

Notice of meeting and agenda

Development Management Sub-Committee

10.00 am Wednesday, 23rd August, 2023

Dean of Guild Court Room - City Chambers

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

Contacts

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1. Order of business

- 1.1 Including any notices of motion, hearing requests from ward councillors and any other items of business submitted as urgent for consideration at the meeting.
- 1.2 Any member of the Council can request a Hearing if an item raises a local issue affecting their ward. Members of the Sub-Committee can request a presentation on any items in part 4 or 5 of the agenda. Members must advise Committee Services of their request by no later than **1.00pm on Monday 21 August 2023** (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

- 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

- 3.1 None.

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

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

Pre-Applications

9 - 14

- 4.1 Report for forthcoming application by Kaimes Renewable Energy Park for Proposal of Application Notice at West Of Existing Kaimes Substation, Old Burdiehouse Road, Edinburgh - Proposed renewable energy development comprising Installation of BESS (Battery Storage) with associated infrastructure and access - application no. 23/01765/PAN - Report by the Chief Planning Officer

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

Applications

15 - 24

- 4.2 5B Balcarres Street, Edinburgh, EH10 5JB - Change of use (retrospective) from ancillary garden building to short-term let unit (Sui Generis) - application no. 23/01379/FULSTL - Report by the Chief Planning Officer

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

- 4.3 2 Bath Road, Edinburgh, EH6 7JT - New build development comprising 3 No. residential flats and ground floor extension to public house (as amended) – application no. 23/00040/FUL - Report by the Chief Planning Officer

25 - 50

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

- 4.4** Cameron Toll Shopping Centre, 6 Lady Road, Edinburgh - 51 - 72
Confirmation of Tree Preservation Order No. 203 - Report by the Chief Planning Officer

It is recommended that the order be **CONFIRMED**.

- 4.5** 11 Lochend Road, Newbridge (Land 200 metres north of) - 73 - 82
Change of use of agricultural land to use as a dog exercise area, erection of building for use as kennels in connection with the exercise area, parking and alterations to existing access - application no. 22/01180/FUL - Report by the Chief Planning Officer

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

5. Returning Applications

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

- 5.1** None.

6. Applications for Hearing

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** Centrum House, 108-114 & 116 Dundas Street, Edinburgh - 83 - 86
application no's. 22/05886/FUL & 22/05884/CON - Protocol Note by the Service Director - Legal and Assurance

- 6.2** Centrum House, 108 - 114 & 116 Dundas Street, Edinburgh - 87 - 126
Proposed demolition of existing office buildings and erection of a mixed-use development comprising 49 No. flats with 3 No. commercial units (Class 1, 2 and 3 uses), amenity space, landscaping, basement level car and cycle parking and other associated infrastructure - application no. 22/05886/FUL - Report by the Chief Planning Officer

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

- 6.3** Centrum House, 108 - 114 & 116 Dundas Street, Edinburgh - 127 - 136
Complete demolition in a conservation area - application no. 22/05884/CON - Report by the Chief Planning Officer

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

7. Applications for Detailed Presentation

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

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

Councillor Hal Osler (Convener), Councillor Alan Beal, Councillor Chas Booth, Councillor Lezley Marion Cameron, Councillor James Dalglish, Councillor Neil Gardiner, Councillor Tim Jones, Councillor Martha Mattos Coelho, Councillor Amy McNeese-Mechan, Councillor Joanna Mowat and Councillor Alex Staniforth.

Information about the Development Management Sub-Committee

The Development Management Sub-Committee consists of 11 Councillors and is appointed by the City of Edinburgh Council. The Development Management Sub-Committee usually meets in the Dean of Guild Court Room in the City Chambers on the High Street in Edinburgh. There is a seated public gallery and the meeting is open to all members of the public.

Further information

If you have any questions about the agenda or meeting arrangements, please contact Jamie Macrae, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, Tel 0131 529 4264, email jamie.macrae@edinburgh.gov.uk / blair.ritchie@edinburgh.gov.uk.

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Development Management Sub Committee

Wednesday 23 August 2023

Report for forthcoming application by

**Kaimes Renewable Energy Park for Proposal of
Application Notice**

23/01765/PAN

**At West Of Existing Kaimes Substation, Old Burdiehouse
Road, Edinburgh**

**Proposed renewable energy development comprising
Installation of BESS (Battery Storage) with associated
infrastructure and access.**

Item number

Report number

Wards

B16 - Liberton/Gilmerton

Summary

The purpose of this report is to inform the Development Management Sub-Committee of a forthcoming detailed application for the proposed renewable energy development comprising installation of BESS (Battery Storage) with associated infrastructure and access on Land West of Existing Kaimes Substation, Old Burdiehouse Road, Edinburgh. In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, as amended, the applicant submitted a Proposal of Application Notice on 24 April 2023 (23/01765/PAN).

Links

Coalition pledges

Council outcomes

Single Outcome Agreement

Recommendations

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

Background

2.1 Site description

The site consists of an almost rectangular parcel of land, located on the northern side of the City of Edinburgh Bypass (A720), with a total site area of approximately 19 hectares.

Agricultural fields border the site to the north and west. Immediately to the east, lies the existing Kaimes substation and its associated infrastructure. To the south is the A720 City Bypass and agricultural fields and Straiton Park and Ride and Retail Park within the Midlothian Council area.

To the north-east across Burdiehouse Road there is established residential development, and to the north of the site, there are a total of 633 houses under construction by Barratt Homes (application number: 14/04860/FUL) as HSG21 in the LDP.

The site lies within an area designated as Green Belt. The north-west part of the site is also an Area of Importance for Flood Management. The boundaries to the north and west overlap with the Burdiehouse Burn Local Nature Conservation Area site. Further to the west of the site is part of a Special Landscape Area. The Morton Mains Conservation Area also lies to the west.

2.2 Site History

28 July 2020 - Proposed renewable energy development comprising solar panels/photovoltaics, battery storage, flexible gas generation and associated infrastructure. Application number: 20/02823/PAN Pre-application Consultation approved.

Main report

3.1 Description Of The Proposal

The proposal is for BESS (Battery Storage) with associated infrastructure and access for 49.9MW electricity storage. A major planning application would be submitted.

BESS systems are a series of large batteries that can be charged via a connection to the public electricity supply to enable power to be imported and exported. It is likely that the actual batteries would be situated within containers similar to shipping containers 12.2m long and may require air conditioning units on top or in the vicinity to regulate heat as well as inverters/transformer skid, backup generators, auxiliary transformers, low voltage and control containers and high voltage switch gear.

The site would be surrounded by security fencing approx. 2.4m in height and may require acoustic fencing up to 4m in height. Access would be required for construction and maintenance. The associated equipment can be coloured to suit its location and environment.

3.2 Key Issues

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

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

This site is within the green belt of Edinburgh and as such both the NPF4 and the Edinburgh Local Development Plan policies including both NPF4 policy 8 (Green belts) and LDP policy Env 10 (Development in the Green Belt and Countryside) must be considered. The site will also be assessed against all other relevant policies within NPF4, LDP and the Edinburgh Design Guidance. Therefore, a clear and justified rationale for this development within the greenbelt should be included with the application. This should also explain how the proposal impacts on the green belt's stated aims. The justification submitted with the application needs to explain why a green belt location is essential and why it cannot be located on an alternative site out with the green belt. Therefore, other sites should also be considered.

b) The impact on climate mitigation and the nature crises

The proposals would also need to be assessed against NPF4 policy 1 (Tackling the climate and nature crises), alongside policy 2 (Climate mitigation and adaption), policy 3 (Biodiversity), Policy 4 (Natural Places), Policy 5 (Soils), Policy 11 (Energy) and Policy 18 (Infrastructure). Whilst there is weight given to the climate emergency in NPF4, this needs to be balanced against the impact on the Green Belt, Soils and use of prime agricultural land and wider environmental impacts and safety.

c) The impact of the proposal on the landscape and visual impact, including the impact on the Conservation Area

NPF4 policy 7 (Historic assets and places) would be relevant to consider whether the proposals affect the character and appearance of the Conservation Area. NPF4 Policy 14 Design, quality and place is also relevant. The LDP Policies in relation to caring for the environment: Env 10, Env 12, Env 15, and Env 22 would also be relevant. The proposal would need to be assessed for the landscape and visual impact and therefore a comprehensive and robust Landscape and Visual Impact Assessment from a number of viewpoints, both local and more strategic, is essential. An assessment of the impact of the proposal on the character, setting and appearance of the Conservation Area, of views into and from the Conservation Area should be also assessed. An archaeology assessment would be required due to the findings on the adjacent Broomhill's site during construction.

d) The design, scale and layout and cumulative impact of the proposed development and compliance with the design policies of the Local Development Plan.

NPF4 Policy 14 (Design, Quality and Place) and the LDP Des Policies 1-9 (Design Principles for New Development) would also need to be considered. A design and access statement will be required for support the application. Any forthcoming application should highlight the size, height and massing of the proposed development including ancillary infrastructure and access arrangements.

(e) The impact on ecology, and public access into and around the site.

NPF4 Policy 4 (Natural Places) and LDP policies Env 15, and NPF4 policy 4f in relation to sites of local importance and species protection should also be considered as part of site is within and close to a Local Nature Reserve. The applicant is encouraged to integrate biodiversity enhancements within their proposals as well as mitigate any impact on the Local Nature Reserve.

(f) The impact on flooding:

The implications of the site being in an area of flood management, under NPF4 policy 22 (Flood risk and water management) and LDP policy Env 21 (Flood Protection) will also need to be considered. The applicant will need to mitigate any impact on the Burdiehouse Burn.

(g) Transport, fire risk and public safety

The transport impacts including public safety of the proposals should be assessed as well as access and connections to and from the site. There are a number of pedestrian and cycle routes in the vicinity and therefore the impact from this site to these users' needs to be considered. There is also a risk of fire with battery storage developments, and therefore suitable access for fire appliances is essential. The Fire Services are likely to be consulted on this application.

(h) Environmental Impact Assessment and any other environmental factors that require consideration

An Environmental Impact Assessment screening opinion should be submitted prior to the submission of the full application. The applicant will be required to submit sufficient information to demonstrate that the site can be developed without having an unacceptable detrimental impact on the environment. As batteries have a finite life, the decommissioning of the site and end of life site restoration plans should also be set out within the application.

In order to support the application, the following documents are anticipated:

- Pre-application consultation report.
- Planning Statement including assessment of other sites and justification why a green belt location is essential.
- Design and Access Statement:
- Landscape and Visual Impact Assessment:
- Sustainability Statement.
- Transport Information.
- Ecology Information including a Habitats Regulations Appraisal.

- Energy rationale information.
- Archaeology Information.
- Flooding risk and drainage information
- Comprehensive risk management plan for Fire Risk and Emergency Response; and
- Decommissioning of Site Plan and end of life site restoration.

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

3.3 Assessment

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

Financial impact

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

Risk, Policy, compliance, and governance impact

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

Equalities impact

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

Sustainability impact

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

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

Public engagement will be undertaken via two public events held at Gracemount Leisure Centre, 22 Gracemount Drive, Edinburgh, EH16 6RN. The first event will take place on 18th May 2023 from 3.30 - 7.30pm. The second event will take place on 31st August from 3.30 - 7.30pm.

Publicity - An advertisement of the events will be published in Edinburgh Evening News on 11th May and 24th August 2023.

The Fairmilehead Community Council, Liberton Community Council and Gilmerton/Inch Community Council were served notice on 21 April 2023. The Ward Councillors, MSP and MP and Friends of Burdiehouse Burn Valley Park and Edinburgh and Lothians Greenspace Trust and Midlothian Council were also notified on 21st April 2023.

The results of community consultation will be submitted with the application as part of the Pre-application Consultation Report.

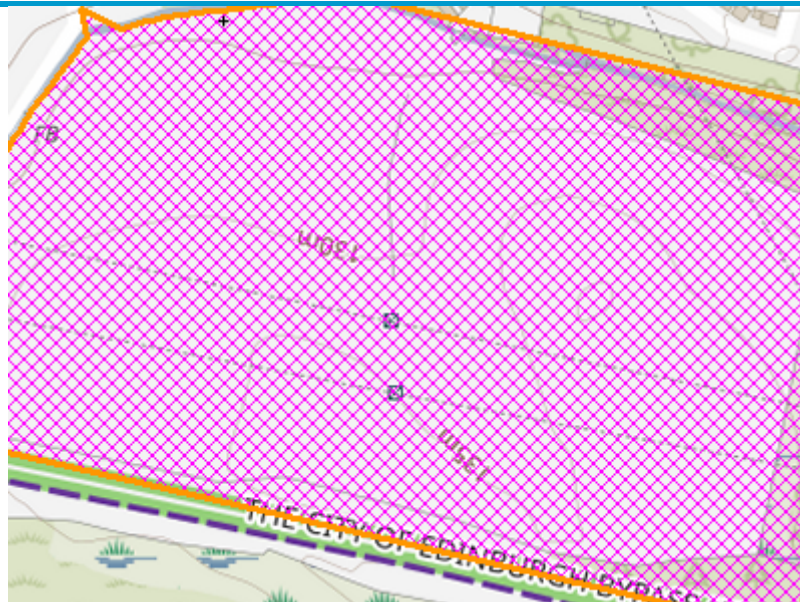
Background reading / external references

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

David Givan
Chief Planning Officer
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Contact: Catriona Reece-Heal, Senior Planning Officer
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Location Plan



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Development Management Sub-Committee Report

Wednesday 23 August 2023

**Application for Planning Permission STL
5B Balcarres Street, Edinburgh, EH10 5JB**

Proposal: Change of use (retrospective) from ancillary garden building to short-term let unit (Sui Generis).

**Item – Committee Decision
Application Number – 23/01379/FULSTL
Ward – B10 - Morningside**

Reasons for Referral to Committee

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal complies with sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

However, the change of use of this property to a STL will have an unacceptable impact on neighbouring amenity. Whilst it is recognised that there is an economic benefit to the city as a whole from the provision of tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity.

The proposal does not comply with the Development Plan NPF4 policy 30 (e) part (i) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

SECTION A – Application Background

Site Description

The application property comprises a single-storey ancillary building within the garden ground of 5B Balcarres Street, Morningside. The building (previously granted permission for use as a home office) is located to the northwest of the main property at the site and is accessed via a shared driveway which serves both 5A and 5B Balcarres Street.

Although there are a mix of uses nearby, including health services directly to the northwest and a variety of commercial properties close to Morningside Road, the surrounding area is predominantly residential. The site is bordered to the northeast by the rear gardens of a residential tenement block fronting Balcarres Street.

The site is located within the Plewlands Conservation Area.

Description Of The Proposal

Planning permission is sought for the retrospective change of use from ancillary garden building to short term let (sui generis). No internal or external changes to the building are proposed.

Supporting Information

- National Planning Framework 4 Supporting Planning Statement

Relevant Site History

20/01545/FUL

5B Balcarres Street

Edinburgh

EH10 5JB

Construct single storey home office and form terraced garden. Alter existing window opening.

Granted

2 July 2020

20/04942/FUL

5B Balcarres Street

Edinburgh

EH10 5JB

Construct single storey home office and form terraced garden. Alter existing window opening. (Revision of Approval 20/01545/FUL). (Part in retrospect).

Granted

5 February 2021

Other Relevant Site History

No other relevant 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: 3 April 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 14 April 2023

Site Notices Date(s): 11 April 2023

Number of Contributors: 1

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 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- equalities and human rights.
- public representations; and
- any other identified material considerations.

