed top storey.

All units are two-bedrooms with dual aspects and recessed balconies to front and rear of the development. Two units on the ground floor will have private front garden space with cycle storage for two bikes each. Cycle store for 10 bikes is also to be provided within front curtilage, alongside bin stores. No off-street car parking is proposed.

The finishing treatment is to include natural sandstone for the front elevation and natural brick for the sides and rear elevation. The recessed top storey includes a mid-grey metal composite cladding. All doors and windows are to have dark frames. The recessed balconies will have frameless glass. A new low level stone wall with hedgerow to the front and east side is proposed alongside with two contemporary metal gates.

### **Supporting Information**

- Design and Access Statement
- Planning Statement
- Sustainability Statement
- Surface Water Management Plan

## Relevant Site History

20/00549/FUL

Headstart Nursery

64 - 68 Morningside Drive

Edinburgh

EH10 5NU

Planning application for demolition of existing nursery school and construction of 3 No. townhouses with landscaping, cycle and bin stores, and ancillary infrastructure (as amended).

Granted

25 May 2020

20/00550/CON

Headstart Nursery

64 - 68 Morningside Drive

Edinburgh

EH10 5NU

Complete demolition in a conservation area. Demolition of existing nursery school

Granted

25 May 2020

## Other Relevant Site History

None.

## Pre-Application process

Pre-application discussions took place on this application.

## Consultation Engagement

Archaeology

Flood Prevention

Waste Services

Environmental Protection

Refer to Appendix 1 for a summary of the consultation response.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 29 April 2022

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 13 May 2022;

**Site Notices Date(s):** 10 May 2022;

**Number of Contributors:** 21

## Section B - Assessment

### Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

### Assessment

To address these determining issues, it needs to be considered whether:

The following HES guidance is relevant in the determination of this application:

- Managing Change Designation of Conservation Areas and Conservation Area Consent

The site is located within the Plewlands Conservation area and the character appraisal states the following:

*The urban fabric of the area can be divided into a number of distinct zones defined in terms of their building types, heights and density...To the North lie a mixture of detached/semi-detached villas, tenements and terraces contrasted with the open space of Morningside Park and Morningside Cemetery.*

*Building periods are predominantly late 19th century. The area is mainly composed of Victorian/Edwardian Terraced housing. Building types in the area range from 4-storey Victorian tenement blocks to 2 and a half storey terraces to 2-storey detached/semidetached houses. Tenement blocks occupy corner plots throughout the area as building rows continue from Comiston Road. These tenements generally contain shops at ground level, a few with the original frontages remaining...*

*There is an overall architectural coherence with the houses being built of grey or red sandstone and roofed with slate. However, there is a wide range of difference in character mirroring the eclectic stylistic influences prevalent in Victorian and Edwardian architecture. There are also small pockets of Arts and Crafts cottages and a sprinkling of thirties design properties. Further unity is derived from the terraced form of most development...*

The building is not listed as a building of architectural or historic interest under the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997. The proportions of the shop frontage on the south and east elevation are traditional in appearance. However, the shop front does not include any distinctive/decorative detailing on its stallriser and pilasters and there is no external corncicing. Only one pilaster detailing remains. The upper astragal patterns on the windows of unit 68 do not match the windows on unit 66 and 64. The vertical rhythm of the shop front is largely disrupted by its elongated fascia board which is not traditional in appearance. The main entrance on the corner is the only entrance that has a recessed doorway. The building has been garishly painted in bright blue with bright yellow paint on the windows and doors. It does not make a positive contribution to the character or appearance of the conservation area.

When assessed against the Plewlands Conservation Area Character Appraisal which highlights the essential characteristics of the area, the building is atypical. The building is a 20th Century infill development of a corner site that has been the subject of various ad hoc adaptations throughout its life. The scale and the lack of distinctive detailing is not consistent with the stylistic influences of Victorian/Edwardian architecture throughout the area. In addition, the scale, form and design of the building is not consistent with commercial uses found on the ground floor of tenement buildings. The siting of the building in front of the neighbouring terraces exaggerates the oddity of the building in terms of its scale and form as it does not reflect the traditional linear arrangements of buildings in this area

Whilst atypical buildings can make a positive contribution to conservation areas, in this case the building and its detailing are not of sufficient quality to merit retention on this basis. As the building does not positively impact on the character and appearance of the conservation, there is no strong presumption against its demolition. It should be noted that the merits of the demolition within a conservation area are addressed in the concurrent application for conservation area consent.

With the exception that the proposal is for flats, the proposed development height and footprint is similar to the approved planning permission for three townhouses on the site (application reference, 20/00549/FUL). While there are some changes to the treatment finish and detailing, the overall design concept is largely consistent. A key change to the design of the proposal relates to the introduction of natural brick on secondary elevations (sides and rear). The Edinburgh Design Guidance indicates that the use of brick should not be used as a treatment finish in conservation areas. The prevailing treatment finish within the conservation area is sandstone. However, across from the site on Morningside Court is a 1960's low rise flatted development with a white render finish and small sections of brick evident. While the architecture style of these 1960's flats is at odds with its surroundings, the proposed use of brick on secondary elevations would not visually jar with its surroundings compared to the nearby use of white render. The rear of the development faces onto a substation and onto Morningside Park where the conservation area designation terminates on Balcarres Street. The proposed tone/colouring of the brick is to complement the natural stone where the development design will utilise a limited palette of materials. Owing to the proposed use of brick on secondary areas and proximity of other materials used within the conservation area, it would be unreasonable to preclude the introduction of brick in this part of the conservation area when its use will allow the proposed development design to achieve a positive and balanced architectural effect to sit comfortably within the site. As the proposals will not adversely harm the character and appearance of the conservation area, there is no presumption against granting planning permission.

### **Conclusion in relation to the conservation area**

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 5, Env 6, Env 9, Env 12 and Env 21
- LDP Design policies Des 1, Des 4, Des 5 and Des 6
- LDP Housing and Community Facilities policies Hou 1, Hou 3 and Hou 4
- LDP Transport policies Tra 2, Tra 3 and Tra 4
- LDP Delivering the strategy policy Del 1

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policy Env 6 and the Edinburgh Design Guidance is a relevant material consideration when considering the design related policies.

### Demolition and Conservation Area Impact

The demolition of the existing building and the impact of the proposed development on the character and appearance of the conservation area is addressed in section (a) above. Accordingly, the proposals comply with LDP policies Env 5 and Env 6.

## Principle

The site lies within a defined urban area in the adopted Edinburgh Development Plan and priority for housing is given to brownfield sites. In addition, planning permission to erect three townhouses within the envelope of the site was granted by Development Management Sub Committee on 21 May 2020 and that permission does not expire until 21 May 2023. The planning history is therefore a significant material consideration as the principle of housing on the site is already established.

Subject to compliance with other policies in the plan as assessed below, the principle of housing on the site is acceptable.

The proposals comply with LDP policy Hou 1.

## Development design

The Edinburgh Design Guidance does not preclude the introduction of contemporary developments within sensitive sites, providing that it is for a high-quality scheme and would not result in adverse harm to the area.

The proposal is for a higher density on the site with the introduction of 7 flatted units as opposed to the previously approved three townhouses. The proposed development design, however, is largely consistent with the external design of the previous permission and this is a significant material consideration in the assessment of the proposals. While the proposal introduces brick to the scheme, this is a minor deviation as the proposed development would still sit comfortably within its surroundings. The proposals will have a positive and balanced architectural effect on its surroundings.

The proposed low level stone wall boundary with hedgerow to the front and east side elevation is consistent with the adjacent terrace boundary treatment and this is acceptable.

A condition requiring details of the material specification is required to ensure that the proposed development is finished to a high standard of design, using materials appropriate for the area.

The proposals comply with LDP Des 1, Des 4 and Hou 4.

## Sustainable Building

Building Standards Technical Handbook requires new developments to accord with the current carbon dioxide emissions reduction target and this will be addressed through the building warrant stage. The proposal includes provision for cycle parking. In terms of surface water management, this is addressed in more detail below.

The proposals comply with LDP policy Des 6.

## Amenity

### *Neighbouring amenity*

The proposed development to the front will face directly onto No. 63 Morningside Road with an approximate privacy distance of 30 metres. The windows, recessed balconies, and rooftop terrace on the front elevation of the development will not result in adverse loss of privacy/overlooking into neighbouring windows.

The neighbouring terraced building has windows on its gable elevation where it is not part of a designed frontage. Edinburgh Design Guidance advises that daylight to bathrooms, stores and hallways will not be protected. Daylight to gables and side windows is generally not protected.

Section 5.7 in the submitted Design and Access statement demonstrates that sunlight to neighbouring gardens will not be adversely affected.

Overall, the amenity of neighbouring developments will not be adversely affected by the proposal in terms of noise, daylight, sunlight, privacy and immediate outlook.

### *Future occupier's amenity*

All units within the development will exceed the minimum floorspace standard contained in the Edinburgh Design Guidance for a two-bedroom unit.

Section 5.10 in the submitted Design and Access statement demonstrates that all living spaces within the development will exceed the minimum requirements for daylighting. Alterations to the existing rear boundary wall will ensure that windows on the ground floor will receive adequate levels of daylight.

Future occupiers will have adequate levels of privacy within the development.

The submitted Noise Assessment demonstrates that future occupiers will not be affected in terms of noise from the existing substation to the north of the site. Environmental Protection were consulted and raised no objection to the proposals.

The proposals do not include private green space for all units within the development. Two units on the ground floor will have approximately 30 sqm of enclosed garden space to the front with a south facing aspect while the remaining five units will have none. This therefore is an infringement of LDP policy Hou 3 (Private Green Space in Housing Development). The proposal, however, has been designed in such a way to overcome the constraints of the site, including the presence of the existing substation to the north of the site and the need to broadly respect the prevailing building line and massing. While the proposed number of units are an excess of previously approved townhouses for this site, future occupiers would still have an attractive living amenity within the development with the provision of a small, recessed balcony to the front and rear. In addition, the site is adjacent to Morningside Park to the rear that would provide future occupiers with outdoor amenity space. The site is accessible to public transport and nearby amenities.



There is no requirement to make a contribution to green space to offset the impact of the development on existing green space amenity. While private green space would not be provided for all occupiers of the building, the quality of living amenity within the development is an overriding material consideration that non-compliance with policy Hou 3 is acceptable.

While the proposals do not comply with LDP policy Hou 3, future occupiers will still have an attractive living amenity within the development. The proposals comply with LDP policy Des 5 in terms of neighbouring and future occupier's amenity.

### Parking

The submitted Design and Access statement states that parking provision for the proposed development will be on the roadside. The site is not within a controlled parking zone area. There is no scope within this planning application to control the number and location of roadside parking. The site is located on a main bus route (no. 36) into the city centre with a stop directly adjacent and opposite. Compared to the existing nursery use with drop offs and pickups, the introduction of potentially 7 or 14 on-street parked cars will not adversely impact on the amenity of neighbouring occupiers in this area.

The cycle parking standard contained in the Edinburgh Design Guidance requires two cycle spaces to be provided for each two-bedroom units. A total of 14 cycle parking spaces is to be provided within the development and the proposal complies with the standards.

Cycle storage will be located to the front, comprising of vertical timber cladding. The proposed boundary treatment will screen the cycle storage from public views.

The proposals comply with policies Tra 2, Tra 3 and Tra 4.

### Flood Impacts

Flood Prevention were consulted on the proposals and advised that the application can proceed to determination. The proposal will not increase a flood risk or be at risk of flooding.

The proposals comply with LDP policy Env 21.

### Trees

The submitted Arboricultural Impact Assessment demonstrates that nearby trees within Morningside Park will not be affected by the proposal and the proposal will not result in a future pressure for the trees to be cut back.

The proposals comply with LDP policy Env 12 Trees.

## Archaeology

No archaeological features will be affected by the proposed development. It is recommended however, that a historic building survey is undertaken prior to its demolition. This is to provide an accurate and permanent record of this locally historic building.

The proposals comply with LDP policy Env 9.

## Waste

The applicants are required to liaise with Waste Services to discuss their waste requirements and informative is therefore required. Details of waste collections/provision do not preclude assessment of the proposals.

## Development Contributions

The proposal is not required to contribute towards healthcare or education and is compliant with LDP policy Del 1.

## **Conclusion in relation to the Development Plan**

The principle of the proposal is acceptable. The infringement relates to policy Hou 5 as five units will not have private green space within the development. As future occupiers will still have a high level of living amenity within the development and the site is located close to a nearby park, the infringement of policy Hou 5 therefore is acceptable. Neighbouring amenity will not be adversely affected. The development design is acceptable. The proposals will not harm the character and appearance of the conservation area.

### **c) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development. The proposal complies with Paragraph 29 of SPP in terms of protecting the amenity of new and existing development, consideration of flood risks, enhancing historic environment and making efficient use of land capabilities.

#### Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

### Public representations

A summary of the representations is provided below:

#### *material considerations*

- Impact on conservation area
- Development design/density/materials
- Impact on neighbouring amenity - privacy, sunlight, daylight, noise
- Too many units/density, flats not in-keeping with area
- Impact on on-street car parking and will result in road safety issue
- Impact on trees

The material issues raised are addressed in the assessment section of the report.

#### *non-material considerations*

- Will impact on access to the park - the proposals will not affect access to the park.
- Construction impact - does not preclude assessment of the application.
- Plans are misleading- the site and elevation plans are clear what is being proposed.
- Scope to introduce swift nest bricks - an informative is added.

### **Conclusion in relation to identified material considerations**

The other material issues have been identified and addressed. There are no new material issues.

### **Overall conclusion**

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals will not harm the character and appearance of the conservation area.

The proposals do not comply with policy Hou 3 as five units will not have private green space within the development. As future occupiers will still have a high level of living amenity within the development and the site is located close to a nearby park, the infringement of policy Hou 3 therefore is acceptable.

Neighbouring amenity will not be adversely affected. The development design is acceptable. The proposal is therefore acceptable with regards to the Edinburgh Local Development Plan and there is no material consideration that outweighs this conclusion. It is recommended that the application be approved.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

### **Conditions :-**

1. Notwithstanding the approved drawings, sample/s of all the proposed materials for the new flats, including details of the contemporary steel gates shall be submitted to and approved in writing by the Planning Authority before commencing work on the site. The materials, as approved, shall be implemented before work on the site is completed.
2. Prior to the commencement of construction works on site:
  - (a) A site survey (including initial desk study as a minimum) must be carried out to establish to the satisfaction of the Head of Planning, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and
  - (b) Where necessary, a detailed schedule of any remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Head of Planning

Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the satisfaction of the Planning Authority.

3. No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, analysis & reporting) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
4. Notwithstanding the approved drawings, details of all soft and hard landscaping shall be submitted to and approved in by the Planning Authority within three months of this permission. The approved soft and hard landscaping shall be implemented within six months of the completion of the development.

### **Reasons:-**

1. In order to enable the planning authority to consider this/these matter/s in detail.
2. To ensure that the site is made safe for the proposed use.

3. In order to safeguard the interests of archaeological heritage.
4. In order to enable the planning authority to consider this/these matter/s in detail.

### **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. Consideration to install swift nests is encouraged.
5. The applicant is required to liaise with Waste Services to discuss their waste strategy at their earliest opportunity.

### **Background Reading/External References**

To view details of the application go to the [Planning Portal](#)

**Further Information - [Local Development Plan](#)**

**Date Registered: 8 April 2022**

### **Drawing Numbers/Scheme**

01-13.

Scheme 1

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

Contact: Laura Marshall, Planning Officer  
E-mail: [laura.marshall@edinburgh.gov.uk](mailto:laura.marshall@edinburgh.gov.uk)

## Appendix 1

### Summary of Consultation Responses

NAME: Archaeology

COMMENT: No objection. Conditions recommended.

DATE: 5 May 2022

NAME: Flood Prevention

COMMENT: No objection.

DATE: 25 May 2022

NAME: Waste Services

COMMENT: Developer/architect required to contact Waste Services directly.

DATE: 18 May 2022

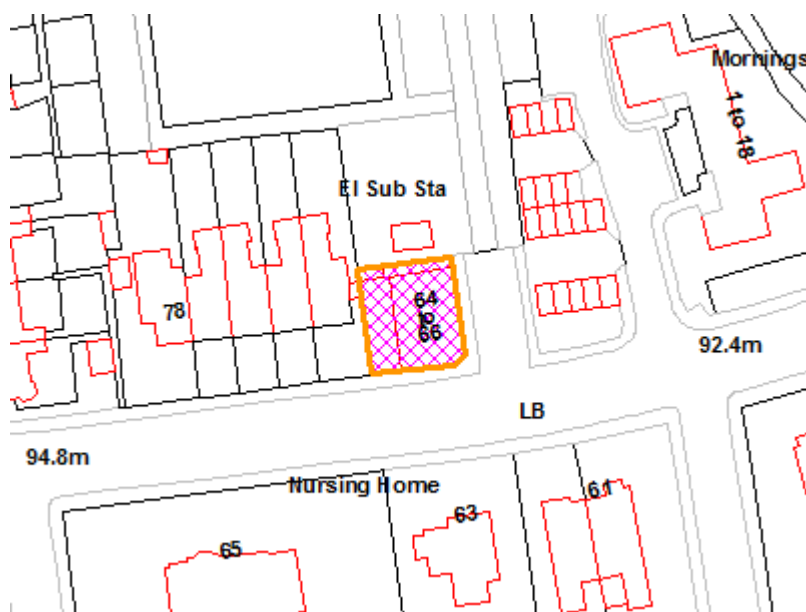
NAME: Environmental Protection

COMMENT: No objections. Conditions recommended.

DATE: 9 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

### Location Plan



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## Development Management Sub-Committee Report

**Wednesday 24 August 2022**

**Application for Conservation Area Consent.  
Headstart Nursery, 64 - 68 Morningside Drive, Edinburgh**

**Proposal: Complete Demolition in a Conservation Area**

**Item – Committee Decision  
Application Number – 22/01915/CON  
Ward – B10 - Morningside**

### **Reasons for Referral to Committee**

The concurrent application for planning permission to redevelop the site is being considered by the Development Management Sub Committee.

### **Recommendation**

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

### **Summary**

The proposed demolition of the existing building is acceptable with regards to Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

## **SECTION A – Application Background**

### **Site Description**

The site currently forms the premises of the existing Headstart Nursery which is a single storey flat roof building and is located on the north side of Morningside Drive. It is a single unit that was previously amalgamated from three shop units. The building projects in front of the neighbouring two storey and an attic Victorian terrace to the west of the site. The site to the north is immediately bordered by an electric substation and Morningside Park beyond. Access to the park is on the east side of the site with Morningside Cemetery located nearby to the northeast of the site.

The building has operated as the Headstart nursery since the early 1990s before the area was designated as a conservation area in 2010. Historical maps suggest that the building was constructed some 20 years after the construction of its neighbouring Victorian terraces to the west of the site.

The surrounding area is predominately residential with a mix of detached, semi-detached villas and terraces from the Edwardian and Victorian period. To the east of the site, within Morningside Court is a 1960's flatted development where the architecture is at odds with the character of the surrounding area.

### **Description Of The Proposal**

The application seeks conservation area consent to demolish the existing Headstart Nursery building in its entirety. The proposal is to facilitate a proposed flatted development under planning application 22/01916/FUL.

### **Relevant Site History**

22/01916/FUL

Headstart Nursery  
64 - 68 Morningside Drive  
Edinburgh  
EH10 5NU

Proposed demolition of existing nursery school and construction of seven flats with associated landscaping and cycle parking.

20/00550/CON

Headstart Nursery  
64 - 68 Morningside Drive  
Edinburgh  
EH10 5NU

Complete demolition in a conservation area. Demolition of existing nursery school  
Granted  
25 May 2020

20/00549/FUL

Headstart Nursery  
64 - 68 Morningside Drive  
Edinburgh  
EH10 5NU

Planning application for demolition of existing nursery school and construction of 3 No. townhouses with landscaping, cycle and bin stores, and ancillary infrastructure (as amended).

Granted  
25 May 2020

### **Other Relevant Site History**

None.

### **Pre-Application process**

Pre-application discussions took place on this application.



## Consultation Engagement

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

## Publicity and Public Engagement

**Date of Neighbour Notification:** Not Applicable

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 13 May 2022;

**Site Notices Date(s):** 10 May 2022;

**Number of Contributors:** 2

## Section B - Assessment

### Determining Issues

Consent is required because section 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act") states that in making a decision on the demolition of a building in a conservation area section 6 to 25 of the same Act shall have effect in relation to buildings in conservation areas as they have effect in relation to listed buildings. The proposals therefore require to be assessed in terms of Section 64 of the 1997 Heritage Act:

- Having due regard to HES Policy and guidance, does the proposed demolition conflict with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the proposals do comply with HES Policy and guidance on demolition in a conservation area, are there any compelling reasons (including but not limited to the public sector equality duty) for not approving them?
- If the proposals do not comply with HES Policy and guidance on demolition in a conservation area, are there any compelling reasons (including but not limited to the public sector equality duty) for approving them?

### Assessment

To address these determining issues, it needs to be considered whether:

#### a) Demolition of buildings

The following HES guidance is relevant in the determination of this application:

- Managing Change - Interim guidance on the Designation of Conservation Areas and Conservation Area Consent (2019).