Assessment

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

b) The proposals harm the character or appearance of the conservation area.

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states: "In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The Plewlands Conservation Area is characterised by distinctive Victorian/Edwardian terraced housing.

There are no external changes proposed. The change of use from an ancillary residential premises to a STL will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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.

c) The proposals comply with the development plan.

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF4 Sustainable Places Policy 1.
- NPF4 Historic Assets and Places Policy 7.
- NPF4 Productive Places Tourism Policy 30.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering historic assets.

The non-statutory 'Guidance for Businesses' (2023) is a material consideration that is relevant when considering change of use applications.

Conservation Area

There are no external or internal works proposed and as such there will not be a significant impact on historic assets and places. The proposal complies with NPF 4 Policy 7.

Proposed Use

With regards to NPF 4 Policy 1, the proposals do not involve operational development and therefore, will have a negligible impact on the global climate and nature crisis.

NPF 4 Policy 30 seeks to encourage, promote, and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (e) specifically relates to STL proposals.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), seeks to protect residential amenity.

The non-statutory Guidance for Businesses (2023) states that an assessment of a change of use of dwellings to a short term let will have regard to:

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

Amenity:

The application property comprises an outbuilding ancillary to the main dwelling house at the site. The surrounding area is predominantly residential with a low degree of activity in the immediate vicinity of the property.

The applicant's supporting planning statement asserts that the use of this property for STL purposes would have a limited impact on neighbouring residential amenity given the size and self-contained nature of the proposed STL unit and the proximity of the owners/operators.

The use of the property as an STL would, however, introduce an increased frequency of movement to the property and into the shared driveway access. The proposed STL use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year. There is no guarantee that guests would not come and go frequently throughout the day and night, and transient visitors may have less regard for neighbours' amenity. Although the property consists of a small self-contained unit, it is accessed via a shared driveway and is adjacent to a shared garden area and rear tenement windows. The presence of the current owners/operators on site may mitigate potential disturbances, however, given the context of the site and the shared spaces, limited weight is given to this consideration.

The additional servicing that operating a property as an STL requires compared to that of the current use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

In summary the proposed STL use would result in significantly different level of ambient background noise than neighbouring residents might reasonably expect and will have an unacceptable effect on the living conditions and amenity of nearby residents. The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation:

The change of use will not result in any loss of residential accommodation. The existing use of the building is for a home office, ancillary to the main dwelling house at 5B Balcarres Street. NPF 4 policy 30(e) part (ii) is not applicable.

Parking Standards

Although one off-street parking space is available with the property, there are no parking requirements for STLs. Cycles could be parked inside the property. The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal complies with policy 30 (e) part (ii) of NPF4 as the STL use will not result in the loss of residential accommodation.

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. Whilst it is recognised that there is an economic benefit to the city as a whole from the provision of tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity. The proposal does not comply with the Development Plan NPF4 policy 30 (e) part (i) and LDP policy Hou 7.

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

The following material planning considerations have been identified:

Independent economic impact assessment

An independent economic impact assessment was commissioned by the Planning Service, and this resulted in a report on the Economic Impact of Residential and Short-Term Let Properties in Edinburgh (the Economic Report). This was reported to Planning Committee on 14 June 2023. The Committee noted that the findings of the report are one source of information that can be considered when assessing the economic impacts of short-term let planning applications and that given the report is considering generalities rather than the specifics of an individual case, it is likely that only limited weight can be attached to it as a material consideration when making planning application decisions. The study considered the economic impact of various types of properties in Edinburgh if used as a residential property as opposed to being used for short-term holiday lettings.

The Economic Report shows that there are positive economic impacts from the use of properties for both residential use and short-term let use. The Report found that in general the gross value added (GVA) effects are greater for residential uses than short-term lets across all property types and all areas. However, given it is considering generalities rather than the specifics of this individual case, only limited weight can be attached to it as a material consideration in the determination of this application.

Emerging policy context

City Plan 2030 represents the settled will of the Council, and it has been submitted to Scottish Ministers for examination. As such, limited 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 petition with 30 signatures of support for this application was received. A summary of the comments is provided below:

material considerations

- The STL use does not adversely impact the residential amenity of neighbouring properties. Addressed in part c).

non-material considerations

- The STL business at the application property is well reviewed/managed. Only limited weight can be given to consideration regarding the current operation/management of an STL.
- The STL unit provides the area with affordable short-term accommodation. Not a material consideration.

Conclusion in relation to identified material considerations.

Identified material considerations have been assessed above and do not raise issues which outweigh the conclusion in relation to the development plan.

Overall conclusion

The proposal complies with sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to an STL will, however, have an unacceptable impact on neighbouring amenity. Whilst it is recognised that there is an economic benefit to the city as a whole from the provision of tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity.

The proposal does not comply with the Development Plan NPF4 policy 30 (e) part (i) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following:

Reason for Refusal: -

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity as the use of this dwelling as a short stay let will result in an unacceptable impact of local amenity.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 28 March 2023

Drawing Numbers/Scheme

01

Scheme 1

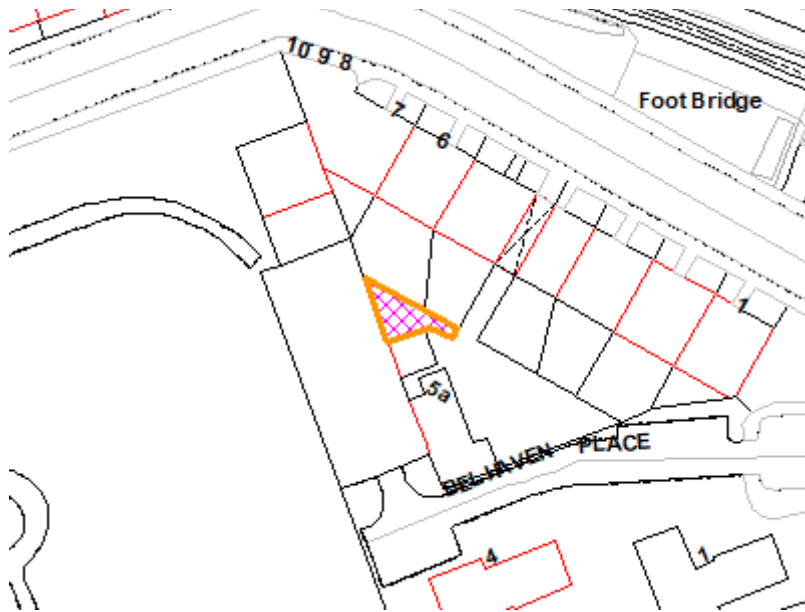
David Givan
Chief Planning Officer
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The City of Edinburgh Council

Contact: Sean Christie, Assistant Planning Officer
E-mail: sean.christie@edinburgh.gov.uk

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 23 August 2023

**Application for Planning Permission
2 Bath Road, Edinburgh, EH6 7JT.**

Proposal: New build development comprising 3 No. residential flats and ground floor extension to public house (as amended).

**Item – Committee Decision
Application Number – 23/00040/FUL
Ward – B13 - Leith**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because the application has an outstanding unresolved objection from a statutory consultee and the application is recommended for approval. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

Recommendation

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

Summary

Overall, the proposal is in accordance with the development plan and National Planning Framework 4 (NPF4).

The site and area will have a flood risk in the future. This may result in an inability to provide safe, access and egress for residents from the development in the event of a flood. This risk cannot reasonably be mitigated against within this application as it relates to the external land level out with the application site.

Residential use is supported in principle here through its LDP land allocation where there is an identified need for new homes. It is in an area that is increasingly residential in character.

Having regard to the above and level of future risk of the site being flooded, there is a presumption on balance to support residential use.

The proposal will deliver a sustainable, well-designed development on a brownfield site that minimises environmental impact. The design is high quality and takes cues from the character of the surrounding area. The uses will help support local living and are consistent with the six qualities of a successful place.

Subject to condition, the proposal will result in a satisfactory living environment for future occupiers and will not result in an unreasonable impact on neighbouring occupiers.

It encourages use of sustainable modes of transport and reduced reliance on car usage. No specific road or pedestrian safety issues are raised.

Matters of equality are raised as the three residential units will not be accessible. However, given the constrained nature of the site this is acceptable in these specific circumstances.

Other material considerations support the presumption to grant planning permission.

The application requires the Scottish Ministers to be notified prior to determination due to the outstanding objection from SEPA.

SECTION A – Application Background

Site Description

The site is an area of vacant land consisting of overgrown foliage and shrubbery. It is located beside a four-storey tenement building with a public house at ground floor. Historically, there was a row of tenements facing Bath Road with commercial use at ground floor which have been demolished. Some remnants of this structure are visible on-site.

The site is in an area with a range of uses evident. Industrial uses are evident including a waste transfer station and a wastewater treatment works to the north whilst a metal recycling yard is to the south. Beyond this are modern residential flatted developments with some ground floor commercial uses. The site faces onto land where a mixed-use development is under construction of residential flats with commercial ground units at ground floor.

Description of the Proposal

The proposal is for a ground floor extension to the public house with three residential flats above.

The building will be approximately 16.8 metres (m) in height to match the adjacent tenement, 11.8 m in depth and 7.4 m in width.

The design will be modern. The front elevation will be constructed externally in a steel cladding for the walls and roof with timber framing. Large, full-height, glazed openings will be constructed at ground floor. The window pattern of the upper floors includes a dual and single pane vertical arrangement.

The other sides of the building will be finished in an off-white render colour. Windows at the rear will face out onto the adjacent tenements communal garden.

The flats will include a one bedroom unit with a floorspace of 64 m², a four bedroom unit of 96 m² and a five bedroom unit of 96 m².

The public house extension will be 54 m² floorspace internally.

Revised Scheme

- Design of the upper floor on the front elevation changed from one window opening to two.
- Supplementary information on daylight and accessibility received.

Supporting Information

- Accessibility Information
- Air Quality Report
- Daylight and Sunlight Information
- Design Report
- Flood Risk Assessment and Surface Water Management Plan
- Noise Impact Assessment

Relevant Site History

03/02105/FUL

2 Bath Road

Edinburgh

EH6 7JT

Proposed reinstatement of tenement to form three flats and extension to public house

Granted

21 August 2003

03/02105/VARY

2 Bath Road

Edinburgh

EH6 7JT

Proposed reinstatement of tenement to form three flats and extension to public house

(as amended to four flats)

VARIED

15 March 2004

04/04474/FUL

2 Bath Road

Edinburgh

EH6 7JT

Amend planning application 03/02105 for re-instatement of tenement to form 4 flats and extension to public house, to form 2 additional flats (as amended)

Granted

12 May 2005

09/02293/FUL
2 Bath Road
Edinburgh
EH6 7JT
Renewal of consent - 04/04474/FUL
Granted
8 October 2009

12/02715/FUL
2 Bath Road
Edinburgh
EH6 7JT
Amend Condition 1 of 09/02293.
Granted
14 September 2012

15/03495/FUL
2 Bath Road
Edinburgh
EH6 7JT
Application to extend previous consent, Ref: 12/02715/FUL, (reinstatement of tenement to form six flats and extension to public house - Ref: 04/04474/FUL).
Granted
26 October 2015

19/00027/FUL
2 Bath Road
Edinburgh
EH6 7JT
Extend previous consent for six flats and extension to public house.
withdrawn
28 March 2019

19/02156/FUL
2 Bath Road
Edinburgh
EH6 7JT
Reinstatement of tenement to form five flats and extension to public house (as amended).

Granted
18 July 2019

22/02725/FUL
2 Bath Road
Edinburgh
EH6 7JT
New build development comprising 3 No. residential flats and ground floor extension to public house.
withdrawn
29 November 2022

Other Relevant Site History

None.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Archaeology

Flood Planning

Environmental Protection

Scottish Water

SEPA

Communities and Families

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

Publicity and Public Engagement

Date of Neighbour Notification: 17 January 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable

Site Notices Date(s): Not Applicable

Number of Contributors: 1

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- 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 comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF4 Sustainable Place Policies 1, 2, 7, 9, 13
- NPF4 Liveable Place Policies 14, 15, 16, 20, 22, 23
- NPF4 Productive Places Policies 27

- LDP Developer contributions policy Del 1
- LDP Design policies Des 1, Des 2, Des 3, Des 4, Des 5, Des 12
- LDP Environment policies Env 12, Env 21
- LDP Housing policies Hou 1, Hou 2, Hou 3, Hou 4,
- LDP Retail policy Ret 8
- LDP Transport policies Tra 2, Tra 3, Tra 4

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering a number of LDP policies.

Use

Residential

The site is located in the urban area as designated in the Local Development Plan (LDP).

LDP policy Hou 1 (Housing Development) prioritises delivery of the housing land supply and relevant infrastructure on allocated sites through part a) of this policy.

NPF4 policy 16 a) states development proposals for new homes on land allocated for housing in LDPs will be supported.

The site is part of the 'Central Leith Waterfront' area in the LDP, an area allocated for mixed use regeneration with provision of a significant number of new homes.

The residential use is compatible with its land allocation and complies with these policies.

In addition, the area is increasingly residential in character. For example, residential led mixed use development is near the site, with flatted buildings recently constructed including on the opposite side of Bath Road.

Planning permission in principle 21/01163/PPP has also been granted subject to legal agreement for residential led, mixed-use development bordering the site to the north and east. In addition, a number of permissions for residential use have been granted on-site previously.

LDP policy Hou 3 (Private Greenspace) states planning permission will be granted for development that makes adequate provision for green space to meet the needs of future residents. This should be based on 10 square metres per flat and 20 % of the overall site area. Supporting paragraph 226 states that exceptions to these requirements may be justifiable if there are good reasons why this cannot happen, for example where justified by the following policy on density.

LDP policy Hou 4 (Housing Density) seeks an appropriate density of development having regard to its characteristics and those of the surrounding area, the need to create an attractive residential environment, accessibility, and its impact on local facilities.

The proposal does not meet the greenspace standards of policy Hou 3. However, the scale, mass and position of the building will be in keeping with the adjoining tenement form and demolished row of tenements on-site. There is a range in the proportion of greenspace provision for residential developments in the area. However, the capacity to meet greenspace standards on this site is constrained by its small scale.

Given this, and the site's immediate context where a compatible scale of residential building will be re-instated, an infringement of these standards is appropriate based on density. The residential environment, accessibility, and impact on local facilities will be considered through other sections of this report.

The proposal therefore complies with NPF policy 16 a), LDP policies Hou 1 and Hou 4. An infringement of policy Hou 3 is acceptable in this context.

Public House Extension

NPF4 Policy 15 (Local Living and 20 minute neighbourhoods) refers to development proposals contributing to local living and 20 minute neighbourhoods.

NPF4 Policy 27 (City, town, local and commercial centres) adopts a town centre first approach to the location of commercial uses which will generate significant footfall.

Criteria b) states proposals for uses which generate significant footfall out with defined centres will not be supported subject to submission of a town centre first assessment.

The policy intent is to encourage, promote and facilitate development in our city and town centres.

LDP policy Ret 8 (Entertainment and Leisure Developments - Other Locations) adopts a similarly sequential approach to the preferred location for entertainment and leisure use. Supporting LDP paragraph 253 states this applies to uses such as a restaurant. As a public house is similar in its functioning this policy is deemed applicable to the proposal.

The site is not located with a defined centre. However, as the proposal is for a small-scale extension to an established public house, it is not anticipated to generate any significant additional footfall, or subsequently impact on the vitality or viability of centres. In this regard, a full town centre or sequential assessment is not required in this instance.