The site is located within the Plewlands Conservation area and the character appraisal states the following:

*The urban fabric of the area can be divided into a number of distinct zones defined in terms of their building types, heights and density... To the North lie a mixture of detached/semi-detached villas, tenements and terraces contrasted with the open space of Morningside Park and Morningside Cemetery.*

*Building periods are predominantly late 19th century. The area is mainly composed of Victorian/Edwardian Terraced housing. Building types in the area range from 4-storey Victorian tenement blocks to 2 and a half storey terraces to 2-storey detached/semidetached houses. Tenement blocks occupy corner plots throughout the area as building rows continue from Comiston Road. These tenements generally contain shops at ground level, a few with the original frontages remaining...*

*There is an overall architectural coherence with the houses being built of grey or red sandstone and roofed with slate. However, there is a wide range of difference in character mirroring the eclectic stylistic influences prevalent in Victorian and Edwardian architecture. There are also small pockets of Arts and Crafts cottages and a sprinkling of thirties design properties. Further unity is derived from the terraced form of most development...*

Conservation Area Consent (application reference, 20/00550/CON) was granted by the Development Management Sub Committee on 21 May 2020. The consent does not expire until 21 May 2023 and the planning history of the site is therefore material in assessing the current application for conservation area consent.

The building is not listed as a building of architectural or historic interest under the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997. The proportions of the shop frontage on the south and east elevation are traditional in appearance. However, the shop front does not include any distinctive/decorative detailing on its stallriser and pilasters and there is no external corncicing. Only one pilaster detailing remains. The upper astragal patterns on the windows of unit 68 do not match the windows on unit 66 and 64. The vertical rhythm of the shop front is largely disrupted by its elongated fascia board which is not traditional in appearance. The main entrance on the corner is the only entrance that has a recessed doorway. The building has been garishly painted in bright blue with bright yellow paint on the windows and doors. It does not make a positive contribution to the character or appearance of the conservation area.

When assessed against the Plewlands Conservation Area Character Appraisal which highlights the essential characteristics of the area, the building is atypical. The building is a 20th Century infill development of a corner site that has been the subject of various ad hoc adaptations throughout its life. The scale and the lack of distinctive detailing is not consistent with the stylistic influences of Victorian/Edwardian architecture throughout the area. In addition, the scale, form and design of the building is not consistent with commercial uses found on the ground floor of tenement buildings. The siting of the building in front of the neighbouring terraces exaggerates the oddity of the building in terms of its scale and form as it does not reflect the traditional linear arrangements of buildings in this area

Whilst atypical buildings can make a positive contribution to conservation areas, in this case the building and its detailing are not of sufficient quality to merit retention on this basis. As the building does not positively impact on the character and appearance of the conservation, there is no strong presumption against its demolition. It should be noted that, planning permission is not required to demolish a non-residential building. The merits of the demolition within a conservation area are addressed in the concurrent application for conservation area consent.

It should be noted that the current occupation and potential alternative uses are not relevant to whether the building is of such intrinsic value in the conservation area that it should be kept. Under the approved Conservation Area Consent (application reference, 20/00550/CON) it was advised that the existing building had become untenable for its current use. Historic Environment Scotland was consulted on the proposal and raised no comment. In its guidance on conservation area consent it states - In deciding whether conservation area consent should be granted, planning authorities should take account of the importance of the building to the character or appearance of any part of the conservation area, and of proposals for the future of the cleared site. The scale, form and design of the building does not play any significant role to the character or appearance of the surrounding streetscape. In addition, the building does not contribute to any important views within the area. As the building is of limited importance to the character and appearance of a conservation area, a condition survey or the marketability of alternative uses is not required be demonstrated. The demolition of the building is to facilitate a flatted development of high quality and the merits of the alternative proposals outweigh the loss of the existing building.

The merits of the replacement building are addressed in the concurrent application for planning permission.

### **Conclusion in relation to the conservation area**

With regards to Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the demolition of the building is therefore acceptable.

#### **b) There are any other matters to consider?**

The following matters have been identified for consideration:

##### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

## Public representations

A summary of the representations is provided below:

### *material considerations*

- Building should be saved and used for the benefit of the community - addressed in the assessment section.

### *non-material considerations*

- Reference to development design and parking - this is assessed under planning application 22/01916/FUL.
- Health and safety issues in relation to construction phase - this does not preclude assessment of the proposal.

## **Conclusion in relation to other matters considered**

The material issues have been identified and addressed. There are no new material issues to address.

## **Overall conclusion**

The proposed demolition of the existing building is acceptable with regards to Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

### **Conditions :-**

1. No demolition shall start until the applicant has confirmed in writing the start date for the new development by the submission of a Notice of Initiation.

### **Reasons:-**

1. In order to safeguard the character of the conservation area.

### **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.

## **Background Reading/External References**

To view details of the application go to the [Planning Portal](#)

## **Further Information - Local Development Plan**

**Date Registered: 8 April 2022**

## **Drawing Numbers/Scheme**

01-03.

Scheme 1

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

Contact: Laura Marshall, Planning Officer  
E-mail: [laura.marshall@edinburgh.gov.uk](mailto:laura.marshall@edinburgh.gov.uk)

## Summary of Consultation Responses

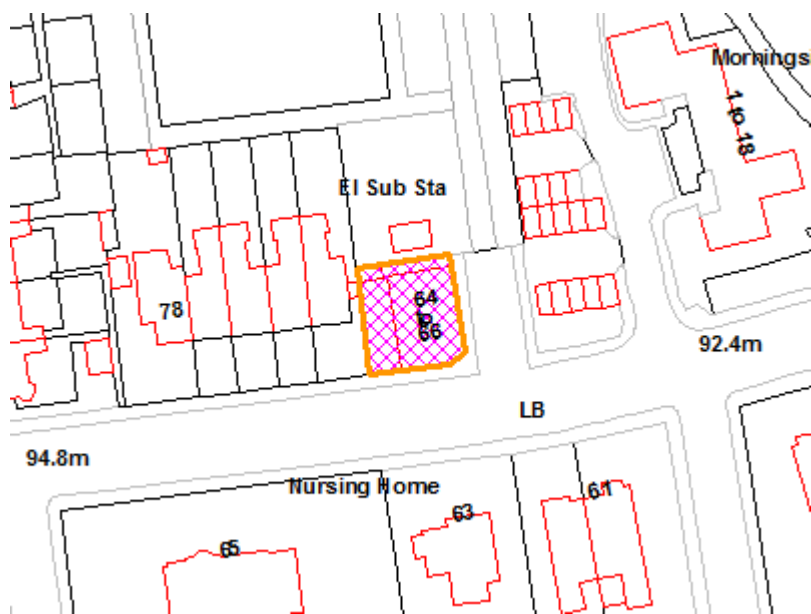
NAME: Historic Environment Scotland

COMMENT: No comment.

DATE: 18 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

## Location Plan



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## Development Management Sub-Committee Report

**Wednesday 24 August 2022**

**Application for Planning Permission  
134 Constitution Street, Edinburgh, EH6 6AJ**

**Proposal: Change of use from office to form dwelling including timber clad first floor extension. (AS AMENDED)**

**Item – Committee Decision  
Application Number – 21/05544/FUL  
Ward – B13 - Leith**

### **Reasons for Referral to Committee**

This application has been referred to the Development Management Sub Committee as the application has received more than 6 material objection comments.

### **Outcome of previous Committee**

This application was previously considered by Committee on 29th June 2022

Site visit - This application was continued by the Committee for a site visit. The application is returning to Committee for a decision.

### **Recommendation**

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

### **Summary**

The proposals would preserve the character and setting of the listed buildings and Leith conservation area and are acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Edinburgh Local Development Plan and the Council's non-statutory guidance. The proposal will achieve an acceptable residential environment, shall not have a detrimental impact on the character of the listed building and conservation area and the proposed conversion of the building to housing is acceptable. It is recommended that the application be granted.

## **SECTION A – Application Background**

## Site Description

The application property is a single storey 19th century wing extension to the north side of a late 18th century square-plan classical house. It is listed category B on the 14 December 1970 (LB 27386).

## Description Of The Proposal

The application is for the change of use of a former office to residential use. The proposal includes internal alterations and the formation of a new first floor extension on the flat roof.

Amendment:

- Position of first floor window adjusted along elevation

## Supporting Information

- Solar Shading and Daylight Study
- Design Statement

## Relevant Site History

21/06358/LBC

134 Constitution Street

Edinburgh

EH6 6AJ

Change of use from office to form dwelling including timber clad first floor extension.

Granted

10 May 2022

## Other Relevant Site History

No other relevant planning site history

## Pre-Application process

There is no pre-application process history.

## Consultation Engagement

No consultations undertaken.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 26 October 2021

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 5 November 2021;

**Site Notices Date(s):** 2 November 2021;

**Number of Contributors:** 8

## Section B - Assessment



## Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
- (i) harming the listed building or its setting? or
  - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

## Assessment

To address these determining issues, it needs to be considered whether:

### a) **The proposals harm the listed building and its setting?**

The following HES guidance is relevant in the determination of this application:

- Managing Change Extensions
- Managing Change Interiors
- Managing Change Windows

The first-floor extension is proposed to sit on the flat roof of the northern wing building. The wings to the north and south form symmetrical architectural features that have been extensively altered in the past and retain little symmetrical detailing when viewed from the streetscape. The proposed extension shall be partially screened by an

entrance gate and shall not disrupt the symmetrical characteristics of the listed property.

The proposed extension would form a contemporary addition to the front elevation of the building using black stained timber and aluminium, combined with its angular roof design, providing a complimentary feature to the classical architectural detailing of the building. It would represent a sympathetic and subservient development and would be of an appropriate scale in the context of the property's curtilage.

The alterations will not impact on any historical architectural features and will therefore not adversely impact on the special architectural or historic interest of the listed building.

### **Conclusion in relation to the listed building**

The proposal is acceptable in this regard and complies with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals harm the character or appearance of the conservation area?**

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

There are a number of similar contemporary additions to buildings within the surrounding area, and the introduction of a relatively small scale and appropriately designed extension would not adversely affect the spatial characteristics of the area.

The green roof involves minimal alteration to the conservation area. The proposed materials, scale and design are appropriate and there will be no detrimental impact on the character or setting of the Leith Conservation Area.

The proposal would be a sympathetic development and would have no adverse effect on the character and appearance of the Leith Conservation Area.

### **Conclusion in relation to the conservation area**

The proposal complies with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in that it would preserve the character and appearance of the conservation area.

### **c) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Housing policy Hou 5
- LDP Environment policies Env 4 and Env 6
- LDP Design policies Des 1, Des, 5 and Des 12
- LDP Transport policies Tra 2, Tra 3 and Tra 4

The non-statutory 'Design' guidance is a material consideration that is relevant when considering policies Hou 5 and Des 5.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6.

### *Principle*

Policy Hou 5 supports the proposed conversion to residential use and sets out the criteria for which planning permission will be granted for the change of use of the existing building in non-residential use to housing. The proposal is compatible with adjacent established residential uses and is considered further below.

The proposal is acceptable in principle.

### *Scale, form and design*

The first-floor extension will sit on the flat roof to the north of the host property. This view is partially obscured by an existing sandstone gate forming the entrance to the side alley. The proposed extension will sit behind this feature which will act to partially obscure the contemporary extension from public views along Constitution Street.