In addition, on a small-scale, the extension to the public house contributes to the general principles of local living by enhancing an existing commercial facility in a location near to houses and sustainable transport modes.

Overall, the proposal does not conflict with LDP policy Ret 8, NPF4 policies 15 and 27.

Climate Change and Mitigation

Flooding

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

NPF 4 policy 22 (Flood risk and water management) a) outlines that development proposals in a flood risk area will only be supported subject to certain criteria.

A flood risk area or an area at risk of flooding is defined as 'land or built form with an annual probability of being flooded of greater than 0.5% (i.e. a 1 in 200 year flood event) which must include an appropriate allowance for future climate change.'

Criteria iv of this policy, refers to development only being supported if for the redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that long-term safety and resilience can be secured in accordance with relevant SEPA advice.

In addition, the explanatory text includes additional criteria to be met including demonstration that future adaptations can be made to accommodate the effects of climate change and safe access / egress can be achieved.

The definition of egress (safe, flood free pedestrian access and egress) is given as a route for the movement of people (not vehicles) of all abilities (on foot or with mobility assistance) between the development and a place of safety out with the design flood level.

The site is beside an area with a medium surface water flood risk as identified on SEPA flood maps where there is a 0.5 % chance of a flood each year. Currently, the site is not identified as being within an area of a coastal or river flood risk.

However, SEPA future flood risk maps identify the site as being within an area of flood risk from both of these sources in the future. It is stated here that by the 2080s, each year the area may have a 0.5 % chance of flooding. This map is based on a 'high

emissions scenario' where 'little or no action is taken to avoid dangerous levels of climate change'.

Given this, the site meets the above NPF 4 definition of a 'flood risk area'.

With regard to criteria iv, the site forms part of an area identified in the LDP to be brought back into positive use through the mixed-use regeneration of 'Central Leith Waterfront'.

SEPA's flooding advice 'Climate Change allowances for flood risk assessment in land use planning' has been updated to reflect the changed policy circumstance through adoption of NPF 4.

The change for a coastal site, is an additional sea level rise allowance accounting for impacts from climate change when assessing the risk of coastal flooding. Sites in Leith are detailed as falling within the 'Forth River Basin Region' where the appropriate allowance should be 0.86 m to 2100.

To account for flood risk, the applicant has submitted a Flood Risk Assessment (FRA) and Surface Water Management Plan (SWMP). Following review, SEPA has objected to the planning application as it has not been demonstrated that a safe access and egress route from the building for future residents can be achieved.

With regard to the applicable NPF 4 policy, SEPA consider the 'design flood level' to be a 1 in 200 year flood risk with a climate change allowance. To achieve a 'place of safety' for residents that accounts for the sites' relatively coastal location SEPA require an access / egress route of 4.82 m (AOD) above the sea level.

The ability for the access route to achieve this has not been demonstrated in the Flood Risk Assessment. Furthermore, the applicant has stated the entrance and pavement level into the flats is at 4.6 m (AOD) therefore falling below the level required.

On this basis, SEPA has objected to introduction of residential use on site as the proposal would be contrary to NPF 4 policy 22 a. The Council's flood prevention team have also objected on these grounds stating safe access and egress to residential properties may not be achieved.

With regard to the above it has not been demonstrated that the specific constraints of this site can be overcome in terms of potential future flood risk for residents in the context of the global climate crises.

In light of this, the proposal does not fully comply with NPF 4 policy 22 a (Flood risk and water management).

However, planning authorities have to consider a range of material considerations as well as flood risk. There may be circumstances where applications are granted planning permission despite an objection from SEPA.

Whilst it is not possible to mitigate for the flood risk caused by climate change allowances in the longer term, the site is identified as an area for development including residential use in the Local Development Plan. The proposed development will be no lower in AOD at ground floor level than the adjacent existing building which also includes residential flats. In addition, the surrounding area consists of much

residential use and sites under construction for residential properties. Although there are no measures that can be taken to mitigate this situation, the proposal is in an area defined in the LDP for mixed regeneration, including residential, and it will utilise previously developed land. On balance, other material planning considerations outweigh the flood risk in this case.

As SEPA has objected to the application, if the Council is minded-to-grant planning permission, it must notify the application to Scottish Ministers prior to determination of the application.

Sustainability

NPF 4 policy 1 (Tackling the climate and nature crises) states when considering development proposals significant weight will be given to the global climate and nature crises.

NPF 4 policy 2 (Climate mitigation and adaptation) intent refers to development minimising emissions and adapting to current and future impact of climate change.

NPF 4 policy 3 (Biodiversity) intent being to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.

NPF 4 policy 9 (Brownfield, vacant and derelict land and empty buildings) intent refers to encouraging reuse of brownfield, vacant or derelict land and empty buildings.

NPF 4 policy 14 b) (Design, quality and place) refers to a quality of a successful place being sustainable. The efficient use of resources, ensuring climate resilience and nature positive solutions.

The development incorporates energy efficient and sustainable measures that are outlined in the submitted design statement. These include the use of low or negative carbon materials in construction, high levels of insulation, mechanical means of ventilation, air source heat pumps and a green roof.

In addition, the proposal re-uses brownfield land in a sustainable location. The site is near to bus services, shops and places of employment in the immediate area. This includes on Salamander Place and Salamander Street. Furthermore, the site is an approximate 5 minute walk to Leith Links and a 10 minute walk to Leith Walk Town Centre.

In this regard, the development and its location are sustainable. The proposal broadly complies with NPF4 policies 1, 2, 3, 9 and 14 b).

Design

NPF4 Policy 14 (Design, quality and place) supports development proposals that are designed to improve the quality of an area and are consistent with six qualities of a successful place. These qualities include a place being healthy, pleasant, connected, distinctive, sustainable, and adaptable.

LDP policy Des 1 (Design Quality and Context) states that new development should contribute towards a sense of place and design should draw from positive aspects of the surrounding area.

LDP policy Des 3 (Development Design - Existing and Potential Features) states planning permission will be granted for development where it is demonstrated existing features worthy of retention on-site have been incorporated.

LDP policy Des 4 (Design - Setting) states development will be granted that has a positive impact on its surroundings including the character of the wider townscape. Including regard to height and form; scale and proportions, including space between buildings; position of buildings and other features on site; materials and detailing.

LDP policy Des 12 (Alterations and extensions) states planning permission will be granted for alterations and extensions which are compatible with the character of the existing building.

The site has a dilapidated, unkempt appearance that does not presently make a positive contribution to the area's character. This includes remnants of a tenements' upper floor, blank wall to the public house at ground floor with overgrown vegetation behind. In this respect, removing these elements as part of the proposal is acceptable.

The modern design concept of the proposed building will clearly differ from the adjacent tenement particularly through use of alternate materials with its steel frontage and timber framing. The design statement refers to this style taking reference from the sites industrial port location.

Whilst of differing design, the new building is in keeping with the tenement height and form. The window pattern takes some cues from this building in terms of its consistent size and vertical alignment of windows on the middle floors.

The wider area is undergoing significant change with larger residential led development and a range of architectural styles evident. In this context, the proposed development will read as a small-scale, innovative modern design to a townscape of a varied, evolving character and appearance.

The proposal will help create a distinctive place as the high-quality design reinforces identity through the cues it takes from the area's industrial heritage.

It will help create a safe, pleasant place through the natural surveillance of the public street from windows facing onto Bath Road.

The ground floor, through its design with large, glazed openings and use where evening activity will be expected will help create an active street frontage supporting women safety through enhanced surveillance and potentially additional footfall.

In addition, it is conceivable the proposal could be adaptable, in future, to accommodate a different use if necessary. However specific alternative uses are not identified by the applicant and cannot be assessed under this submission.

In this regard, the proposal supports the delivery of a health, pleasant, distinctive and adaptable place. Other identified place qualities are considered through other sections of the report.

The design is a high quality, contemporary architecture that will be a positive addition to the area in compliance with relevant NPF 4 and LDP Design policies.

A condition has been applied for full details of all external materials prior to commencement of development to consider these matters in detail.

Amenity

LDP policy Des 5 (Development Design - Amenity) requires development proposals to demonstrate future that future occupiers will have acceptable levels of amenity.

Furthermore, EDG states that private views are not protected however immediate outlook of the foreground of what can be seen from within a building may be.

In regard to privacy, the guidance states that the pattern of development in an area will help to define appropriate distances between buildings and privacy distances.

Future Occupiers

Daylight, sunlight, privacy and outlook

All flats will exceed the minimum floorspace standards with the sizes ranging between 64 m² one bedroom unit and 96 m² for the 3 / 4 bedroom units.

Adequate levels of daylight will be achieved internally from the large size of openings serving habitable rooms facing the front and rear.

The lack of garden space provision is acceptable in this instance given the site's constrained footprint. In addition, the site is within 5 minutes of Leith Links, a large open greenspace which will provide accessible amenity space for occupiers nearby.

In respect to privacy, the area around the site is undergoing change with potential for new residential buildings to be constructed in proximity to the site.

To the west, the proposed flats would face onto land under construction for a large mixed-use development. The space retained between buildings each side of Bath Road will be similar to the existing neighbouring tenement facing this land and relationship between residential buildings nearby. The distance is therefore appropriate in this regard.

North and east, the adjacent land has been granted permission (ref: 21/01163/PPP) in principle for a mixed-use, residential led development subject to conclusion of a legal agreement.

This potential permission would relate to the use of the land only with matters of building layout, massing, and height reserved by condition. It is therefore anticipated the amenity of this site's future occupiers would be considered as part of any later details.

To the south, the development would join to the existing neighbouring tenement. There would be no direct views between windows here and, therefore no privacy issues would occur.

Overall, the proposal would reinstate residential use on-site and its spatial pattern is not at odds with the area. Appropriate distances will be retained to neighbouring buildings and subsequently adequate levels of privacy and immediate outlook will be retained.

In addition, all flats meet or exceed the minimum space standards in the EDG.

With regard to the above aspects, the proposal complies with LDP policy Des 5.

Neighbouring Occupiers

LDP policy Des 2 - states permission will not be granted for development which will compromise the effective development of adjacent land.

LDP policy Des 5 (Development Design - Amenity) also requires development proposals to demonstrate the amenity of neighbouring developments is not adversely affected.

In regard to privacy, as per the above retained distances between buildings on Bath Street would not be at odds with the spatial pattern of the area. At the rear, proposed openings would have direct view onto the communal garden of the neighbours' tenement. However, this area is presently overlooked by windows of these flatted properties with limited privacy as existing. Therefore, no new privacy issues would arise.

In regard to Des 2, it is acknowledged new openings here would face directly onto this adjacent land therefore will take some amenity from a neighbouring site. This arrangement is largely consistent with the site's previous permission 19/02156/FUL for five flats, assessed against the same LDP.

New openings facing this area may have implications for potential future development here. However, the capacity for this proposal to avoid direct outlook over this land and still provide an adequate living environment is limited by its constrained footprint. In addition, this garden is a small part of the adjacent land where historic tenements have been established for a number of years with the proposal site previously forming part of the tenement row.

In light of these factors, it is considered unreasonable to withhold planning permission on this basis.

In regard to the undeveloped land north and east, no openings will face directly onto this space therefore raise no concern in this regard. In addition, any shade cast on this land will be a minor proportion of this overall land therefore will not compromise its effective redevelopment.

The submitted sun path diagram detail there would be no material impact on shade cast on the communal garden space during the spring equinox.

In regard to daylight, the scale and position of the new building in relation to the existing neighbouring tenement is similar to the previous approval 19/02156/FUL on-

site. Its position to the side of neighbours' rear windows and proportionate width will ensure no adverse impact will occur.

In addition, this position of the building will still allow direct outlook for neighbouring residents.

In regard to noise, the proposed land uses are acceptable in this regard. Residential use is compatible with existing and approved land uses nearby. As a small-scaled extension to an established Class 3 facility the public house extension is not envisaged to raise unreasonable impact on residents in regard to noise.

In addition, the NIA sets out measures to limit noise break out from the public house facility whilst there are statutory provisions under the Environmental Health legislation.

The proposal will not have an adverse effect on the amenity of neighbouring developments and therefore complies with LDP policy Des 5. An infringement of LDP policy Des 2 is appropriate given the specific characteristics of the site and immediate area.

Noise

Policy Des 5 (Amenity) states planning permission will be granted for development where demonstrated the amenity of neighbouring developments is not adversely affected and future occupiers have acceptable levels of amenity in relation to noise.

NPF4 policy 23 e) (Health and Safety) states development proposals that are likely to raise unacceptable noise issues will not be supported.

The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.

The Agent of Change Principal places responsibility for mitigating any detrimental impact from noise on neighbours with those carrying out the new development. The Planning Advice Note on Noise (PAN 1/2011) advocates a pragmatic approach to the location of new development within the vicinity of existing noise generating uses.

The submitted Noise Impact Assessment (NIA) considers potential noise sources from transport, various industry, plant, and entertainment from the existing public house. The report concludes there is potential for industrial noise to have significant adverse impacts on the proposed residential flats.

Environmental Protection has been consulted and have recommended refusal on this basis. Within the flats, noise would exceed the required criteria with windows open.

To reduce internal noise levels and comply with the relevant criteria, triple glazed units and mechanical ventilation are proposed. The site is located within an increasingly residential area where several developments are exposed to these noise sources where this form of mitigation has been accepted.

Therefore, subject to full detail of this mitigation as required by condition, it is anticipated an adequate living environment could be achieved for future occupiers that will in turn safeguard the operations / activities of nearby uses.

Furthermore, measures are set out to limit noise transfer from the public house including wall insulation specifications. As a small-scale extension to an established food/ drink unit this land use is not envisaged to raise unreasonable impact on residents regarding noise. Certain insulation specifications would be required to be secured by planning condition.

In addition, recommended measures to limit noise break out including a noise management plan are operational activities of the public house cannot be controlled under planning legislation. However, it is recommended the applicant is mindful of these suggestions.

The NIA demonstrates that noise from plant equipment can be contained to acceptable thresholds and and this matter is addressed in the aforementioned planning condition.

Air Quality

NPF4 policy 23 d (Health and Safety) also states development proposals that are likely to have significant effects on air quality will not be supported. Opportunities to improve and reduce exposure to poor air quality will be considered and an air quality assessment may be required.

LDP policy Env 22 (Pollution and Air, Water and Soil Quality) states permission will only be granted where there will be no significant effects on health and air quality.

The site is located within the Salamander Street Air Quality Management Area (AQMA) to the south side. The AQMA was originally designated as it was considered unlikely that air quality objectives could be achieved. Levels of PM 10 (particulate matter) a common air pollutant and NO2 nitrogen dioxide exceeding required thresholds.

With regard to the above, there is potential for future residents of this site to be exposed to higher levels of pollutants which may have adverse effects on health. Environmental Protection recommends the application is refused party due to poor levels of amenity for the site regarding air quality.

In assessing this application, regard has been had to the appeal decision at 2 Ocean Drive (14/05127/FUL and appeal ref: PPA-230-2201). In this case, the Council refused planning permission on air quality and impact on health grounds. This decision was overturned and planning permission granted, with the Reporter observing that there was a general downward trend in annual mean PM10 levels at the monitoring station at Salamander Street and across the city.

Furthermore, comment is made on the use of MHVR (Mechanical Heat Recovery Ventilation) in this decision to control pollutant levels within the flats and the subsequent lack of necessity for windows to be opened. On this matter, the reporter refers to flat occupants appreciating their highly urbanised location where air quality could not be expected to be the same as elsewhere.