The extension will use dark timber cladding and aluminium materials to introduce a modern and high-quality elevation that would provide a distinct and sympathetic contrast with the simple detailing of the host building and architecture of the surrounding historic properties.

The proposal is acceptable in design terms and comply with LDP policy Des 1 and Des 4.

### *Amenity*

The application is for the change of use from an office unit to a residential dwelling. The residential use would match the existing character of the surrounding properties and would not create an intensification of noise generated on the site. The residential use would not have a detrimental impact on the amenity of neighbours.

The conversion of the premise to residential use will provide a good standard of amenity in terms of accommodation. The property will have a dual aspect and will exceed the minimum internal floor area for a three-bedroom flat as specified in the Edinburgh Design Guidance. All habitable rooms within the flat will receive adequate levels of daylight through the window openings.

The proposal does not offer any private green space; However, the site is in close proximity to Leith Links and other high-quality amenity spaces. In these circumstances, the absence of private garden space is acceptable in this location.

A Solar Shading & Daylighting Study has been undertaken in order to assess the impact of the proposed extension on neighbouring residential dwellings. Analysis has been carried out to assess the Impact of the proposed development on the immediate neighbouring residential dwelling (136 Constitution Road), the potential impact of

shading and to review the available daylight provision to the adjacent building as a result of the development.

The results show that there is no notable additional shading to the neighbouring property and that there is no significant impact to the existing daylighting levels as a result of the new development.

Although the distance between the proposed first floor window and the kitchen window on the host building measures 4.8 meters, the application has been amended and the first-floor bedroom window has been moved to face the gable of the neighbouring building. Future occupiers will not immediately overlook the neighbouring property. Furthermore, the highly urban context of the property would justify a minor breach of overlooking and the overall impact on neighbouring amenity would be minimal. The proposed extension will not have an unreasonable impact on neighbouring amenity.

The proposal shall result in the creation of a suitable residential dwelling and shall not impact on neighbouring amenity.

### *Transport*

The proposal includes sufficient provision for internal private cycle storage. The site is in a central location that is well served by public transport.

The property has an established off-street parking lot within the front curtilage of the property. The proposal includes the provision for a single private parking space which would be acceptable in this case.

The proposal is acceptable in transport terms and complies with LDP policy Tra 2, Tra 3 and Tra 4.

### **Conclusion in relation to the Development Plan**

The proposals comply with the Development Plan.

#### **d) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

#### Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

### Public representations

The application has received eight letters of representation. The letters were all in objection to the proposals.

A summary of the representations is provided below:

#### *material considerations*

Negative impact on the character and setting of the listed building; this is addressed in section a) *listed buildings*

Proposal would create an asymmetrical addition to the detriment of the listed building; this is addressed in section a) *listed buildings*

Negative impact on the character and setting of the conservation area; this is addressed in section b) *conservation area*

The proposed green roof would negatively impact the character of the conservation area; this is addressed in section b) *conservation area*

Incongruous design using non-traditional materials; this is addressed in section c) *Scale, form and design*

Noise generated would negatively impact on neighbouring amenity; this is addressed in section c) *Amenity*

Negative impact on neighbouring privacy; this is addressed in section c) *Amenity*

Negative impact on residential amenity; this is addressed in section c) *Amenity*

Negative impact on sunlight/daylight to neighbouring units; this is addressed in section c) *Amenity*

Proposal would have a negative impact on the car parking provision; this is addressed in section c) *Transport*

#### *non-material considerations*

- Proposal shall be built on open space and shall impact views currently enjoyed onto open space - proposal is not on open space

- Enforcement case relating to the painting of a downpipe should be addressed - not material to this application but to the relevant enforcement case (16/00066/ELBB)

#### *Conclusion in relation to other material considerations*

The proposal does not raise any issues in relation to identified material considerations. These material considerations therefore support the grant of planning permission.

## Overall Conclusion

The proposals would preserve the character and setting of the listed buildings and Leith conservation area and are acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Edinburgh Local Development Plan and the Council's non-statutory guidance. The proposal will achieve an acceptable residential environment, shall not have a detrimental impact on the character of the listed building and conservation area and the proposed conversion of the building to housing is acceptable. It is recommended that the application be granted.

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

### 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.
4. This consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.

### Background Reading/External References

To view details of the application go to the [Planning Portal](#)

**Further Information - [Local Development Plan](#)**

**Date Registered: 20 October 2021**

**Drawing Numbers/Scheme**

01,02A,03-04,05A

Scheme 2

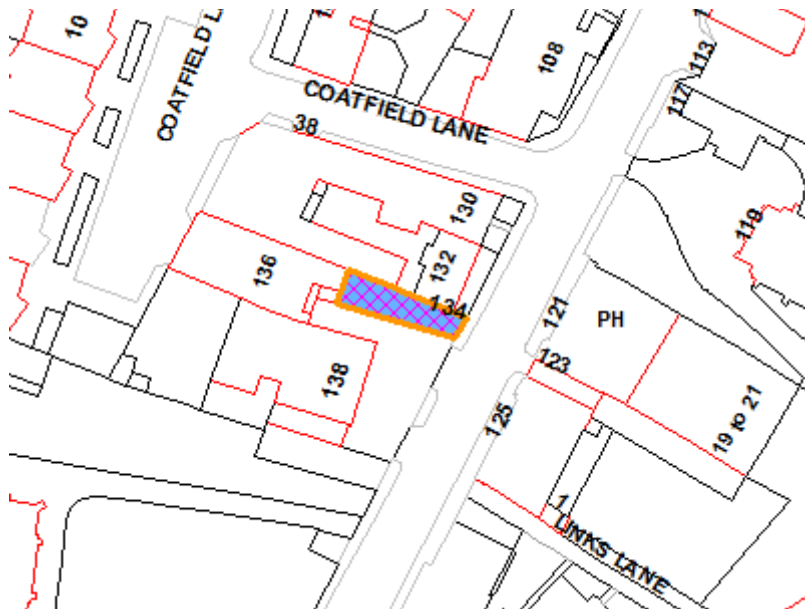
**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Adam Gloser, Planning Officer  
E-mail: [adam.gloser@edinburgh.gov.uk](mailto:adam.gloser@edinburgh.gov.uk)

## Summary of Consultation Responses

No consultations undertaken.

### Location Plan



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## Development Management Sub-Committee Report

**Wednesday 24 August 2022**

**Application for Planning Permission  
11A James' Court, 493 Lawnmarket, Edinburgh**

**Proposal: Proposed refurbishment of and extension to the existing retail/store unit at 11A James Court including provision of ancillary coffee bar, external seating area and formation of a connection to the existing retail unit at 497 Lawnmarket.**

**Item – Committee Decision  
Application Number – 21/04237/FUL  
Ward – B11 - City Centre**

### **Reasons for Referral to Committee**

The application has been referred to Development Management Sub-Committee because 39 objections and 24 letters of support have been received. Consequently under the Council's Scheme of Delegation, the application must be determined by the Development Sub-Committee.

### **Outcome of previous Committee**

This application was previously considered by Committee on 15th June 2022

Site visit - This application was continued by the Committee for a site visit. The application is returning to Committee for a decision.

### **Recommendation**

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

### **Summary**

The proposals would preserve the character and appearance of the Old Town Conservation Area and the character and setting of nearby listed buildings, and would be acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Edinburgh Local Development Plan and the Council's non-statutory guidance. The development would form an appropriate addition to the area and would not have an unacceptable impact on neighbouring residential amenity. The proposal complies with the relevant SPP - sustainable

development principles. No other material considerations outweigh this conclusion. It is recommended that planning permission is granted.

## **SECTION A – Application Background**

### **Site Description**

The site lies to the north of the Lawnmarket, within James Court and forms part of a group listing for 497-499 Lawnmarket, 7 and 11 James Court The group is Category B listed and was listed on 14.12.1970 (LB ref 29235).

The site is a single storey building, which is in retail / storage use. The building is finished in white render, with a pitched slate roof. There is no connection between the building and the main tenement, the ground floor of which is also in retail use. The site is accessed independently from Lady Stairs Close.

The immediate area within James Court is characterised by tenemental buildings and hard landscaping. The wider surroundings have a mix of uses, being predominantly residential at the upper floors, with a variety of commercial ground floor uses.

A tenement building is situated to the east at 491-495 Lawnmarket, 3 and 5 James Court. The group is Category A listed and was listed on 14.12.1970 (LB ref 29234).

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

### **Description Of The Proposal**

The application proposes the refurbishment of and extension to the existing retail/store.

The retail use of the rear building would be retained, whilst also providing a small, ancillary coffee bar. The ground floor would be extended and a mezzanine level created, providing an internal floor area of 161sqm. An external seating area would be formed to the rear of the building and an enclosed, refuse and recycling store would also be created.

The existing roof would be increased in height, with flat roof dormers added to the roof planes. The proposed materials are reused slate roofing and stonework. It is proposed to infill the existing windows with plain rendered panels.

### **Supporting Information**

Planning Statement  
Surface Water Management Plan  
Design Statement

### **Relevant Site History**

21/04238/LBC  
11A James' Court  
493 Lawnmarket

Edinburgh

EH1 2PB

Proposed refurbishment of and extension to the existing retail/store unit at 11A James Court including provision of ancillary coffee bar, external seating area and formation of a connection to the existing retail unit at 497 Lawnmarket.

Continued

### **Other Relevant Site History**

No other relevant site history.

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

Archaeology

Historic Environment Scotland

Environmental Protection

Refer to Appendix 1 for a summary of the consultation response.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 8 February 2022

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 11 February 2022; 27 August 2021;

**Site Notices Date(s):** 8 February 2022; 24 August 2021;

**Number of Contributors:** 63

## **Section B - Assessment**

### **Determining Issues**

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
- (i) harming the listed building or its setting? or
  - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

## **Assessment**

To address these determining issues, it needs to be considered whether:

### **a) The proposals harm the listed building and its setting?**

The following HES guidance is relevant in the determination of this application:

- Managing Change Setting
- Managing Change Roofs
- Managing Change Extensions
- Managing Change Interiors
- Managing Change External Walls

Although the roof would be increased in height, it would remain subservient to the main building. It would be connected to the main building by a lower pitched roof, which would be a sympathetic and modest addition. The proposal would preserve the character of the building and would not challenge or diminish the setting of the neighbouring listed buildings. The dormers would be appropriately designed and scaled features and would create an interesting visual juxtaposition with the rest of the building.

The vaulted basement would be retained and the render from the older north and west walls would be stripped off to expose the stonework. A new access would be formed into the courtyard area.

The internal alterations proposed are minor and respect the original architectural style. They would not result in the loss of any significant historic fabric.

The external seating area proposes the use of granite; this stone is not an appropriate finish, as sandstone is the predominant external material and the introduction of a small

element of granite would create a disjointed and fussy addition, to the detriment of the character and setting of the adjoining buildings, it is recommended that a condition is added, requiring a detailed specification of all proposed external materials.

### **Conclusion in relation to the listed building**

The proposals are acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and the proposals preserve the character and setting of the listed buildings.

#### **b) The proposals impact on the character or appearance of the conservation area?**

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.

The proposal retains the single storey element of the existing building and creates a new mezzanine level by the formation of flat roofed dormers on the roof planes. These are contemporary in design but tie in with the character and appearance of the Old Town Conservation Area, where modern additions sit comfortably on elevations of buildings in the Old Town, contributing to the evolving character of the area. The materials of slate and exposed stonework reflect the materials on surrounding buildings and provide a sense of unity. The proposed alterations would be architecturally compatible in design, scale and materials with the original building.

The formation of the seating area would extend the building's footprint into the court area to the north. However, it would be open and would not extend beyond the line of the outshot of the building to the east of the site. It would form a modest and unobtrusive addition to the square and would not adversely affect its spatial character. As set out above, granite is not an appropriate material for the external seating area, and a condition is attached requiring details of more suitable external materials to be submitted.

### **Conclusion in relation to the conservation area**

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and preserve and enhance the character and appearance of the conservation area.

#### **c) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 1, Env 3, Env 4, Env 6, Env 9 and Env 15
- LDP Strategy policies Del 2
- LDP Design policies Des 1, Des 5, Des 12

- LDP Transport policies Tra 2, Tra 3

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering LDP Policies Env 3, Env 4 and Env 6.

The non-statutory 'Business' guidance is a material consideration that is relevant when considering Policies Del 2 and Ret 1.

The non-statutory 'Edinburgh Design Guidance' is a material consideration that is relevant when considering Policies Des 1, Des 5 and Des 12.

#### Impact on the setting of the listed buildings

This has been assessed in section a) and the proposals comply with LDP Policies Env 3 and Env 4. as the proposed extension would not harm the listed building.

#### Impact on the setting of the conservation area

This has been assessed in section b) and the proposals comply with LDP Policy Env 6 as the extension would preserve and enhance the character and appearance of the conservation area.

#### Impact on the Edinburgh World Heritage Site

Although the proposed development would be located back from the Lawnmarket, it would be within James Court, a prominent and unusual large open area, being set within the broader context of the tightly formed and dense Old Town.

However, the form of the development would create a modest addition to the building. It would avoid intruding into the open area to an unacceptable degree and would, therefore, respect the spatial character of the court. The proposal would have no adverse effect on the Outstanding Universal Value of the Edinburgh World Heritage Site and would comply with LDP Policy Env 1.

#### Principle of Development

LDP Policy Del 2 (City Centre) supports development which retains and enhances the character, attractiveness, vitality, and accessibility of the City Centre and contributes to its role as a strategic business and regional shopping centre and the role of Edinburgh as a capital city.

The proposals are for an extension to the existing retail use and seek to improve the attractiveness of the site. The development would improve the vitality of the site and surrounding area. The proposed ancillary coffee bar use would support the existing retail use, without detriment to the amenity of the area.

The proposed development is in accordance with LDP Policy Del 2.

#### Scale, Design and Materials

LDP Policy Des 1 (Design Quality and Context) states that planning permission will be granted for proposals which create or contribute towards a sense of place. Proposals

should be based on an overall design concept that draws upon positive characteristics of the surrounding area.

LDP Policy Des 12 (Extensions and Alterations) states that planning permission will be granted for alterations to existing buildings which are compatible with the character of the existing building.

The design and form of the proposals are compatible with the character of the building and would not adversely affect the character and appearance of the surrounding area.

The proposal is in accordance with LDP Policies Des 1 and Des 12.

### Amenity

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

The site is bounded by tenemental buildings, with residential properties at upper floor levels. Details have been submitted which confirm that these properties would have no reduction in daylighting and only ground floor windows would be affected by increasing the height of the roof.

There is a residential property to the east of the site at ground floor level which has four windows overlooking the site. One of these windows would not meet the requirements for daylighting as set out in the Council's Edinburgh Design Guidance. Whilst it is acknowledged that there will be a loss of light into this room, the daylighting from the other windows and open plan nature of the room will ameliorate any loss of light. Reasonable levels of sunlight will be achieved complying with the Edinburgh Design Guidance.

Given the historic and organic character of the Old Town and the circumstances of this particular situation, the impact on daylighting is acceptable. To avoid overlooking from the east facing dormer window, it is recommended that a condition is attached requiring obscure glazing.

The coffee bar within the unit is ancillary to the main retail use and does not constitute a change of use of the land. In such circumstances, there is no opportunity to require ventilation details or restrict the hours of operation of this element. Environmental Protection has also raised concerns regarding noise from the external seating area. However, the premises are in a city centre location where there are existing, relatively high ambient noise levels during the day. Given the small scale of the seating area, and the fact that no change of use is proposed, the development would not adversely affect neighbouring residential amenity by virtue of increased noise.

Refuse and recycling facilities have been sensitively integrated into the design and are acceptable.

The proposal is in accordance with LDP Policy Des 5.

### Road Safety

Policy Tra 2 (Private Car Parking) is applicable to the proposed development. The proposed development would not provide any car parking, which is in accordance with the Council's guidelines.

Policy Tra 3 (Private Cycle Parking) is applicable to the proposed development. The site is located within Zone 1 of the EDG parking standards, which does not require cycle parking for retail proposals of less than 250sqm. As such, there is not a requirement for cycle parking as part of the proposed development.

The proposals are in accordance with LDP Policies Tra 2 and Tra 3.

### Archaeology

LDP Policy Env 9 (Development of Sites of Archaeological Significance) is to protect and enhance archaeological remains where possible by preservation in situ in appropriate setting. The City Archaeologist has confirmed that the site lies within an area of potential archaeological significance. A condition is recommended requesting that an archaeology survey is undertaken.

The proposals are in accordance with LDP Policy Env 9.

### Open Space

LDP Policy Env 15 (Sites of Local Importance) does not support development that is likely to have an adverse impact on the flora, fauna, landscape or geological features of a Local Nature Reserve or a Local Nature Conservation Site.

The open character of the courtyard would be retained by the modest scale of the extension and adjacent trees will remain in their present positions and would not be adversely affected by the proposals.

The proposals are in accordance with LDP Policy Env 15.

## **Conclusion in relation to the Development Plan**

The proposal complies with the Edinburgh Local Development Plan.

### **d) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### SPP - Sustainable development

Scottish Planning Policy presumption in favour of sustainable development is a significant material consideration due to the development plan being over five years old. SPP introduces a presumption in favour of development that contributes to sustainable development and sets out 13 principles to guide policy and decisions.

The development proposes an appropriate and sustainable land use, which would support the local economy, and protect the historic environment. The outdoor seating



area within an open courtyard overlooked by residential properties would not be detrimental to residential amenity.

The proposed development complies with SPP principles 3, 10 and 13, as it supports good design and the six qualities of successful places. It would protect and enhance the historic environment and protect the amenity of nearby residents.

#### Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

#### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

#### Public representations

The application was advertised on 27th August 2021 and 58 comments were received: 34 objecting and 24 supporting. These included comments from the Cockburn Association, the Architectural Heritage Society of Scotland and the Old Town Community Council which has not requested to be a statutory consultee.

The application was re-advertised on 11th February 2022 and a further five objections were received including one from Alison Johnstone MSP.

A summary of the representations is provided below:

#### *material considerations*

Material Comments - Objections:

- excessive concentration of food and drink premises - this is assessed in section (c) of the assessment.
- neighbouring amenity - this is assessed in section (c) of the assessment.
- loss of open area - this is assessed in section (c) of the assessment.
- impact on the character and appearance of the conservation area - this is assessed in section (b) of the assessment.

- loss of historic fabric - assessed in section (a) of the assessment.
- impact on outlook - this is assessed in section (c) of the assessment.
- loss of light to ground floor residential property - this is assessed in section (c) of the assessment.

Material Comments - Supporting:

- improvements to building will bring revenue to the area - this is assessed in section (c) of the assessment.
- the design sympathetic to surrounding buildings and enhance appearance of James Court - this is assessed in section (a) of the assessment.
- the new cafe will improve recovery and regeneration of the area - this is assessed in section (c) of the assessment.

*non-material considerations*

- the distance between the extension and existing building to east would make maintenance of the building a problem - this is not a planning issue.

### **Conclusion in relation to identified material considerations**

The proposal complies with the relevant sustainable development policy principles set out in SPP. There are no other issues raised in the material considerations.

#### **e) Overall conclusion**

The proposals would preserve the character and appearance of the Old Town Conservation Area and the character and setting of nearby listed buildings, and would be acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Edinburgh Local Development Plan and the Council's non-statutory guidance. The development would form an appropriate addition to the area and would not have an unacceptable impact on neighbouring residential amenity. The proposal complies with the relevant SPP - sustainable development principles. No other material considerations outweigh this conclusion. It is recommended that planning permission is granted.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

1. No development shall take place on the site until the applicant has secured and implemented a programme of archaeological and conservation work (Historic building recording, excavation, conservation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

2. 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. Granite will not be used in the external seating area.

3. The approved east facing dormer shall be fitted with obscure glazing before occupation of the extension and remain in perpetuity. Details of the glazing shall be submitted to the Planning Authority for approval prior to the initiation of development.

1. In order to safeguard the interests of archaeological heritage.

2. In order to safeguard the character and setting of the listed buildings and the character and appearance of the conservation area.

3. In order to protect the privacy of adjoining neighbours.

## **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.

## **Background Reading/External References**

To view details of the application go to the [Planning Portal](#)

**Further Information - [Local Development Plan](#)**

**Date Registered: 10 August 2021**

**Drawing Numbers/Scheme**

1A, 2, 3A, 4-8, 9A, 10-12

Scheme 2

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

Contact: Jennifer Zochowska, Senior Planning Officer  
E-mail: [jennifer.zochowska@edinburgh.gov.uk](mailto:jennifer.zochowska@edinburgh.gov.uk)

## Summary of Consultation Responses

NAME: Archaeology

COMMENT: This court was constructed in the 1720s on the site of several medieval closes running northwards at right-angles from the medieval high street (Lawnmarket) necessitating their demolition. As has been proved elsewhere up and down the Royal mile, the 18th century redevelopment of the Royal Mile often retained the walls and cellars of the earlier tenements which can date back to the 16th century and in some cases possibly earlier.

Although the current out-building dates to the 20th century, it clearly utilises earlier walls principally its northern wall and western along the Close. The building is regarded as being of historic and archaeological significance and as the proposals will require works to the surviving historic building, it is essential that a detailed programme of archaeological work is undertaken during development to record this historic building and ensure conservation/preservation are undertaken.

To secure this programme of archaeological works is undertaken it is recommended that the following condition is attached

'No development shall take place on the site until the applicant has secured and implemented a programme of archaeological and conservation work (Historic building recording, excavation, conservation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

DATE: 25 August 2021

NAME: Historic Environment Scotland

COMMENT: We have considered the information received and do not have any comments to make on the proposals.