On balance, the Reporter concluded that he was not satisfied overall that adverse effects for health should be properly regarded as significant and the proposal would not conflict with LDP Policy Env 22.

The submitted Air Quality Impact Assessment (AQIA) considers that it is not anticipated the proposal will cause any significant change in road traffic. Given the relatively small-scale of the development this conclusion is accepted. In addition, no concerns on this matter have been raised by the Roads Authority. No significant additional adverse effect on the area's air quality or environment from the proposal are therefore anticipated. Management of dust from construction activity is out with the control of planning and is for the applicant to consider under separate legislation.

In regard to occupiers' amenity and health, the NIA proposes MHVR and triple glazed windows to reduce levels of pollutants to an appropriate standard within each residential unit. This form of mitigation has been accepted for residential development within the AQMA. As detailed above, this highly urbanised area is becoming increasingly residential in character, and there is potential for this to continue through the areas' allocation for housing.

In this context, it is reasonable and appropriate to accept such means of mitigation here subject to full detail of these measures to be submitted by condition. To ensure the amenity of future occupiers is safeguarded.

Moreover, it is accepted that PM10 levels have breached national levels in the past. However, it is acknowledged that with the designation of the Salamander Street AQMA, an Action Plan will be prepared which will have the primary objective of reducing PM10 levels in the area.

Furthermore, the Council's 2022 Annual progress report on Local Air Quality Management highlights a general downward trend in PM10 and NO2 concentrations within the Salamander designation.

City Council objectives to improve air quality include promoting a modal shift away from car use and encouraging reduced vehicular emissions. The proposal can be seen as aligning to these objectives as no parking is provided on site. and will be close to sustainable transport modes.

In light of the above, the proposal does not conflict with NPF4 policy 23 d) or LDP Policy Env 22 in terms of air quality.

Contaminated Land

NPF 4 policy 23 a) (Health and Safety) also states development proposals likely to have a significant adverse effect on health will not be supported.

NPF 4 policy 9 c) (Brownfield, vacant and derelict land) states on unstable or contaminated land, development proposals will demonstrate land is or can be made safe and suitable for its proposed new use.

LDP policy Env 22 (Pollution and Air, Water and Soil Quality) also states planning permission will only be granted for development where there will be no significant adverse effects for health, the environment or ground stability. In addition, that appropriate mitigation to minimise any adverse effects can be provided.

Given the previously developed nature of the site, Environmental Protection has recommended a condition for information on the land's potential contaminants and any required mitigation measures to be submitted thereafter.

This condition has been applied. Therefore, compliance with parts of these policies will be dependent on the later consideration of these details.

Transport

Car Parking

LDP policy Tra 2 states that car parking provision should comply with and not exceed the levels set out in Council guidance.

NPF 4 policy 14 b) (Design, quality and place) refers to a quality of a successful place being its connectivity. Supporting well-connected networks that reduce car dependency.

NPF 4 policy 13 (Sustainable Transport) b) states development proposals will be supported where demonstrated transport requirements have been considered including transport needs of diverse groups including users with protected characteristics.

Part e) (Sustainable Transport) refers to proposals with low or no car parking being supported in urban locations well served by sustainable transport provided there are no barriers to access by disabled people.

The site is within Zone 2 of the Edinburgh Design Guidance Parking Standards where residential properties should have a maximum car parking provision of 1 space per dwelling. There is no minimum car parking provision.

The proposed development is suitable in terms of the site's sustainable location and will have zero vehicle parking. Furthermore, whilst no accessible parking bays will be accommodated the capacity to provide this is restricted by the site's small footprint.

In regard to accessibility, footways of adequate width for wheelchair use indirectly link the site to a bus service on Salamander Place and tram service on Constitution Street. These services can be accessed in an approximate five-minute walk, and a slightly longer duration by wheelchair.

In this respect, whilst not immediately accessible there is capacity for disabled access through connections in the local transport network nearby. Given this and the constrained nature of the site a lack of accessible parking bays is acceptable in this specific context.

In addition, no specific road or pedestrian safety issues are raised. As a relatively small scale of the development, it is not anticipated the proposal will result in any significant increase in traffic generation. Therefore, no further transport information has been sought.

The proposal broadly complies with NPF 4 policy 13, 14 b) and LDP policy Tra 2.

Cycle Parking

LDP policy Tra 3 states cycle parking and storage provision should comply with the standards set out in Council guidance.

The EDG standards state properties in this zone should have a minimum of 2 cycle spaces for dwellings with 3 habitable rooms. For properties with 4 habitable rooms or more, this should equate to 3 cycle spaces.

NPF 4 policy 13 b (Sustainable Transport) refers to the supply of safe, secure and convenient cycle parking to meet needs of users.

In addition, principles of the Council's cycle parking factsheet include that provision should include 20% non-standard bicycles.

For the three flats, the required provision equates to 9 cycles in total. The cycle parking will be provided via a two-tier arrangement near the building entrance. Whilst not enclosed, the storage is located within the building and the applicant has confirmed the cycles can be locked. Therefore, this arrangement provides an appropriate degree of security for future use.

No non-standard cycle provision has been included however it is acknowledged the ground floor is of a limited floor space. The inclusion of non-standard provision of adequate size and a suitable location near the building entrance would likely have implications on the customer space for the public house near its front windows. As per the above design section, the use of this space will have a positive impact by creating an active street frontage.

The proposal complies with LDP policy Tra 3 in regard to quantity of cycle provision. In this specific context, an infringement of the cycle parking factsheet is appropriate based on the constrained nature of the site.

Transport planning have been consulted on the proposal and raise no objection.

Archaeology

NPF4 Policy 7 o) states that non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible.

The City Archaeologist has been consulted on the proposals and has stated the site is located within an area of historic and archaeological significance.

A condition has therefore been recommended regarding a programme of archaeological works in accordance with a written scheme of investigation to be submitted, in order to safeguard potential archaeological remains.

Subject to condition, the proposal complies with NPF4 policy 7 o).

Conclusion in relation to the Development Plan

Overall, the proposed development broadly complies with the provisions of NPF4 and the LDP.

There are significant issues of conflict as the residential development is anticipated to have a future coastal and river flood risk.

As per the Chief Planner's letter on 'Transitional arrangements for National Planning Framework 4' conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement.'

In this case, the principle of residential development on this site is acceptable through the development plan and the site is in an area increasingly residential in character. In addition, the public house extension is generally compatible with applicable policies.

There is a potential for future flood risk for residential use. As per the above, this is anticipated to be a 0.5 % chance of flooding by the 2080s. This risk cannot reasonably be mitigated against within this application as it relates to the external land level out with the application site..

However, with regard to the degree and period of time until this flood risk may occur, this factor against the development does not outweigh the principle factor for the development. The presumption to support residential use in this location through the LDP.

Moreover, the proposal delivers a high-quality, appropriate design on a brownfield site and the uses will help support local living. A satisfactory living environment for future occupiers can be achieved and no unreasonable impact on neighbouring occupiers.

It encourages use of sustainable modes of transport and reduced reliance on car usage. No specific road or pedestrian safety issues are raised.

Scottish Ministers will require to be notified should Committee be minded to grant the application.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to it as a material consideration in the determination of this application.

The site provisionally forms part of the 'Central Leith Waterfront' area - designated for commercial and housing led mixed-use development in the draft plan.

However, at this time little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Section 149 of the Equalities Act 2010 refers to a public authority in exercise of its functions having due regard to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not.

Protected characteristics can include for example age, disability, pregnancy and maternity.

The proposal raises matters of equality as the three residential flats will be accessed via a staircase only. Therefore, their layout limits the suitability of these units for some future residents, having regard to the above protected characteristics.

The capacity for the development to include a passenger lift has been explored by the applicant. The submitted information shows the incorporation of a lift and associated circulation space would significantly reduce the floor space for each dwelling. This would have subsequent implications upon future occupiers' amenity, the capacity to provide a small range of unit sizes and viability of the scheme.

The site has a constrained footprint and having regard to the above factors the lack of accessible residential provision is acceptable in this specific instance. In addition, there are separate requirements under any subsequent Building Warrant in regard to accessibility. The applicant has confirmed the public house extension will be fully accessible.

Through these above considerations, due regard has been had to the public sector equality duty under the above section of the Equalities Act.

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

One representation has been received (support comment) summarised below:

material considerations

- General support for development : This comment is noted.
- Cycle storage has lack of security and non standard cycle provision : Addressed in Transport section.

Conclusion in relation to identified material considerations

The material considerations raise other material considerations in regard to equality as the three flats are not fully accessible. However, the proposal will contribute to the provision of homes in a well located site close to local amenities.

Overall conclusion

Overall, the proposal is broadly in accordance with the development plan and National Planning Framework 4 (NPF4).

The site and area will have a flood risk in the future. This may result in an inability to provide safe, access and egress for residents from the development in the event of a flood. This risk cannot reasonably be mitigated against within this application as it relates to the external land level out with the application site.

Residential use is supported in principle here through its LDP land allocation where there is an identified need for new homes. It is in an area that is increasingly residential in character.

Having regard to the above and level of future risk of the site being flooded, there is a presumption on balance to support residential use.

The proposal will deliver a sustainable, well-designed development on a brownfield site that minimises environmental impact. The design is high quality and takes cues from the character of the surrounding area. The uses will help support local living and are consistent with the six qualities of a successful place.

Subject to condition, the proposal will result in a satisfactory living environment for future occupiers and will not result in an unreasonable impact on neighbouring occupiers.

It encourages use of sustainable modes of transport and reduced reliance on car usage. No specific road or pedestrian safety issues are raised.

Matters of equality are raised as the three residential units will not be accessible. However, given the constrained nature of the site this is acceptable in these specific circumstances.

Other material considerations support the presumption to grant planning permission.

As SEPA has objected to the application, if the Council is minded-to-grant planning permission, it must notify the application to Scottish Ministers prior to determination of the application.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
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.

3. Prior to the commencement of development, full details and specification of the mitigation measures identified in the submitted Noise Impact Assessment Report, reference R-9294-CL1-DJC, dated 9th August 2022, including those specified in relation to the MHVR system, noise break out measures (pub extension, flats and plant noise) and glazing specifications for residential windows shall be submitted to and approved by the Planning Authority.
4. The approved details of condition 3 shall be fully implemented and operational prior to occupation of all approved residential units.
5. No demolition or development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, historic building recording, public engagement, interpretation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
6. (a) A site survey (including initial desk study as a minimum) must be carried out to demonstrate, 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 the 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.

Reasons

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to enable the planning authority to consider this/these matter/s in detail.
3. In order to ensure the adequate specification of details to safeguard the living environment of future occupiers and prevent limitations on the activities of nearby uses.
4. To ensure the adequate implementation of details to safeguard the living environment of future occupiers and prevent limitations on the activities of nearby uses.
5. In order to safeguard the interests of archaeological heritage.
6. In order to ensure the site is made safe for the proposed use.

Informatives

It should be noted that:

1. 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.
2. 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.
3. Flood prevention informatives :
 1. Flood resilient materials and construction methods should be used to limit the vulnerability of the ground floor non-residential properties to flooding.
 2. A flood evacuation plan should be developed and integrated into the operation of the development to improve the resilience of the non-residential and residential development to flooding.
 3. The applicant should confirm that Scottish Water accept the proposed surface water discharge rate to the combined network.
 4. 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.
 5. The design of the public house extension ceiling should achieve NR 15 to ensure noise transmission from the pub to residential above will not be adverse.
 6. The applicant should consider developing a Travel Plan including provision of public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 6 January 2023

Drawing Numbers/Scheme

01, 02 A - 04 A, 05 - 10

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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Appendix 1

Summary of Consultation Responses

NAME: Archaeology

COMMENT: No objections subject to condition for a programme of archaeological works.

DATE: 19 January 2023

NAME: Flood Planning

COMMENT: Our objection on grounds of coastal flood risk to the development, which may prevent safe access and egress to the residential properties.

DATE: 11 July 2023

NAME: Environmental Protection

COMMENT: Recommend refusal on grounds of poor amenity to occupiers due to noise and air quality.

DATE: 27 July 2023

NAME: Scottish Water

COMMENT: No objections however further review at the technical application stage.

DATE: 10 March 2023

NAME: SEPA

COMMENT: Objection on grounds of future coastal and river flood risk to access/egress route from the residential use contrary to NPF4 policy 22 a.

DATE: 13 June 2023

NAME: Communities and Families

COMMENT: No education infrastructure contribution required.

DATE: 22 March 2023

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

Location Plan



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Development Management Sub Committee

Wednesday 23 August 2023

Confirmation of Tree Preservation Order No. 203 (Cameron Toll Shopping Centre, Edinburgh)

Item number

Report number

Wards

Ward 15 – Southside/Newington

Summary

TPO 203 (Cameron Toll Shopping Centre) was made on 24th February 2023 in order to protect a number of trees in the interests of amenity. The Order expires within six months unless it is confirmed in that time. The Order does not prevent future development of the site but gives the planning authority greater control over the retention and replacement of trees onsite during any future project. In order to ensure permanent protection for the trees it is recommended that the Committee confirms TPO 203.

[Policies and guidance for this application](#) CDP ENV12

Report

Confirmation of Tree Preservation Order No. 203 (Cameron Toll Shopping Centre, Edinburgh)

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

The TPO covers Cameron Toll Shopping Centre, a site approximately 8 hectares in size comprising a retail park with car parking and the adjacent Millar Hall site which houses a scout hut.

Photographs of the trees are provided in Appendix 3.

2.2 Site History

In June 2022 the planning authority received 22/03151/FUL which proposed the removal of a section of woodland to accommodate building a hotel. This application is still under consideration.

In January 2023 the planning authority received 23/00264/TPO which proposed the removal of three large poplar trees from the site, in the belief that the trees were covered by the nearby TPO 79. It was established that the trees were not covered by TPO 79 and that the application was submitted erroneously, however, this error gave the planning authority notice that the trees were planned for removal. The reason given for removal was that the trees “may have internal decay... [and will] always be problematic”, however these claims were not supported by evidence.

Main report

3.1 Description of The Proposal

This report deals with the confirmation of Tree Preservation Order TPO No.203 (Cameron Toll Shopping Centre), which covers Cameron Toll Shopping Centre, a site approximately 8 hectares in size comprising a retail park with car parking and many trees, including individual trees, groups of trees, and areas of woodland. The TPO also affects the adjacent Millar Hall site which houses a scout hut and a small number of individual mature trees.

The three poplars, which were proposed removed, are large trees and appear to be the tallest on site. They appear in satisfactory condition. Their removal would be detrimental to public amenity and is not considered to be justified by the evidence seen by the planning authority.

A Tree Preservation Order was made in order to prevent the loss of the three poplars. In the light of the planning application for development of a hotel onsite, it was considered expedient to include all significant trees onsite within the Order. This would prevent prospective tree removal to support current or future planning applications and would also help to ensure proper protection of any retained trees if planning permission is granted.

Six trees on the adjacent Millar Hall Scout Hut site were included in the Order. These six trees are prominent mature specimens with high public visibility. Although there is no current threat to these trees the site appears to have high future development potential so it was considered expedient to include these trees while making the Order.

3.2 Determining Issues

Section 160 of the Town and Country Planning (Scotland) Act 1997 states that a planning authority may make an order specifying any trees, groups of trees or woodlands in their district and providing for their preservation if it is a) expedient in the interests of amenity to make that provision, or b) that the trees, groups of trees or woodlands are of cultural or historical significance.

The planning authority must consider any representations made in accordance with the Tree Preservation Order and Trees in Conservation Areas Regulations before the tree preservation order is confirmed.

3.3 Assessment

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

- a) The making of the Order is expedient in the interests of amenity or whether the trees, groups of trees or woodlands are of cultural or historical significance;
- b) equality and human rights issues have been addressed and
- c) any representations received require the Order to be abandoned, confirmed, or confirmed with modifications.

a) Amenity, Expediency and Cultural or Historic Interest

The TPO covers a number of individual trees, groups of trees and woodlands of various species, age class and size.

The woodland strips around the perimeter of the site function as a screen, providing a green wall for users of the shopping centre and adjacent road, and screening each of those sites from views of each other. The strips also screen a number of domestic homes from a view of the shopping centre. They also function as a windbreak and limit the spread of vehicle pollution and traffic noise.

A larger woodland compartment towards the south of the site forms a green backdrop for users of the car park and scout hut, for pedestrians using the pathway entrance to the south of the site, and for users of the road. A group of three large poplars by the woodland are a particularly prominent visual feature at this location. Individual trees on the scout hut site are visible from the road to the west and footpath to the east.

At the two doorways to the shopping centre there are groups of trees present which provide a welcoming feature. Other groups of trees provide green features around the site which soften the hard landscaping.

Having considered the above it is concluded that the trees have a large and important impact on the local landscape and very high amenity value.

The making of the Order is expedient because the tree owners have expressed their intention to remove some of the trees. Additionally, a planning application has been submitted for a proposal which would require the removal of a section of the perimeter woodland.

The Order will allow the planning authority to prevent unnecessary removal of trees. In the case that development goes ahead, it will allow the planning authority to ensure that tree removal is kept to a minimum. The Order also allows the planning authority to ensure appropriate replacements for any trees which need to be lost.

The trees are not considered to be of cultural or historic interest.

c) Equalities and Human Rights

The proposals raise no equalities or human rights concerns.

The statutory requirement on planning authorities is to make Orders where this is in the interests of amenity. Amenity in this context is interpreted as extending beyond the amenity of an individual party and being of wider public benefit. An Order allows any person to apply for permission to carry out tree pruning, felling etc at any time; at that time the individual circumstances of the case must be assessed and a decision on tree work proposals reached. There is a right of appeal against the decision of a planning authority.

d) Representations

The planning authority is required to consider any objection or representation made within 28 days of making and advertising a Tree Preservation Order. The making of the TPO was advertised in the normal manner.

One representation was received from Montagu Evans representing the owners of the Cameron Toll Shopping Centre site. This was formed of two letters accompanied by a tree survey report they had commissioned. The full representation has been circulated to members by committee services. Objections were made to the TPO on the following grounds:

- Woodland W2 has little amenity value and is inaccessible to pedestrians. The trees within it are poor quality due to historic undermanagement – a tree survey has found them to be leggy, suppressed and with structural defects. The proposed hotel development will remove part of this woodland and replace it with other green landscaping which will be an improvement for biodiversity.

- Their tree survey found only 38% of the trees on site to be in good or fair condition.
- Tree groups G9 and G10 are within the area affected by 19/06001/FUL for which permission has been granted.
- Tree groups G1, G2, G3, G5, G6 and woodlands W1 and W2 cover land which is earmarked for potential future expansion of the tram network.
- Trees T2, T3 and T4 and group G12 are outwith the shopping centre land and an Order covering these trees should not have been served on the shopping centre owners.

The planning authority has considered these points and responds as follows.

The woodland W2 to the west of the site has very high amenity value as it provides a screen between the busy road and the shopping centre, shielding views, noise and pollution from users either side. Its amenity value does not come from pedestrians walking through the woodland itself but from its presence as a large green feature which has a very high landscape impact in a high-traffic area.

While the planning authority has not carried out its own survey of the trees onsite, the trees appear to be in generally satisfactory condition. The findings of the submitted tree report, that the majority of the trees are in poor condition, are not accepted. The report has downgraded most trees within the woodland areas for issues such as suppression, crown imbalance, sparse inner crown and legginess. However, these characteristics are entirely normal for trees grown in a woodland context. Trees within a woodland should not be expected to have the full, symmetrical crown of open-grown specimen trees and the absence of these qualities does not mean that the trees are poor quality. The assessment of a woodland should consider its value as a whole. In this case, the collective value of the trees is very high.

Development of the site will not be prevented by the Order. Development frameworks, plans and applications may still be made, granted permission and implemented. Consideration will be given to any plans in line with NPF4. Any planning permission granted will provide the right to remove any trees necessary for implementation of that permission.

For the current application 22/03151/FUL, the planning authority will make an assessment of the scheme on its merits, and if permission is granted, then this will allow removal of any trees which need to be removed for the development. The same applies to any other future application the planning authority might receive for the site. For the planning permission granted under 19/06001/FUL, it is not necessary to remove the trees from the Order for this development work to go ahead. The extension of the tram network, if implemented, will not be constrained by the presence of a TPO as the tram works are authorised by statute and do not require TPO consent. In the absence of any development projects it is appropriate that the trees are protected.

This Order covers trees on two adjacent sites with different owners. The correct process was followed in serving the Order on all site owners as required by statute.

Conclusion

The trees within this Order have high amenity value and contribute significantly to the character and attractiveness of the local landscape. The tree owners have expressed an intention to remove some of the trees and have also undervalued many other trees based on characteristics that are normal for trees within a woodland.

Furthermore, the owners have an intention to develop the site which could put trees at risk. The Order gives the planning authority greater control over the loss of trees on this site and allows conditions to be placed on any tree works including the replanting of new trees where appropriate.

The scout hut site, while not currently under threat, contains several trees with high landscape impact and appears to have future development potential. It is expedient to include this site when making a large TPO on the surrounding area.

It is recommended that TPO 203 is confirmed in order to provide permanent protection.

The TPO maps and First Schedule are included in Appendices 1 and 2 and photographs of the site are included in Appendix 3.

Financial impact

4.1 The financial impact has been assessed as follows:

Costs are accommodated through existing budgets.

Risk, Policy, compliance and governance impact

5.1 Provided Tree Preservation Orders are confirmed in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

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

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

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

Consultation and engagement

8.1 Pre-Application Process

Not applicable.

8.2 Publicity summary of representations and Community Council comments

The Order was advertised in the local press on 27th February 2023 and displayed in Newington Library in accordance with regulatory requirements. A copy was displayed at the Planning and Building Standards reception in Waverley Court as well as being available to view on the Council's website.

Background reading/external references

- [Planning guidelines](#)

| | |
|-------------------------------|-----|
| Statutory Development | |
| Plan Provision | N/A |
| Date registered | N/A |
| Drawing numbers/Scheme | N/A |

David Givan

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Links - Policies

None.

Appendix 1

Tree Preservation Order Maps

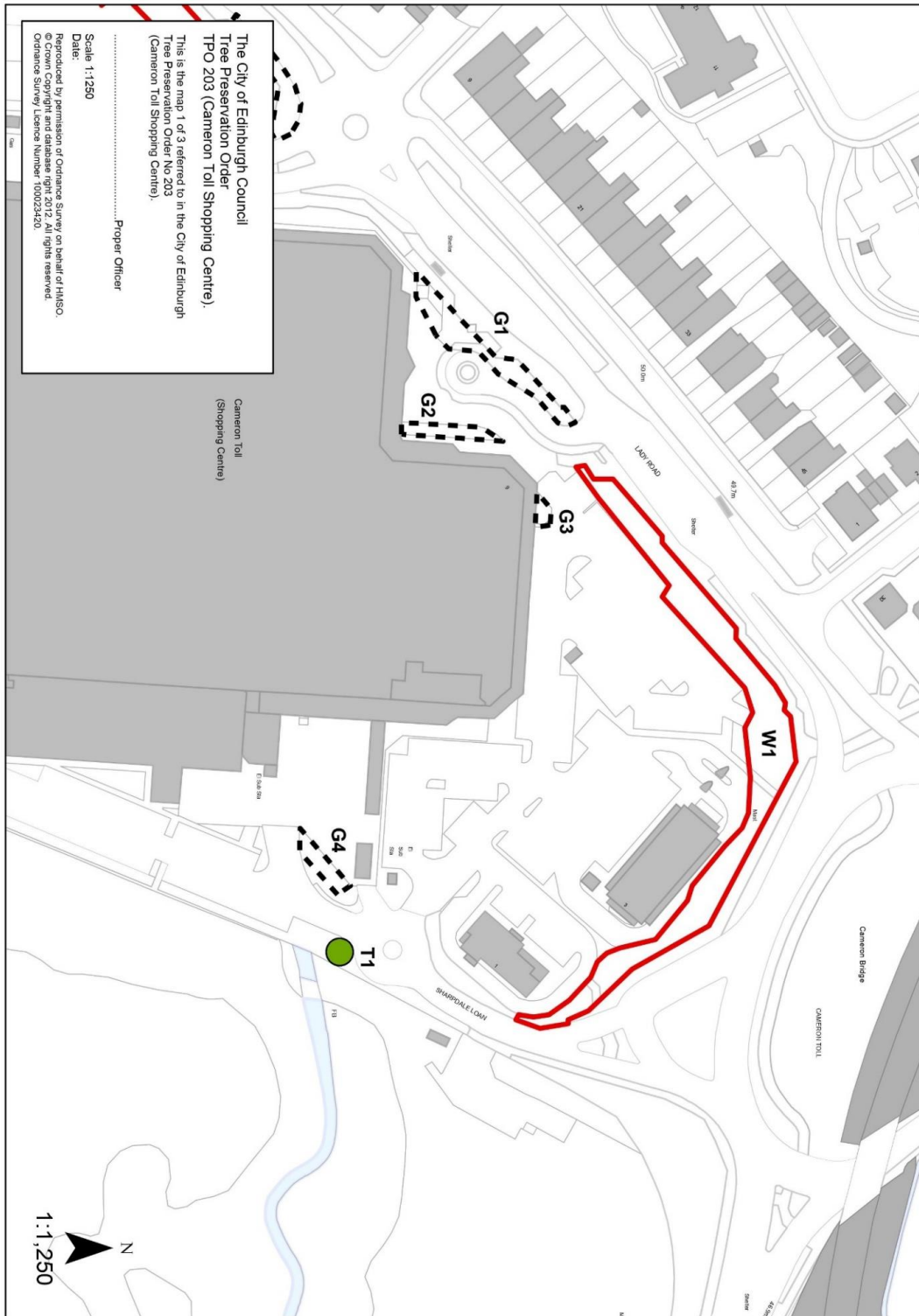


Fig. 1: Map 1

of 3 from TPO 203 (Cameron Toll Shopping Centre)

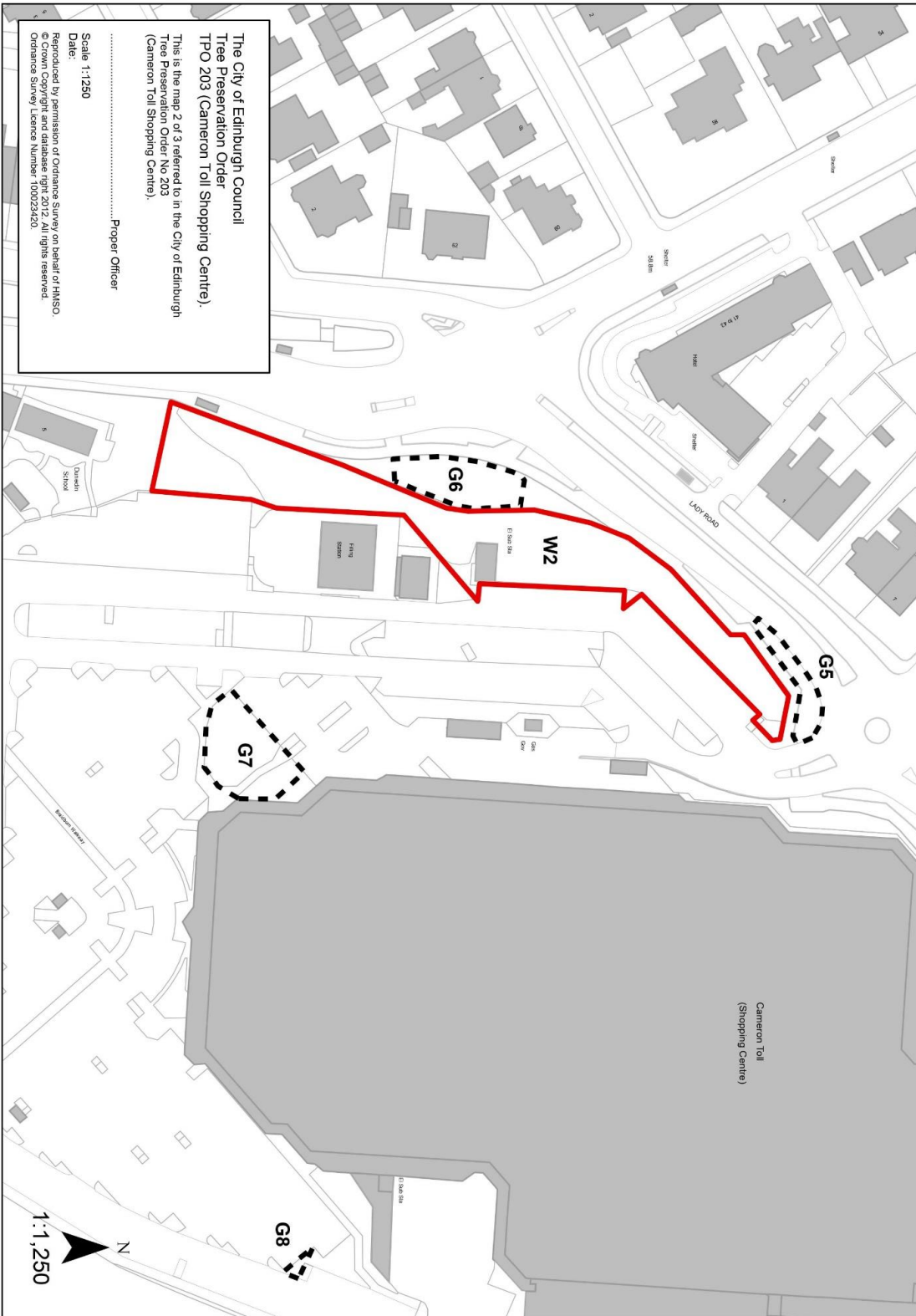


Fig. 2: Map 2 of 3 from TPO 203 (Cameron Toll Shopping Centre)