DATE: 12 April 2022

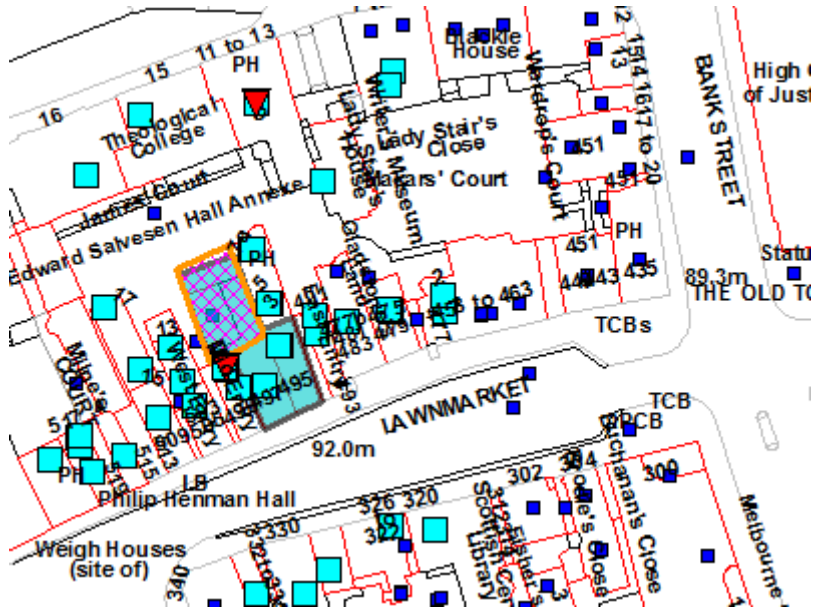
NAME: Environmental Protection

COMMENT: Environmental Protection have concerns that noise from the outdoor area may be difficult to modulate and control . Nearby residents would likely be subjected to unacceptable levels of noise, and it would be detrimental to residential amenity.

DATE: 8 November 2021

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

## Location Plan



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## Development Management Sub-Committee Report

**Wednesday 24 August 2022**

**Application for Planning Permission  
The Grange Club, 7 Portgower Place, Edinburgh**

**Proposal: Installation of 2 tennis courts covered by an air supported dome; 2 padel tennis courts covered by steel frame structures with associated works to provide new access paths, fencing, landscaping and tree removal work. (as amended)**

**Item – Committee Decision  
Application Number – 21/06513/FUL  
Ward – B05 - Inverleith**

### **Reasons for Referral to Committee**

The application has been referred to the Development Management Sub-Committee because 30 letters of objection have been received and it is recommended for approval. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

### **Outcome of previous Committee**

This application was previously considered by Committee on 29th June 2022

Site visit - This application was continued by the Committee for a site visit. The application is returning to Committee for a decision.

### **Recommendation**

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

### **Summary**

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and overall are in accordance with the development plan.

It will not be detrimental to the architectural character, setting or historical interest of listed buildings and will preserve the character and appearance of the Conservation Area.

It will not result in unreasonable impacts on neighbours' living environment. A reduced reliance on car usage is encouraged and use of sustainable modes of transport. No specific road or pedestrian safety issues will occur.

The scheme brings a public benefit through delivery of publicly accessible sports facilities.

Loss of trees is minimised, and measures are incorporated to protect the retained landscape on-site. Appropriate replacement planting will provide mitigation for their loss.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

Other material considerations support the presumption to grant planning permission.

## **SECTION A – Application Background**

### **Site Description**

The proposal site is an area of open grassland located within the grounds of the Grange Cricket Ground, which is to the south east corner. It is bordered by trees and ancillary buildings to the sporting use of the grounds.

The 'Arbor Green' site has been historically associated with sporting facilities. Originally, it hosted the Coates Curling Club and laterally the Tanfield Bowling Club.

In 2006, the east side was developed into 'Arbor Green Nursery', with the remaining site unused.

To the south and south-east of the site, there is residential development on Raeburn Mews and Raeburn Place. The latter street contains commercial uses at ground floor forming part of the Stockbridge Town Centre. A number of listed buildings are located here including 40-46 Raeburn Place (even numbers) which are early 19th century category B listed two-storey buildings of consistent architecture.

East of this, are properties 28 - 34 A Raeburn Place (even numbers). Early 20th century two-storey villas with basements and attics. These buildings are individually C-listed, but form part of a B listed grouping. 30, 32 and 34 have a north-facing outlook where the site lies broadly beyond this.

2-26 Raeburn Place are 4-storey B listed buildings which fall outwith the immediate context of the site.

St Bernard's Row is south-east of the site where detached 19th century B listed villas (property numbers 18, 20) are near the edge of the applicant's grounds.

Beyond this is a two-storey B listed terrace, (no. 8-16 even numbers). Thereafter, the building height of B listed 2-6 St Bernards Row increases mirroring adjacent built form at this corner with Raeburn Place.



To the north, are additional outdoor tennis courts with the cricket grounds beyond this. A large expanse of open greenspace is bordered by landscaping and high stone boundary walls.

To the west lie open tennis courts with the Category A listed cricket pavilion (ref: LB43497, date: 12/6/19996) adjacent.

The wider grounds of the Grange Club is mainly designated open space however the proposal site is identified as being within the urban area.

The site lies within the Inverleith Conservation area.

### **Description Of The Proposal**

The proposal is for construction of an indoor sports facility including two tennis courts and two padel courts to the north.

The tennis facility would be a tensioned, opaque fabric structure, externally coloured in a green patterning with a white roof. It would be a curved dome form, of maximum height of 11 metres, length of approximately 38 metres and width of 31 metres.

The padel facility would also have a curved, canopy structure constructed with a tensioned membrane on top of a dark coloured steel frame enclosed by glass panelling and mesh fencing at each end of the court. An upper section would be open around the court. Its maximum height would be 9 metres, length of 21 metres and width of 12 metres.

The dimensions of the courts are based on the Lawn Tennis Association and Tennis Scotland guidelines and would be lit internally.

The facilities would be open from 0800-2200 daily in line with other tennis and squash facilities at the Club. Both club members and the wider community would be able to access the new indoor facilities on a pay-to-play basis.

Regular access to the courts would only be from the main club via Portgower Place.

The access point on Arboretum Avenue to the main cricket ground for deliveries, which also acts as secondary public escape facility from the ground, as required under Health and Safety legislation during cricket internationals, is maintained.

### **Revised plans**

-Fabric of tennis dome structure revised from translucent to opaque membrane skin material (to omit light spill) and increase in green patterning on external finish.

-Position of mechanical plant relocated to north side of tennis courts.

-Revised lighting spill plans and noise mitigation plans.

-Additional daylight and sunlight information

## **Supporting Information**

- Design and Access Statement
- Flood Risk and Drainage Impact Assessment
- Tree Survey and Arboricultural Impact Assessment
- Noise Impact Assessment

## **Relevant Site History**

12/02076/FUL

The Grange Club  
7 Portgower Place  
Edinburgh  
EH4 1HQ

Construction of two additional squash courts, new repositioned groundsman's shed and one floodlight artificial tennis court.

Granted

20 August 2012

12/02076/VARY

The Grange Club  
7 Portgower Place  
Edinburgh  
EH4 1HQ

Non material variation to planning permission 12/02076/VARY - minor adjustments to details and positioning.

VARIED

3 September 2013

## **Other Relevant Site History**

There have been various other planning applications in the Grange Cricket Ground. The detail of these can be viewed on the City Council's planning portal.

## **Pre-Application process**

Pre-application discussions took place on this application.

## **Consultation Engagement**

Historic Environment Scotland

Flood Planning

Environmental Protection

Archaeology

Sportscotland

Refer to Appendix 1 for a summary of the consultation response.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 19 January 2022

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 28 January 2022;

**Site Notices Date(s):** 25 January 2022;

**Number of Contributors:** 109

## Section B - Assessment

### Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
  - (i) harming the listed building or its setting? or
  - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
  
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

### Assessment

To address these determining issues, it needs to be considered whether:

**a) The proposals harm the listed building and its setting?**

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment - Setting

*Grange Cricket Club Pavilion*

The site forms part of land associated with Grange Cricket Club. The category A listed cricket pavilion (reference: LB43497) is located west of the site separated by outdoor tennis courts. The pavilion was opened in 1895 and contains good architectural detailing including a landmark tower on its east side.

There are some views of this building from the surrounding area. It occupies a more visible location from some vantage points to the north, including Inverleith Park. From the east side on Arboretum Avenue, it is largely screened by existing trees at the site boundary.

The proposal will be positioned to the east of this building, and it is acknowledged that its overall footprint will be large. Its scale will be partly visible however its level of prominence reduced by the site's topography and natural landscaping.

Distance will be retained between the site and this historical asset, with existing tennis courts in between.

This position to the south-west corner will ensure the new buildings are sufficiently spaced from this historical asset. In this regard, it will avoid interfering with wider views of the pavilion.

In light of the above, the proposal will not have a detrimental impact on the architectural character, historical interest or setting of this listed building.

*St Bernards Row and Raeburn Place*

To the south are several listed buildings on St Bernard's Row and Raeburn Place.

40-46 Raeburn Place and 30, 32 34 Raeburn Place have a north-facing outlook where the site lies beyond in the immediate vicinity. In addition, 18-20 St Bernards Row are positioned to the south east edge of the applicant's grounds.

There are some existing views from the cricket grounds and adjacent street onto these properties' rear elevations. This side of the buildings are visible to a greater degree from these spaces during the autumn.

The proposal will reduce certain views onto this side of the buildings.

However, whilst the development will be a large structure, it will be of proportionate scale to surrounding built form and space is retained to this historic environment.

Its location to the north will avoid interfering with the principal elevations, or formal approaches to these listed buildings.

In light of this, the proposal will not be to the detriment of their architectural character, historical interest or overall setting of these listed buildings.

Furthermore, separation distances retained of at least 35 m to all other listed buildings (including 28 - 34 A Raeburn Place, 2-26 Raeburn Place and 2-16 St Bernards Row) will prevent any material impact on the setting of these historical assets.

### **Conclusion in relation to the listed building**

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

#### **b) The proposals harm the character or appearance of the conservation area?**

The Inverleith Conservation Area Character Appraisal emphasises the predominance of Georgian, Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of public and private open space. The villa streets are complemented by a profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas are a considerable variety of architectural styles, unified by the use of traditional local building materials.

To the north, the conservation area is defined by large expanse of open, landscaped greenspace. To the south, are older buildings that form part of the historic environment.

The site occupies a more discreet location to the south-east corner of the applicant's grounds. It is a more peripheral area of greenspace, set back from the public view and separated by existing landscaping, ancillary buildings and the nursery.

The development will clearly differ from surrounding historic built form.

However, the site is located within an area of land used for recreational purposes. The buildings are of functional appearance, materials and scale designed to suit their future, sporting use. This use is compatible with the existing sporting use of the grounds.