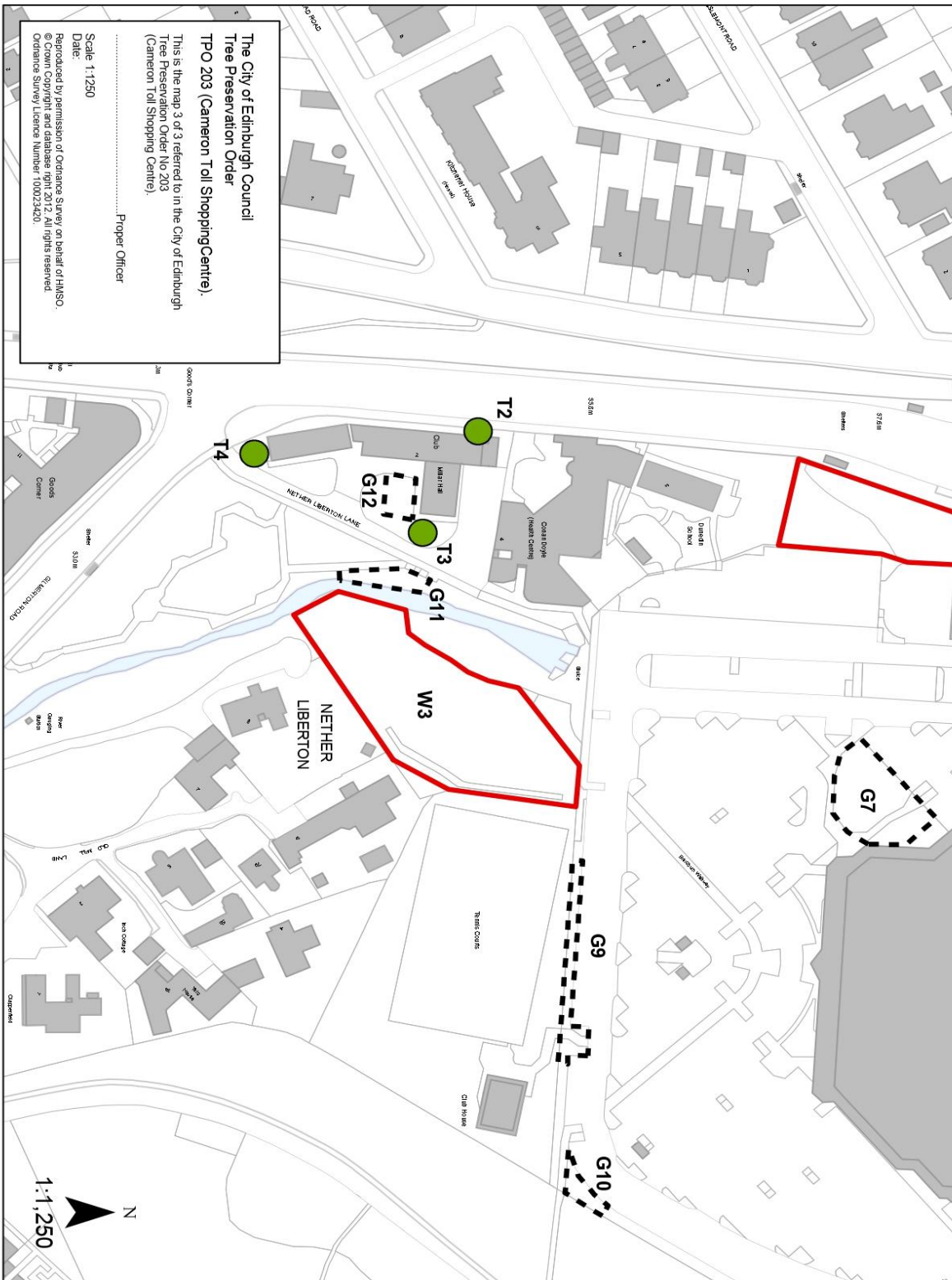


Fig. 3: Map 3 of 3 from TPO 203 (Cameron Toll Shopping Centre)

Appendix 2

Tree Schedule

1: First Schedule

SCHEDULE 1 Article 2

| Trees Specified Individually (marked in green on the maps) | | |
|---|--------------------|--|
| No. on Maps | Description | Situation |
| T1 | Birch | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register of Scotland with Title Number MID37845. |
| T2 | Sycamore | Disposition by Liberton and Craigmillar Estates (in voluntary liquidation) and Liquidator thereof in favour of The Lord Provost, Magistrates and Council of the City of Edinburgh dated 22 March, 24 March and 18 May 1955 and recorded in the General Register of Sasines for the county of Midlothian on 10 June 1955. |
| T3 | Sycamore | Disposition by Liberton and Craigmillar Estates (in voluntary liquidation) and Liquidator thereof in favour of The Lord Provost, Magistrates and Council of the City of Edinburgh dated 22 March, 24 March and 18 May 1955 and recorded in the General Register of Sasines for the county of Midlothian on 10 June 1955. |
| T4 | Birch | Disposition by Liberton and Craigmillar Estates (in voluntary liquidation) and Liquidator thereof in favour of The Lord Provost, Magistrates and Council of the City of Edinburgh dated 22 March, 24 March and 18 May 1955 and recorded in the General Register of Sasines for the county of Midlothian on 10 June 1955. |

| Trees Specified by Reference to an Area (within a solid black line on the maps) | | |
|--|--------------------|------------------|
| No. on Maps | Description | Situation |
| None | | |

| Groups of Trees (within a broken black line on the maps) | | |
|---|---|---|
| No. on Maps | Description | Situation |
| G1 | Tree group formed of 2 Norway maple and 4 cherries | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G2 | Tree group formed of 4 hornbeams | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G3 | Tree group formed of 2 whitebeams | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G4 | Tree group formed of 4 Norway maples and 1 willow | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G5 | Tree group formed of 4 Norway maples, 1 whitebeam and 1 cypress | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G6 | Tree group formed of 12 weeping birches | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G7 | Tree group formed of 25 pine trees (including 3 large mature trees and 22 young pines), 1 poplar and 3 cherries | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G8 | Tree group formed of 1 Norway maple and 3 pines | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G9 | Tree group formed of 16 cherries | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |

| | | |
|-----|--------------------------------------|--|
| G10 | Tree group formed of 5 Norway maples | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G11 | Tree group formed of 3 poplars | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| G12 | Tree group formed of 3 sycamores | Disposition by Liberton and Craigmillar Estates (in voluntary liquidation) and Liquidator thereof in favour of The Lord Provost, Magistrates and Council of the City of Edinburgh dated 22 March, 24 March and 18 May 1955 and recorded in the General Register of Sasines for the county of Midlothian on 10 June 1955. |

| Woodlands (within a red line on the maps) | | |
|--|---|---|
| No. on Maps | Description | Situation |
| W1 | Woodland formed of a mix of broadleaved and conifer species | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| W2 | Woodland formed primarily of broadleaved species | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |
| W3 | Woodland formed of a mix of broadleaved and conifer species | On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845. |

Appendix 3

Photographs



Fig. 4: W2 as seen from inside the shopping centre



Fig. 5: W2 as seen from outside the shopping centre, and G6 in front



Fig. 6: G7 at the southern doorway to the shopping centre



Fig. 7: G12 at the scout hut



Fig. 8: G8 within the car park



Fig. 9: Part of W1



Fig. 10: G1 and G2 at the northern doorway to the shopping centre

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Development Management Sub-Committee Report

Wednesday 23 August 2023

Application for Planning Permission

Land 200 metres north of, 11 Lochend Road, Newbridge.

Proposal: Change of use of agricultural land to use as a dog exercise area, erection of building for use as kennels in connection with the exercise area, parking and alterations to existing access.

Item – Committee Decision

Application Number – 22/01180/FUL

Ward – B01 - Almond

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as it has received more than twenty material representations supporting the proposal and the recommendation is to refuse planning permission.

Recommendation

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

Summary

The proposed use would have an adverse effect on the amenity of neighbouring residential properties by virtue of increased noise and disturbance. The proposal does not comply with LDP Policy Hou 7. There are no other material considerations to outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a field of 0.703 ha (1.805 acres) and has an existing vehicular access onto Lochend Road. The western boundary is formed by a disused railway line and Lochend Road runs along the northern boundary. The eastern and southern boundaries are defined by field boundary fencing and rough shrub cover. A sewage treatment works lies immediately to the north of the application site and the M9 motorway lies to the west. Edinburgh Airport's runway lies a short distance to the east of the site.

There are residential properties 115 metres (approximately) to the south-east of the application site.

Description of the Proposal

The proposal is for a change of use of agricultural land to use as a dog exercise area, with kennels. A new building is proposed to be used for boarding kennel facilities (overnight stays), which includes a small reception/office and a toilet.

A parking and turning area are proposed within the site. Owners of dogs would visit the site to drop off their pets and the business would exercise and feed the animals at the site.

A 2.1-metre-high mesh fence would be erected around the perimeter of the land, with secure gates at the entrance. The field would be sub-divided into three or four smaller areas, using a standard stock fence.

10 customer car parking spaces would be provided, including two with re-chargeable points and five staff car parking spaces.

Supporting Information

Covering letter

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Archaeology

Environmental Protection

Transport Planning

Edinburgh Airport

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

Publicity and Public Engagement

Date of Neighbour Notification: 25 March 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 1 April 2022

Site Notices Date(s): Not Applicable

Number of Contributors: 60

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- 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 comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF 4 Sustainable Places Policy 1
- NPF 4 Sustainable Places Policy 7
- NPF 4 Sustainable Places Policy 13
- NPF 4 Liveable Places Policy 14
- NPF 4 Productive Places Policy 29
- LDP Design Policies Des 1 and Des 4
- LDP Environment Policy Env 10
- LDP Housing Policy Hou 7
- LDP Transport Policy Tra 2

The non-statutory Development in the Green Belt and Countryside and Guidance for Businesses is a material consideration that is relevant when considering NPF 4 Policy 29 and LDP Policy Env 10.

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering NPF 4 Policy 14, and LDP Policies Des 1 and Des 4.

The non-statutory Guidance for Business is a material consideration when considering LDP Policy Hou 7.

Principle of Development

The proposal is located within the Countryside Area as defined in the adopted Edinburgh Local Development Plan (LDP).

The Council's non-statutory Guidance for Development in the Countryside and Green Belt states that provided it can be demonstrated that a countryside location is essential, a kennel use may be acceptable.

The applicant is currently running the business from Hallyards Farm and this proposal would allow it to expand and provide an increased service to its customers and employment opportunities.

The site retains an essentially rural nature and has an important role in contributing to the character of the surrounding countryside; the proposal would involve the construction of a stand-alone building for dog kennels within the site and a perimeter fence. The style of the building would retain the agricultural character of the site.

The proposal has a neutral impact in terms of NPF 4 Policy 1.

The proposal is in compliance with the requirements of NPF 4 Policy 29 and LDP Policy Env 10.

Scale, Design and Materials

The proposed kennels are of a plain and functional style and use materials appropriate to the countryside. There is existing screening to the north, west and south, which would ameliorate their visual impact.

The building would not detract from the rural character of an area.

The proposal complies with NPF 4 Policy 14 and LDP Policies Des 1 and Des 4.

Amenity

The kennels would be capable of housing at least 26 dogs, with an open amenity area.

Whilst the application site is located in an area which has a high background noise level due to transport sources, including aircraft noise, there are existing residential properties 115 metres of the site.

Environmental Protection (EP) has concerns regarding this application, as it is difficult to mitigate noise from dog barking and there is no competent technical acoustic guidance available regarding dog barking. EP frequently receive complaints relating to dogs barking, not only from within residential properties, but also from kennels, it considers that noise complaints would likely be received and that the residential amenity of the local area could be detrimentally affected. Accordingly, EP recommends that this application be refused.

The applicant is willing to erect acoustic fencing and planting along the southern and eastern boundaries of the site and if Committee were minded to approve the application, this could be subject of a condition.

However, notwithstanding this undertaking, given the difficulties in controlling noise levels from such a variable source as dogs, the proposal would have the potential to impact on the living conditions of the nearby residents to a significant degree.

The proposal does not comply with LDP Policy Hou 7 due to its impact on neighbouring residential amenity by virtue of noise and disturbance.

Road and Pedestrian Safety

Transport Planning had concerns regarding the initial access point on road safety grounds due to poor sightlines. A new access is now proposed which Transport Planning has confirmed meets the requirements for sightlines. The amended scheme is acceptable in relation to road safety.

To achieve a visibility splay of 2m x 70m, a small area of land outside the applicant's ownership/control would be needed to the east of the amended access location.

Archaeology

NPF 4 Policy 7 (Historic Assets and Places), aims to protect and enhance historic environment assets and places.

The City Archaeologist has confirmed that the site lies within an area of potential archaeological significance. If Committee were minded to approve the application, it is recommended that a condition be added requiring an archaeology survey to be undertaken.

The proposal would not have an adverse impact on a site of archaeological significance and complies with NPF 4 Policy 7.

Aerodrome Safeguarding

Edinburgh Airport was consulted on the proposal and raised no objection subject to the inclusion of suspensive conditions requiring details of a bird hazard management plan and control of lighting.

The proposal does not raise any issues in respect of aerodrome safeguarding.

Conclusion in relation to the Development Plan

The proposal is contrary to LDP Policy Hou 7 due to the adverse impact it would have on neighbouring amenity by virtue of noise from dogs barking.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time 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:

The application attracted 60 material contributors; of that 21 objected and 38 supported the proposals.

material considerations - objections

- Additional traffic - assessed in section (a)
- Dangerous junction and dangerous driving where kennels would be sited - assessed in section (a)
- Increased noise and disturbance both day and night - assessed in section (a)
- Increased smell nuisance - 100 dogs able to be boarded - assessed in section (a)
- Being on the flight path noisy already but number of dogs would worsen situation assessed in section (a)
- More suitable site could be found on owner's farm away from residential - assessed in section (a)

material considerations - support

- Good reliable business used for many years - assessed in section (a)
- Expanding existing business in the countryside - assessed in section (a)
- Employing local staff - assessed in section (a)
- Further employment opportunities-assessed in section (a)
- Good facility for day care when more people back to work - assessed in section (a)
- Upgrade current facilities giving more space for dog exercise - assessed in section (a)
- Didn't receive notification of development - the contributor wasn't a notifiable neighbour. Due to the nature of the proposed development the application was advertised as a bad neighbour.

non-material considerations

- Couldn't go on holiday without the business
- Dogs are very well exercised
- Business supports dogs in difficult times
- Dogs become more sociable
- Supporters of business are not local residents

Conclusion in relation to identified material considerations.

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposed use would have an adverse effect on the amenity of neighbouring properties by virtue of increased noise and disturbance. The proposal does not comply with LDP Policy Hou 7. There are no other material considerations to outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal: -

1. The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as due to the nature of the business it would have adverse noise impacts on neighbouring residential amenity by virtue of noise and disturbance.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 10 March 2022

Drawing Numbers/Scheme

1-6

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Jennifer Zochowska, Senior Planning Officer
E-mail: jennifer.zochowska@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Archaeology

COMMENT: The site lies within an important archaeological landscape centred around Newbridge to the west and the southern side of the River Almond dating back over 6000years.

The site is therefore regarded as occurring within an area of archaeological potential. . Given the sites location these works have the potential for disturbing archaeological remains dating back to prehistory. It is therefore recommended that a condition is attached if approved requiring a programme of archaeological work to be undertaken.

DATE: 5 April 2022

NAME: Environmental Protection

COMMENT: Environmental Protection has concerns regarding the application and recommends it be refused.

DATE: 23 June 2023

NAME: Transport Planning

COMMENT: No objections subject to appropriate conditions and informatives.

DATE: 28 November 2022

NAME: Edinburgh Airport

COMMENT: The proposed development has been examined from an aerodrome safeguarding perspective and could conflict with safeguarding criteria unless any planning permission granted is subject to the conditions relating to the submission of a Bird Hazard Management Plan and control of lighting.