The footprint of the development will be large. However, the buildings are set back from the site boundaries with space retained to the surrounding historical context.

The curved dome form of the development will help reduce its overall mass. The external colour of the tennis facility, with use of a variety of shades of green patterning will help integrate the building with surrounding natural landscape.

The proposal minimises tree loss on-site and the retained specimens will preserve the green, leafy characteristics of the conservation area.

New hedging is proposed, and this will help integrate the site into the natural landscape of the area.

The opportunity for re-planting larger scale trees in proximity to the tennis facility is limited.

However, the wider grounds in the applicant's ownership is large therefore further planting in this space will provide mitigation for loss of these trees.

### **Conclusion in relation to the conservation area**

The proposal is of an appropriate design, scale and form that will preserve the character and appearance of the conservation area.

Therefore, it is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **c) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 3, Env 6, Env 9, Env 12, Env 18, Env 19, Env 21
- LDP Design policies Des 1, Des 3, Des 4, Des 5, Des 6, Des 7
- LDP Transport policies Tra 2, Tra 3, Tra 4

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

#### Listed Building and Conservation Area

This has been assessed in sections a) and b).

The proposals comply with LDP policy Env 3 and Env 6.

#### Open Space Protection

Env 18 states that 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
- b) it is a small part of a larger area, or of limited amenity or leisure value and there is over provision of open space in the area
- c) the loss would not be detrimental to the wider network; its continuity or biodiversity value and either
- d) there will be local benefit; either alternative provision or improvement to a public park or other open space or
- e) the development is for a community purpose and its local benefit outweighs the loss.

The site is an area of open greenspace. It is of some amenity value, as it contributes to the natural, green landscape which is evident locally.

However, it is located in near proximity to a large expanse of greenspace and forms a small part of the applicant's grounds. It is separated from the cricket fields to the north by ancillary buildings and landscaping.

Overall, the site characteristics read as a more peripheral part of the wider, open green landscape.

There is good access to open space nearby. Inverleith Park, a large greenspace (north) and King George Park; a local greenspace (west), as identified in Council's Open Space Strategy, are in close proximity to the site.

In regard to the above, is a small part of a larger area and there is an over provision of open space nearby.

Its loss will not have a significant impact on the quality or character of the local environment.

It appears separated from the larger expanse of greenspace on-site, therefore it will not be detrimental to the continuity of the wider greenspace network.

No specific biodiversity impact has been identified as explored below.

There is community benefit through delivery of indoor tennis facilities available to the public.

The historical sports use of the site for curling and formerly bowling has ceased.

The space could still be used for recreational purposes, however there is a community benefit of delivering a publicly accessible indoor weather-protected sports facility.

Having regard to its limited scale and peripheral, enclosed location, this public benefit outweighs its loss.

The proposal therefore complies with policy Env 18 as it accords with criteria a), b), c) and e).

#### Protection of Outdoor Sports Facilities

Env 19 states loss of playing field will be permitted where one of the following criteria apply:

- a) the development is ancillary to the site's principal use
- b) it involves a minor part of an outdoor sports facility and would not adversely affect the use of the remaining site for these purposes.
- c) alternative sports facility is provided of equivalent value with similar or better accessibility, or existing provision improved as compensation
- d) there is excess of sports pitches to meet current / future demand and site can be developed without detriment to overall quality of provision.

Furthermore, supporting paragraph 195 in the LDP states outdoor sports facility provision must be considered as a city-wide resource and in terms of its contribution to local needs. In addition, there needs to be a significant improvement in quality.

The site does not currently operate as a complete outdoors sports facility due to its reduced size following the adjacent development and car parking.

There is therefore no likelihood of its previous sporting use returning to the site.

In this regard, the proposal does not involve loss of a playing or sports field and the tennis facility will help improve provision of sports facilities in the area.

Sportscotland has been consulted on the proposals and raise no objection.

Therefore, the proposal accords with the overall objectives of Env 19.

### Design

Des 1 requires development to create or contribute to a sense of place based on an overall design concept that draws on positive characteristics of its surroundings.

Des 3 requires development to incorporate existing characteristics and features worthy of retention on site and in the surrounding area.

Des 4 requires development to have a positive impact on surroundings; the character of the townscape, landscape and existing views. This includes regard to height and form; scale and proportions; position of buildings / features; materials and detailing.

The proposed development is of functional design to suit future sporting use. Its appearance will clearly be distinguishable from the mainly historic local environment.

In this context, its footprint will be large. However, its height will be in proportion to buildings nearby and its curving dome form reduces its overall mass. It will be set in from the boundaries of the site. Retained landscaping will help reduce its visibility in longer views. The external green patterning of the tennis facility will help to integrate development into its landscaped surroundings.

The loss of six trees to the north side will reduce natural landscape features on-site. Existing trees are positive characteristics of the natural landscape evident in the area.

However, the layout minimises loss of trees and retained specimens on-site will help protect the local landscape character. Further replacement planting will help contribute to natural landscape in the wider area.

In light of the above, the proposal complies with policy Des 1, Des 3 and Des 4.

### Amenity

Des 5 refers to development being granted where it is demonstrated that the amenity of neighbouring developments is not adversely affected and future occupiers have acceptable levels of noise, daylight, sunlight privacy or immediate outlook.

The EDG refers to daylight to windows being measured by the Vertical Sky Component (VSC). Adequate levels will be achieved, where new development does not rise above a 25° line drawn taken in section from the horizontal mid-point of an existing window.

Sunlight to gardens is measured using the 45 degree test. Sunlight to gardens may be affected if a 45 degree line drawn on a site boundary is intersected by new development.



Furthermore, private views are not protected, however immediate outlook of the foreground of what can be seen from within a building may be. Unless there are exceptional circumstances, this means that new development that blocks out the immediate outlook of a dwelling must be avoided.

The applicant has submitted daylight cross sections detailing the position of the proposed development in relation to nearest residential property on Raeburn Mews and Raeburn Place. The cross sections demonstrate compliance with the above EDG criteria. Therefore, no unreasonable impact on daylight to these windows will occur as a result.

In addition, the distance retained between the proposed development and all other residential property windows will prevent any material loss of daylight.

In regard to sunlight, the submitted cross sections demonstrate compliance with the 45 degree criteria for residential property to the south and south-west. Therefore, no unreasonable impact on sunlight to the adjacent gardens will occur as a result.

It is recognised the scale and position of the proposal would alter outlook from the rear of adjacent residential properties. However, the retention of private views reliant on outlook across adjacent land cannot be protected under planning legislation.

Furthermore, the dome will be set in from the boundaries of the site. In tandem with its curved form, this will reduce its overall mass of the structure as viewed from adjacent property.

In regard to privacy, sports use of the land will bring additional activity.

The access paths into the facilities are located away from the adjacent residential property. In tandem with the scale of the proposal and existing boundary treatments this will not give rise to any material loss of privacy to neighbouring occupiers.

Environmental Protection has been consulted on the proposal and raise no objection. Additional information was sought to assess impact of the proposal on the amenity of adjacent residential property.

The applicant has submitted a Noise Impact Assessment (NIA) detailing levels of potential noise from plant machinery and the recreational use. The position of the plant has been re-located to the north side of the tennis courts; increasing its distance from residential property. The NIA demonstrates that noise from these aspects can be contained to within acceptable thresholds.

Furthermore, the site is part of a wider area of land where there are tennis courts in existing proximity to residential property. It is the intention that the new facilities would be open from 0800-2200 daily, in line with existing sports facilities at the club.

As an indoor facility, the proposal is likely to be used all year round as opposed to more seasonal months on existing outdoor courts. However, the enclosed structures will help contain noise from internal activity, whilst it is not anticipated that noise generated from this recreational use is likely to be unreasonable or materially different to existing sporting use in the grounds.

In regard to lighting, the revised design of the dome structure incorporates an opaque membrane skin and the applicant has confirmed this design change will result in zero light-spill onto adjacent property. In addition, plans demonstrate that light spill from the padel courts to the north of the site will not fall on residential property given the separation distances retained.

In regard to noise, a condition has been applied that noise mitigation measures proposed shall be installed and operational prior to first use of the tennis and padel court facilities. Noise is also controlled under separate Environmental Protection legislation and an informative has been included in respect to plant noise meeting the NR25 criteria.

In light of the above, proposal will not result in any adverse impact on neighbouring amenity therefore complies with LDP policy Des 5.

### Trees

Env 12 refers to development not being permitted that is likely to have damaging impact on protected trees or trees worthy of retention unless necessary for good arboricultural reasons.

The applicant has submitted a tree report and arboricultural impact assessment in support of the proposals.

The development will involve loss of six trees to the north side to accommodate the padel facility and access path. Trees proposed for removal include three category B trees (mature common lime, early-mature sycamore and western red cedar) two category C trees (young common ash and lawson cypress) and a category U tree (golden chain).

The submitted design statement states a number of these trees present health and safety issues to the maintenance yard and restrict air and light flow at the north east corner of the existing tennis courts.

As a grouping, these trees make positive contributions to the natural landscape evident in the area. There is therefore a presumption against their loss. In this regard, the proposal does not comply with this policy as it will result in loss of trees worthy of retention.

13 trees on-site will be retained which help contribute to the natural landscape of the area. A tree protection plan has been submitted with measures to safeguard these specimens during construction activity.

Land within the applicant's ownership is large, and it is considered appropriate replacement planting could be carried out in this area as mitigation for this tree loss.

The detail of this re-planting is to be submitted prior to works starting and a condition has been applied to this affect.

### Biodiversity

Env 16 refers to development not being permitted that would have an adverse impact on protected species.

The submitted tree report outlines trees on-site have been inspected for their bat habitat and roosting potential.

It was found that all specimens on-site have a low likelihood of supporting bats. No evidence was found on-site of protected species.

Furthermore, the existing bowling green is of limited ecological value.

In light of this, it is not anticipated that the proposal will have an adverse effect on European protected species.

However, there is potential for hazards to species during construction activity and the applicant should be mindful of this.

An informative has therefore been included that a nesting bird check should be undertaken on site by a suitably qualified ecologist, in order to prevent impacts on nesting birds and minimise any wider ecological impact from the proposal.

Overall, the proposal will not be to the detriment of protected species in accordance with LDP policy Env 16.

### Transport

LDP policy Tra 3 set out the requirements for private cycle parking as set out in the EDG.

LDP policy Tra 4 states that cycle parking should be provided near building entrances and be of an appropriate design.

Transport objectives seek to promote travel by sustainable means and minimise impacts of car journeys.

The EDG refers to cycle provision for leisure centres however there is no specific guidance for indoor tennis facilities.

It is anticipated that number of users at any time will be relatively low, as only four courts are proposed. In addition, given the nature of the use, users will likely be at the facility for relatively short periods of time.

Four Sheffield cycle stands are proposed accessed via footways leading to the site entrance and exits. This short stay provision is appropriate in terms of design and numbers for this facility.

The facilities would have access to the main car park of the club to the west of the site via Portgower Place.

The lack of additional car parking spaces is appropriate in this location as it is accessible by public transport. Public transport is nearby with Lothian bus services (24, 29) in close walking distance on Raeburn Place.

In addition, given the limited number of courts no specific impacts on the wider roads network is anticipated.

The access point via Portgower Place is primarily as a car park for the nursery. It will continue to be for used for deliveries to the main cricket ground and emergency egress only.

This does not materially differ from existing access arrangements. No specific road safety issues arise as a result of the proposal.

In light of the above, the proposal complies with the objectives of LDP transport policies. The site is located in a sustainable location and encourages travel by sustainable modes of transport.

### Sustainability

Des 6 (Sustainable Buildings) states permission will only be granted for development which meets carbon dioxide emission targets and incorporates features that reduce or minimise environmental resource use and impact. The supporting text clarifies that Scottish Building Standards set carbon dioxide emissions reduction targets.

To meet this criterion proposals for new development must accord with the current carbon dioxide emissions reduction target (as set out by Scottish Building Standards) and also demonstrate that at least half of this reduction will be met through low and zero carbon technologies. This aspect will therefore be assessed during the building warrant process.

The site is in an urban area with good public transport links, allowing a reduced reliance upon the car. Sustainable modes of transport are encouraged through cycle storage provision.

The proposal complies with the objectives of LDP policy Des 6.

### Flooding

Env 21 refers to development not being granted that would lead to increase in flood risk.

LDP 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.

SEPA mapping systems indicates the site has a medium level of surface water and flood risk from the site.

The applicant has submitted a flood risk and drainage impact assessment in support of the application.

The Council's Flood Prevention Team has raised no objection on receipt of additional flow paths diagrams.

Overall, the proposal has been designed to mitigate potential flood risk and accords with LDP Policy Env 21.

### Archaeology

Policy Env 8 (Protection of Important Remains) and LDP policy Env 9 (Development Sites of Archaeological Significance) aim to protect archaeological remains.

The City Archaeologist has been consulted on the proposals and commented as summarised below:

The site forms part of the historic Victorian Grange Tennis Club, Coates Curling Pond and latterly bowling club. The proposed drainage system is positioned on land formerly part of Victorian indoor tennis courts.

The site is therefore within an area of archaeological potential and a condition is recommended for a programme of archaeological work to be submitted and approved prior to commencement of works.

Subject to submission and approval of this information required by condition, the proposal complies with LDP policy Env 8 and Env 9.

### **Conclusion in relation to the Development Plan**

Overall, the proposal complies with the Local Development Plan.

It will not be detrimental to the architectural character, setting or historical interest of listed buildings and will preserve the character and appearance of the Conservation Area.

It will not result in unreasonable impacts on neighbours' living environment. A reduced reliance on car usage is encouraged and use of sustainable modes of transport. No specific road or pedestrian safety issues will occur.

The scheme brings a public benefit through delivery of publicly accessible sports facilities.

Loss of trees is minimised, and measures incorporated to protect the retained landscape on-site. Appropriate replacement planting will provide mitigation for their loss.

### **d) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal helps encourage improvements in health and wellbeing through provision of a publicly accessible sports facility.

It is located in a sustainable location as it is accessible by bus services in close walking distance to the site.

The scale, form and design protect the historic environment, the amenity of existing development and minimises tree loss.

The proposal complies with Paragraph 29 of SPP.

#### Emerging policy context

NPF 4 - Draft National Planning Framework 4 has been consulted on but has not yet been adopted. Therefore, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

#### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010.

The proposal provides disabled access across the site. A new access path will link to the sport facilities on-site and connect to the wider grounds of the applicants to the west side.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

#### Public representations

A summary of the representations is provided below:

##### *Letters of objection*

##### *material considerations*

- Contrary to LDP policy: Addressed through section (c)
- Listed Buildings: Addressed in section (a) - Listed Buildings
- Conservation Area: Addressed in section (b) - Conservation Area
- Scale, form and design: Addressed in section (b) and (c) - Conservation area and design
- Views: Addressed through sections (a) and (b)
- Amenity: Addressed in section (c) - Amenity
- Noise, disturbance and lighting: Addressed in section (c) - Amenity

- Health and well-being through amenity impacts: These matters cannot quantifiably be assessed under this proposal however associated amenity impact has been addressed in section (c) - Amenity
- Trees: Addressed in section (c) - Trees
- Flooding: Addressed in section (c) - Flooding
- Biodiversity: Addressed in section (c) - Biodiversity
- Environmental impact: Addressed in section (c) - Sustainability, Trees and Biodiversity
- Transport impact: Addressed in section (c) - Transport
- Road and general safety issues: Addressed in section (c) - Transport
- Proposed community use : Addressed in section (c) - Open Space Protection
- Neighbour Notification: Neighbour notification has been carried out in accordance with relevant legislation.
- Consultation: This is a local development and is not subject to statutory public consultation. Additional consultation would be a matter for the applicant or developer which cannot materially be assessed as part of this planning application.
- Incomplete / inaccurate information in regard to site and surroundings: The planning authority has assessed the submitted documents and considers that they are sufficient to accord with the requirements of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

*non-material considerations*

- Potential alternative sites
- Noise and disturbance through construction activity
- Impact on educational opportunities of nursery
- Price of using facilities

*Letters of support*

*material considerations*

- Appropriate design for use: Addressed in section (a) and (c) - Conservation area and design
- Community benefit / local access: Addressed in section (c) - Open Space
- No impact on residential amenity: Addressed in section (c) - Amenity
- Impact on health and well being supported through national policy: Addressed in section (d) - SPP

**Conclusion in relation to identified material considerations**

The proposal helps encourage improvements in health and wellbeing through provision of a publicly accessible sports facility.

It is located in a sustainable location as it is accessible by bus services in close walking distance to the site.

The scale, form and design protect the historic environment and the amenity of existing development.

Tree loss is minimised, and measures incorporated will help protect natural landscape.

The design has regard to improving the site's accessibility for all users.

In light of the above, the proposals do not raise any issues in relation to other material considerations identified.

### **Overall Conclusion**

The proposal complies with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and overall are in accordance with the development plan.

It will not be detrimental to the architectural character, setting or historical interest of listed buildings and will preserve the character and appearance of the Conservation Area.

It will not result in unreasonable impacts on neighbours' living environment. A reduced reliance on car usage is encouraged and use of sustainable modes of transport. No specific road or pedestrian safety issues will occur.

The scheme brings a public benefit through delivery of publicly accessible sports facilities.

Loss of trees is minimised, and measures incorporated to protect the retained landscape on-site. Appropriate replacement planting will provide mitigation for their loss.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

There are no material considerations that outweigh this conclusion. The proposal is acceptable.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

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. No development shall take place until the applicant has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Planning Authority, having first been agreed by the City Archaeologist.
3. The trees on the site shall be protected during the construction period by the erection of fencing, in accordance with BS 5837:2012 " Trees in relation to design, demolition and construction".



4. (a) A site survey (including initial desk study as a minimum) must be carried out to demonstrate that, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and

(b) Where necessary, a detailed schedule of any remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning authority.

Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the Planning authority prior to occupation of the development.

5. Prior to first use of the tennis and padel court facility, the noise mitigation measures including the 3 metre timber fence and position of mechanical plant shall be installed and operational as per the approved plan reference 13 A.

6. Prior to commencement of the development, a detailed landscape plan for replacement planting of trees on land within the applicant's ownership as shown in approved plan reference 01 shall be submitted to and approved in writing by the Local Planning Authority.

The landscape plan shall thereafter be fully implemented within six months of completion of the development.

1. In order to enable the planning authority to consider this/these matter/s in detail.
2. In order to safeguard the interests of archaeological heritage.
3. In order to safeguard protected trees.
4. In order to ensure the site is made safe for the proposed use.
5. In order to safeguard neighbours amenity.
6. In order to provide mitigation for the loss of trees on-site.

## **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. Works should be undertaken between October to February outwith the nesting bird season. If this is not possible, a nesting bird check should be undertaken by an ecologist prior to works commencing. Should it be necessary to clear ground during the bird nesting season the flat roofs of the building should be surveyed by a suitably qualified ecologist and declared clear of nesting birds before work starts.

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, and no structure borne vibration is perceptible within any nearby living apartment.

### **Background Reading/External References**

To view details of the application go to the [Planning Portal](#)

**Further Information - [Local Development Plan](#)**

**Date Registered: 29 December 2021**

### **Drawing Numbers/Scheme**

01-02, 03B, 05A, 06, 07B, 08A, 09A, 10, 11A, 12A, 13A,14 A, 15B, 16A

Scheme 2

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

Contact: Lewis McWilliam, Planning Officer  
E-mail:lewis.mcwilliam@edinburgh.gov.uk

## Appendix 1

### Summary of Consultation Responses

NAME: Historic Environment Scotland  
COMMENT: No comments on the proposals.  
DATE: 4 February 2022

NAME: Flood Planning  
COMMENT: No objections.  
DATE: 18 March 2022

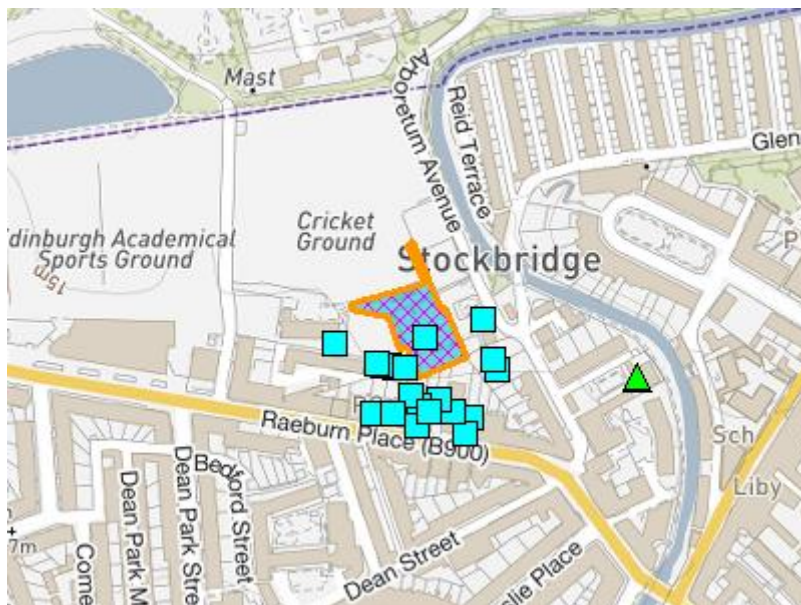
NAME: Environmental Protection  
COMMENT: No objections subject to condition in regard to installation of plant noise mitigation measures.  
DATE: 16 May 2022

NAME: Archaeology  
COMMENT: No objections subject to condition for the submission of a programme of archaeological works prior to commencement of development.  
DATE: 31 January 2022

NAME: Sportscotland  
COMMENT: No objection.  
DATE: 16 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

### Location Plan



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