DATE: 5 August 2022

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

Location Plan



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Development Management Sub-Committee

10.00am, Wednesday 23 August 2023

Protocol Note for Hearing

Centrum House, 108-114 & 116 Dundas Street, Edinburgh - Proposed demolition of existing office buildings and erection of a mixed-use development comprising 49 No. flats with 3 No. commercial units (Class 1, 2 and 3 uses), amenity space, landscaping, basement level car and cycle parking and other associated infrastructure – application no's 22/05886/FUL & 22/05884/CON

| | |
|----------------------|------------------------|
| Report number | 6.1 |
| Wards | B5 – Inverleith |

Nick Smith

Service Director – Legal and Assurance

Contacts: Jamie Macrae, Committee Services

Email: taylor.ward@edinburgh.gov.uk

Summary

Protocol Note for Hearing

Summary

The Council is committed to extending public involvement in the planning process. Hearings allow members of the public to put their views on planning applications direct to the Councillors on the Development Management Sub-Committee.

The Sub-Committee members have a report on the planning application which contains a summary of the comments received from the public. Copies of the letters are available for Councillors to view online.

Committee Protocol for Hearings

The Planning Committee on 25 February 2016 agreed a revised general protocol within which to conduct hearings of planning applications as follows:

| | |
|---|-----------------------|
| - Presentation by the Chief Planning Officer | 20 minutes |
| - Questions by Members of the Sub-Committee | |
| - Presentation by Community Council | 5 minutes |
| - Presentations by Other Parties | 5 minutes, each party |
| - Questions by Members of the Sub-Committee | |
| - Presentation by Ward Councillors | 5 minutes each member |
| - Questions by Members of the Sub-Committee | |
| - Presentation by Applicant | 15 minutes |
| - Questions by Members of the Sub-Committee | |
| - Debate and decision by members of the Sub-Committee | |

Order of Speakers for this Hearing

| | | |
|---|---|--|
| 1 | Chief Planning Officer - presentation of report | 10.10 - 10.30 |
| 2 | Representors or Consultees Newtown and Broughton Community Council Chris Day Anne Russell (Represented by Nicholas Morris) Christina Davies and Alison Summers Edinburgh World Heritage (Christina Sinclair) – written response | 10.40 - 10.45 10.50 - 10.55 11.00 - 11.05 11.10 - 11.15 |
| 3 | Ward Councillors Councillor Max Mitchell Councillor Vicky Nicolson | 11.20 – 11.25 11.30 – 11.35 |
| 4 | Break | 11.40 – 11:55 |
| 5 | Applicant and Applicant’s Agent Paul Scott (Scott Hobbs Planning Managing Director) Guy Morgan (Morgan Architects Managing Director) Andrew Rennick – Managing Director, Rennick Property – Applicant Craig Ormond – Director, Mactaggart and Mickel – Applicant Andrew Mickel – Director, Mactaggart and Mickel – Applicant Chris Thomson – Director, RYBKA - consultant | 12.00 – 12.15 |
| 6 | Debate and Decision on Application by Sub- Committee | 12.20 |

Scheduled times are approximate but within this the time limits for speakers will be enforced – speakers will be reminded when they have 1 minute remaining. Speakers should keep to “material planning matters” that the Sub-Committee can take into account. Any visual material must be submitted to Committee Services at least 24 hours before the meeting. Decisions will generally be to approve or refuse. Conditions of approval or reasons for refusal may be considered at a subsequent meeting. If the application is continued for further information, the Hearing will not be re-opened at a later stage and contributors will not be invited to speak again. In such cases, the public can view the meeting via the webcast to observe the discussion.

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Development Management Sub-Committee Report

Wednesday 23 August 2023

Application for Planning Permission

Centrum House, 108 - 114 & 116 Dundas Street, Edinburgh.

Proposal: Proposed demolition of existing office buildings and erection of a mixed-use development comprising 49 No. flats with 3 No. commercial units (Class 1, 2 and 3 uses), amenity space, landscaping, basement level car and cycle parking and other associated infrastructure.

Item – Committee Hearing

Application Number – 22/05886/FUL

Ward – B05 - Inverleith

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because 18 material objections 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.

Recommendation

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

Summary

Overall, the development is in accordance with the development plan. The proposals will deliver a sustainable and well-designed, predominantly residential scheme that will contribute to climate mitigation and adaptation and the restoration and enhancement of biodiversity. The design draws on the character of the surrounding area to create a strong sense of place and is consistent with the six qualities of successful places as set out in NPF4. The development is also in keeping with the overall aims of the Edinburgh Local Development Plan 2016 (LDP).

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Other material considerations support the presumption to grant planning permission.

SECTION A – Application Background

Site Description

The application relates to a site measuring approximately 0.167 hectares in area located at the north-west corner of Dundas Street and Fettes Row, bounded by Henderson Place to the rear (west).

The existing buildings on site comprises two adjoining office blocks: 108-114 Dundas Street 116 Dundas Street, dating from the 1980s. Both blocks are seven storeys high in total with a combined internal floor area of approximately 4,600sqm and two below ground levels including a car park with 35 spaces at basement level.

Several category B listed buildings are in proximity to the site, the nearest being the adjacent buildings to the south at 13-24 Fettes Row (inclusive numbers) and 104 and 106 Dundas Street (reference LB28755, listed on 10 November 1966). The other listed buildings are on the opposite corner to the site at 1-12 Fettes Row (inclusive numbers) and 99-103 Dundas Street (reference LB28754, listed on 15 July 1965), 87-97A Dundas Street (reference LB28712, listed on 13 September 1964) and 79-85 Dundas Street and 34B Cumberland Street (reference LB28711, listed on 13 September 1964). All these buildings are category B listed.

The site is within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site boundary runs adjacent to the southern edge of the site.

The former Royal Bank of Scotland offices occupy the corner site opposite on the east side of Dundas Street and north side of Fettes Row. A recent residential development at 120 Dundas Street, built around 15 years ago, adjoins the site to the north and there are residential flats to the north-west of the site on Henderson Row.

The site is mainly level, with a gradual rise from north to south up Dundas Street. There are nine street trees located within the hard landscaping of the basement lightwell to the front of the buildings which is enclosed by a plinth with railings. The land to the rear of the site comprises a tarmac car park and the north boundary is marked by a residential block and its communal garden wall.

The main pedestrian access to the site is via a level bridge over the basement well on Dundas Street and vehicles have access from Henderson Row.

The surrounding area is predominantly residential with mixed commercial uses, including retail and cafes at ground level on Dundas Street. There are also office blocks in the vicinity, notably a modern office development at the west end of Fettes Row.

Description of the Proposal

The application is for the demolition of the existing buildings on the site and erection of a mixed-use development comprising 49 flats, including 12 affordable units, with three commercial units in Class 1 (retail), 2 (office) and 3 (café/restaurant) uses at ground and lower ground level, private and communal amenity space, landscaping and basement level car and cycle parking.

The residential accommodation is as follows:

general housing - five-bedroom x 2, three-bedroom x 15, two-bedroom x 19 and one-bedroom x 1 = 37

affordable - two-bedroom x 4 and one-bedroom x 8 = 12

The commercial units are as follows: Unit A 125sqm Unit B 181sqm Unit C 565sqm at ground and basement level.

An associated application for conservation area consent has been submitted for the demolition of the existing buildings on the site (application number 22/05884/CON).

Building

The proposed building is L-shape in plan with a feature corner element to Fettes Row and comprises eight levels in total with a basement, lower ground floor and top storey set back from the front building lines. On Dundas Street, the building line will follow that of the Victorian tenements to the north, with a 1.4 m set-back section adjacent to the recent residential development at no. 120. The proposed building line on Fettes Row will continue that of the modern residential blocks to the west, including the basement lightwell.

The architectural style of the proposed building is contemporary with three distinct sections and two stair/lift cores, incorporating modern interpretations of traditional tenemental detailing and ground floor shopfronts. The principal elevations to Dundas Street and Fettes Row will be finished in natural blonde coloured ashlar sandstone, with a rusticated lower ground façade on Fettes Row and the rear elevation will be in blonde coloured brick with natural sandstone string courses. The top floor will have extensive areas of glazing within bronze coloured, rusticated aluminium clad framing with chamfered perimeter edges. The windows and door frames will be formed in bronze coloured aluminium and this material will also be used for the window fascia panels between the first and second floors and recessed infill bay on Fettes Row. All safety balustrades will be in bronze coloured metal.

The stone and aluminium window reveals on Dundas Street will have chamfer detailing and the shopfronts and commercial unit frontage to the rear will be framed in bronze coloured aluminium with stone piers for the shopfronts within the section furthest north on Dundas Street. A biodiverse brown roof will occupy most of the flat roof surface and there will be two plant/lift cap enclosures at either end of the Dundas Street section formed in bronze coloured aluminium acoustic louvres. An extensive array of photovoltaic panels will occupy a large area of the Fettes Row section of the roof.

Landscaping/Amenity

All the existing street trees will be removed. A raised communal garden will be formed over part of the basement car park to the rear with a blonde coloured brick elevation incorporating a bronze coloured aluminium garage door and central flight of steps. A brick boundary wall will be erected on the north boundary where the existing building stood extending approximately 2.2 metres high from the garden terrace level.

The commercial unit occupying the lower ground floor will have access to two private rear courtyards on this level and there are two private rear gardens serving the rear-facing and dual-aspect flat at lower ground level on Fettes Row. The latter flat and two remaining flats at this level facing Fettes Row will have private terraces within the front basement lightwell and the flats at top floor level will have private external terraces facing Dundas Street and Fettes Row.

The rear landscaping will comprise areas of porous clay paving in blonde and red tones laid in stretcher bond and herringbone patterns respectively. Evergreen hedges and shrubs will form boundaries between the private and public areas and climbing plants will be trained up the boundary walls. Six trees will be planted within the area. A Siberian Larch pergola will run along the west edge of the terrace with communal seating areas and a barbeque area at the north end. The seats and tables will also be in larch.

The private courtyards to the front will be formed in natural sandstone (Yorkstone) pavers, including the cladding of the car park ventilation louvres and the private courtyard of commercial Unit C facing Fettes Row.

Access

The residential flats will be accessed via a level bridge link on Fettes Row and a level access within the north block on Dundas Street. The flats will also have accesses from the rear terrace. The three commercial units will have level access from Dundas Street and the lower floor of commercial Unit C will have access to a private terrace on that level. Vehicular access to the car/cycle park will be via Henderson Row and there are two stair/lift accesses from the basement to the upper levels.

Services

Centralised heating and hot water plant, cold water storage and electrical plant will be housed within the basement car park and rainwater attenuation tanks will also be located in this area. A waste store will be provided at side of the vehicular ramp access to the basement.

Car/Cycle Parking

Within the basement car park, a total of 31 car parking spaces, including three accessible and seven with electric vehicle charging spaces, two motorcycle spaces and 118 cycle parking spaces are proposed. The cycle spaces comprise four non-standard spaces via Sheffield stands and 114 standard spaces via two tier racks.

Scheme 1

The original scheme proposed a roof terrace for Flat 07-01 on Dundas Street extending the whole width of the flat and full depth of the area between the penthouse building line and main building line. In the amended scheme, this terrace has been reduced significantly in area and a planter screen has been introduced to safeguard privacy.

Previous Planning Application (reference 20/05645/FUL)

The 2020 application proposed 50 flats within an almost identically designed building to one currently proposed, but with two key amendments:

1. the facade of the corner block on Fettes Row has been pushed back by 1 metre to align with the main facade on Fettes Row and the cantilevered element at ground floor now comprises a continuation of the stone facade to ground level as piers framing the commercial shopfronts; and
2. the north section of the building on Dundas Street has been moved back from the building line of 120 Dundas Street line by 1.4 metres to maintain the immediate outlook of the south facing windows in the latter block.

Supporting Information

- Planning Statement;
- NPF4 Policy Response;
- Sustainability Statement and S1 Form;
- Drainage Strategy and Flood Risk Assessment;
- Landscape Management and Maintenance Plan;
- Tree Survey and Report;
- Heritage Statement;
- Design and Access Statement;
- Air Quality Screening Assessment;
- Noise Impact Assessment;
- Daylight and Sunlight Report;
- Affordable Housing Statement and
- Transport Statement.

Relevant Site History

20/05645/FUL
Centrum House
108 - 114 Dundas Street
Edinburgh

Proposed demolition of existing office buildings and erection of a mixed-use development comprising 50 flats with 3 commercial units (Class 1, 2 and 3 uses), amenity space, landscaping, basement level car and cycle parking and other associated infrastructure (as amended).

Refused
7 October 2021

20/05646/CON
Centrum House
108 - 114 And 116 Dundas Street
Edinburgh

Complete demolition of existing buildings
Refused
7 October 2021

Other Relevant Site History

Appeals against refusal of above planning permission (application number 20/05645/FUL) and conservation area consent (application number 20/05646/CON) dismissed on 7 July 2022 (DPEA references PPA-230-2364 and CAC-230-2005). The Reporter concluded that the general principle of the proposed mixture of uses within the appeal site is supported. However, the Reporter dismissed the appeal on the following specific grounds that tip the balance out of favour of the development:

- the detrimental impact on the amenity of the neighbouring properties on 120 Dundas Street due to blocking the existing unimpaired outlook from the gable windows and specifically, the severe impact on the outlook from the large feature windows of the top floor property; and
- the negative effects that the floating corner projection element of the design would have on the setting of the listed buildings and special character and appearance of the surrounding area.

Related Planning History

Former RBS site (on the opposite corner of Dundas Street/Fettes Row

1 September 2021 - planning permission granted for demolition of existing buildings and erection of mixed-use development comprising residential, hotel, office and other commercial uses, with associated landscaping/public realm, car parking and access arrangements at 34 Fettes Row (application number 20/03034/FUL).

26 February 2021 - conservation area consent granted for complete demolition in a conservation area at 34 Fettes Row (application number 20/03661/CON).

120 Dundas Street (adjacent the application site to the north

19 January 2009 - planning permission granted to demolish office building and erect mixed use residential development (24 units) and commercial development (classes 1, 2 and 4) at 118 Dundas Street (formerly 120 Dundas Street) (application number 06/00946/FUL).

18 July 2006 - conservation area consent granted for demolition of office building at 118 Dundas Street (formerly 120 Dundas Street) (application number 06/00946/CON).

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Archaeologist

New Town/Broughton Community Council

Historic Environment Scotland

Affordable Housing

Environment Protection

Communities and Families

Edinburgh World Heritage

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

Publicity and Public Engagement

Date of Neighbour Notification: 29 November 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 9 December 2022

Site Notices Date(s): 6 December 2022

Number of Contributors: 42

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 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- 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) Compliance with Planning Legislation on Listed Buildings and Conservation Areas

Setting of Listed Buildings

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

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

Historic Environment Scotland's document 'Managing Change in the Historic Environment - Setting' states;

"Setting' is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced."

The document states that where development is proposed it is important to:

- *" identify the historic assets that might be affected;*
- *define the setting of each historic asset; and*
- *assess the impact of any new development on this"*.

The listed buildings affected to any significant extent by this development in terms of setting comprise those at 13-24 Fettes Row (inclusive numbers) and 104 and 106 Dundas Street, 1-12 Fettes Row and 99-103 Dundas Street, 87-97A Dundas Street and 79-85 Dundas Street and 34B Cumberland Street. All these buildings are category B listed.

The south side of Fettes Row/Royal Crescent represents the northern most expansion of the Second New Town in its completed form. The corner blocks within Dundas Street form a visual 'gateway' into the Second New Town from the north.

The character of the south side of Fettes Row is that of a planned classical style residential development built in blonde Craigleith sandstone, dating from the 1820s, with the key characteristics of a monumental palace block with unifying symmetrical and rhythmic elevational treatment, no projecting elements in the wall planes and shallow roof pitches and slightly advanced terminal pavilions that are a storey higher.

The monumental palace designs of the east-west streets of the Second New Town were not possible to achieve on its steep south-north slopes, so the buildings on these streets are mostly tenement blocks. Whilst there is regularity and symmetry within the blocks, they step down as on Dundas Street as emphasised by the eaves and cornice.

The corner blocks of the east-west streets facing Dundas Street are usually on a level and of the same height (for example, in Great King Street). In order to deal with the Dundas Street slope, some east-west streets did not include terminal pavilion blocks, such as Cumberland and Northumberland Streets and the downwards 'step' continues on the north side of the street.

In contrast, the current and previous buildings on this site have not formed part of any planned development, although a residential development was planned for the area between Fettes Row and Henderson Row, probably by William Burn in the 1820s. Only a small part of this scheme was built, and the remainder of the area became occupied by an assortment of light industrial buildings constructed in the later 19th century and replaced by the current offices in the 1980s.

The existing buildings forming Centrum House form part of a small group of early 1980's structures of corporate character that are at odds with their predominantly residential context. BUPA house and Centrum House were design by Ian Burke Associates. The group includes the former Royal Bank of Scotland Computer Centre by Michael Laird and Partners, dating from 1978 on the opposite side of Dundas Street and Fettes Row, the subject of a recently granted application for conservation area consent to demolish the building (reference 20/03661/CON). "The Buildings of Scotland: Edinburgh" by Gifford, McWilliam and Walker, 1985 describes Centrum House and its adjoining office BUPA House as parodies of the RBS Computer Centre.

Some features of the buildings are unsympathetic to their location, particularly in terms of building lines design and landscaping. On Dundas Street, the two buildings are set back approximately 9.5 metres from the building line of the recent flatted block at No. 120. Whilst this line equates to that of the RBS Computer Centre opposite, it does not relate to the historic building line of the late Victorian tenements at 122-160 Dundas Street, nor to the Second New Town tenements at 78-106 Dundas Street. The mansard roofs are out of character with the shallow-pitch roofs of the listed Georgian buildings and later tenements.

The existing structures on the site are not without merit in terms of the set back building line on Fettes Row, natural sandstone frontages and inclusion of modern interpretations of traditional features, including basement lightwells, entrance platts and boundary railings. However, they are not particularly sensitive to the setting of the nearby listed tenements and should not provide design precedents for any replacement buildings.

The proposed building will create an appropriate setting for the listed buildings in keeping with the 1820's planned layout for the area, through the establishment of building lines on Dundas Street and Fettes Row which relate to the historic context, matching that of the circa 1900 tenement on Dundas Street, except for the set-back section, and the recently established building line at 26-29 Fettes Row, which takes its reference from the listed Georgian buildings on the south side of Fettes Row. The proposed development of the former RBS office site directly opposite (reference 20/03034/FUL) includes building lines advanced from the existing set back structures to establish a layout more characteristic of the historic context. The cumulative effect of these over-extensive setbacks is to create a gap in the built enclosure of the street entrances to Fettes Row and stepping down effect along Dundas Street, contrary to the form originally planned for these streets. The 1.4-metres set back section of the proposed building on Dundas Street is an acceptable deviation of the established building line in order to protect the immediate outlook of the adjacent flats at no. 120.

The eaves line of the new structure will relate better to the historic eaves line of Dundas Street and Fettes Row than that of Centrum House which is too low in this context. The eaves line is the defining feature of the roofscape of the 1820's tenements rather than the roof line and whilst there is no 'correct' solution to establishing a new eaves line, it relates more successfully to that of 104-106 Dundas Street opposite the development to the south. In the case of the palace façade on the south-west side of Fettes Row there is no mirror image block on the north side of the street, so there is no necessity for the new building to match the eaves line of 104-106 Dundas Street.

In terms of height, massing, form and detailing the proposed scheme loosely reflects the original 1820's buildings opposite incorporating visually distinct sections, sandstone frontages, a feature corner pavilion with double-height first/second floors, a recessed penthouse storey, rhythmic fenestration, a basement lightwell on Fettes Row and rusticated stone tooling at lower ground level to reflect the elevational hierarchy of the nearby listed buildings. These design elements, along with the proposed building lines will result in a new structure that will cause no harm to the setting of the listed building and enhance it instead.

The current landscaping includes large specimen trees in front of the buildings. Street front trees are not characteristic of the New Town Conservation Area where trees are restricted to the planned communal gardens and back greens. In this respect, the removal of these trees will have no adverse impact on the setting of the listed buildings.

Historic Environment Scotland (HES) did not consider the proposals in the previous application to have an adverse impact on any of the category A listed buildings in the vicinity and had no concerns with the siting of the new building.

In the appeal decision for this application, the Reporter is satisfied that the overall design of the proposed buildings would respond positively to the listed buildings through the use of sympathetic materials, proportions and the proposed rhythm of the architectural bays with their stronger vertical emphasis. However, the Reporter specifically states that the projecting corner element would have an adverse impact on the streetscene and would diminish the status of the listed buildings due to its prominence.

This projection is omitted in the current scheme which proposes a corner building line matching that of the main section on Fettes Row. The fenestration pattern has also been amended on the Dundas Street section of the corner block to be less formal, in keeping with that of the Victorian tenements to the north. This further reduces the visual prominence of the corner block.

Conclusion in relation to the listed building

The proposals preserve the setting of the adjacent listed buildings in accordance with the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

Character and Appearance of Conservation Area

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

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

The New Town Conservation Area Character Appraisal identifies the key characteristics of the Second New Town as:

- *grand formal streets lined by fine terraced buildings expressing neo-classical order, regularity, symmetry, rigid geometry, and a hierarchical arrangement of buildings and spaces with controlled vistas and planned views;*
- *the generally uniform height ensuring that the skyline is distinct and punctuated only by church spires, steeples and monuments; and*
- *the important feature of terminated vistas within the grid layouts and the long-distance views across and out of the conservation area.*

The proposed demolition of the existing buildings is assessed in associated application for conservation area consent. However, it should be noted that in the appeal decision for the previous planning application, the Reporter concludes that the existing buildings do not contribute to the special character and appearance of the conservation area.

The key aspects that are assessed below are the impacts of the proposed development on the formal planned alignment, setting and edges, height and skyline, design quality, materials palette, and land use of the New Town.

The assessment of the existing buildings in terms of their contribution to the character and appearance of the conservation area is assessed thoroughly in the associated application for conservation area consent.

Formal Planned Alignment, Setting and Edges

There are various existing building façade lines around the site, although the predominant building line of Dundas Street is the Georgian building line running from Heriot Row to Fettes Row where it terminates, marking the northern extent of the Second New Town.

The building line of the block in which this site is located, between the north side of Fettes Row and Henderson Row, is dominated by that of the late Victorian tenements which are positioned closer to the street edge. The existing buildings on the site do not follow either of these historic building lines, sitting approximately 9.5 metres back from the Victorian building line and approximately 7 metres back from the Georgian building line. The Victorian industrial building that once stood on the site followed the same line as the tenements to the north. Whilst the 1820's listed buildings of Fettes Row and Dundas Street provide the most significant historic contexts, the site is part of a later block that was never constructed to its original plan, so following the building line of the Victorian tenements on Dundas Street is appropriate for the proposed building and in keeping with the building line of the recent development at 120 Dundas Street. The existing building line on both sides of this section of Dundas Street deviates at present, so the proposed set back section of the new building is acceptable.

The proposed building line on Fettes Row follows that of the modern neo-classical developments on the north side of Fettes Row, dating from the late 1990s. Centrum House and the adjoining contemporary flats at 30-31 Fettes Row are the only parts of the street that do not have a consistent building line or neo-classical design. The new development will complete this side of the street, leaving the adjacent flatted block as the only anomaly. Although the basement areas of 26-29 Fettes Row are wider than those of the 1820s buildings on the opposite side of the street, they are not excessively so and are now consistent for much of the north side of the street which includes a neo-classical style office development by Reich and Hall, dating from 2000-2010, at 5-6 St Vincent Place which continues from Fettes Row at its west end.

In the appeal decision against the previous application, the Reporter singles out the projecting corner element of the building onto Fettes Row as being incongruous and out of place in the streetscape, undermining the positive characteristics of the proposed building. The omission of this projection in the current scheme and inclusion of stone piers at ground floor level will negate the detrimental impacts of this projecting, "floating" corner element.

The depth of the proposed development at its widest part matches that of the neighbouring building at 120 Dundas Street and is keeping with the various depths of the buildings on the north side of Fettes Row.

In terms of setting and edges, the impact of the development on these aspects has been set out in the section on the impact on the setting of the adjacent listed buildings.

The proposed building will establish a building alignment on this important street corner that is appropriate within the context of the Second New Town, which is lacking in the existing buildings on the site.

Height, Skyline and Views

The proposed building height is approximately 0.58 metres higher than the existing buildings on the site, but lower than the Georgian building on the opposite corner of Fettes Row in order to continue the characteristic stepping of buildings down Dundas Street. The eaves height of the new building is only slightly higher with that of the modern neo-classical blocks on the north side of Fettes Row and lower than that of the later office development at 5-6 St Vincent Place.

The proposed structure's ridge height is marginally lower than the ridge height of 26-29 Fettes Row. The revised scheme has increased the setback of the penthouse storey to further alleviate the overall massing and reflect the subservience of the Georgian roofs.

The development will be most visually prominent within the views up and down Dundas Street. These views contribute to the clarity of the urban structure of the Second New Town and alignment of key buildings.

Verified views of the proposed development have been produced from a series of key vantage points. The two locations which best illustrate the effect of the development on views up and down Dundas Street are View 1 from the east side of Dundas Street opposite the Victorian tenements looking south and View 2 from Hanover Street looking north.

At present, views of the corner pavilion of the Georgian building on the west corner of Dundas Street and Fettes Row is uninterrupted, apart from the street trees which are deciduous. From this viewpoint, the proposed structure will obscure the Fettes Row façade of this pavilion, with the exception of the outer edge and top of the gable end. However, the existing view of this corner pavilion is completely at odds with views of the equivalent corner pavilions within Dundas Street. The plan and built form of this section of the Second New Town provides the equivalent level of sight of its pavilion ends from views up and down Dundas Street to that proposed by this development. The current visual exposure of the Dundas Street/Fettes Row pavilion corner is not in keeping with this historic pattern or the planned extension of the Second New Town northwards to Henderson Row in similar fashion. Whilst the current 'gateway' status provided by the existing buildings on site is an attractive feature in terms of views southwards, it is not an essential characteristic of the New Town Conservation Area, so its retention is not required in order to preserve the character of the historic environment.

The proposed building is visible in View 2, but not in any intrusive way in terms of the historic street scene. The corner block will be more prominent than the equivalent Georgian corner pavilions, but only due to the fact that it will sit on the building line of the Victorian tenements on Dundas Street which is further forward than that of the buildings to the south on Dundas Street.

The new structure will be virtually imperceptible from the other two viewpoints (the west side of Calton Hill and east side of Inverleith House) which illustrates the fact that the height and roof treatment has been carefully considered to ensure that the building will sit inconspicuously within elevated views.

Design Quality

The New Town Conservation Area Character Appraisal states that new buildings should be a stimulus to imaginative, high quality design and seen as an opportunity to enhance the area. Direct imitation of earlier styles is not encouraged, but rather new buildings should be designed with respect for their context.

The proposed design is a contemporary interpretation of the Georgian and Victorian tenements in the immediate vicinity in terms of spatial pattern, height, massing, proportions and detailing.

The block facing Fettes Row and turning the corner into Dundas Street reflects the 1820's buildings opposite in terms of height and prominence of the end pavilion (the latter on Fettes Row only), double-height detailing of the first/second floor piano nobile and windows ordered within a horizontal hierarchy.

The adjoining section on Fettes Row is visually subservient to the corner block, although greater in height than the Georgian terrace directly opposite. The deviation in height between the north and south sides of Fettes Row is acceptable given that a north side matching the original south side was never constructed and the modern established building height on the north side varies. The vertical break on the lower Fettes Row block will enhance the prominent and separation of the corner piece and add visual interest to this section. At lower ground level, the rustication tooling of the stone façade will reflect the hierarchy of stonework detailing typical of the Second New Town terraces.

The design of the block facing Dundas Street takes its lead from the Victorian tenements to the north which are of repetitive design without any overall architectural conception and the key elements of ground floor shopfronts hard on the building line and prominent vertically aligned window bays are included. The proposed structure incorporates four storeys and a fifth recessed storey above the shopfront where the Victorian tenements only have three, but the overall height is appropriate in terms of stepping up the street and the number and arrangement of storeys matches that of the adjacent modern tenement at 120 Dundas Street. The composition of the façade includes a visual step to reflect the gently sloping topography of this section of Dundas Street and characteristic historic feu pattern of the area, although this pattern was never established on this site. The sandstone shopfront piers help to break up the massing of the Dundas Street block and provide visual support for the upper floors.

In general terms, the top storey is conceived as a visually lightweight structure in comparison to the masonry elevations, with the massing in the revised scheme split into distinct elements to respond to the rhythm of chimney stacks on Dundas Street. The setback has been increased to ensure that the penthouse level reflects the subservience of the shallow roofs of the Georgian and Victorian tenements. The chamfered metal edge detail at the perimeter of each capping box gives depth and definition to the façades.

The proposed sawtooth chamfers and cassette panelling within the Dundas Street windows reveals are contemporary design elements but are interesting features which are an acceptable means of refining the mass of the stone elevation.

The rear elevations are different in design and material to the principal facades and this is appropriate to reflect the distinct character of the area to the rear of the site, which was formerly industrial and is now mainly occupied by flatted blocks, many with rendered elevations.

Materials Palette

The prevailing materials within the Second New Town are natural sandstone, slate and timber and the palette is limited.

The specified materials palette is appropriate and suitably restrained in this context, using a blend of traditional and contemporary materials, including natural blonde sandstone, bronze coloured aluminium and glass. A similar blend of materials has been used in other modern developments within the New Town Conservation Area, including those on the east side of Dundas Street. The bronze tone for the aluminium elements has been selected to ensure that the penthouse floor visually blends in with the historic slate roofs.

Whilst brick is not characteristic of the Georgian terraces and Victorian tenements within this area, the area between Fettes Row and Henderson Row was occupied by industrial buildings in the late 19th century, some of which were likely to have been constructed in brick, although there is no definitive photographic evidence. Red brick has been used in the 1980s redevelopment of the Silvermills area, so the use of buff coloured brick to tone in with the blonde sandstone street elevations of the proposed building is acceptable in this context. The specified brick is more likely to produce a higher quality finish than render and will break up the visual monotony and white tone of the neighbouring buildings to the rear which does not blend in with the grey-buff tones of the Second New Town.

The proposed brown roof will not be visible from street level, nor be highly conspicuous from elevated views. This is a suitable location to incorporate such a roof to assist with rainwater attenuation and encourage biodiversity, without it having a detrimental impact on the historic environment. The same applies to the arrays of photovoltaic panels to be installed on the flat roof in terms of minimal visual impact and environmental benefits.

A condition has been applied to ensure that the materials specifications are acceptable in terms of finer detailing, precise finish/tone and sustainability.

The Reporter concludes in the appeal decision for the previous application that the scale, massing, alignment and materials of the proposed development would respect the special character of the surrounding conservation area. The Reporter also accepts the removal of the nine street trees on Fettes Row and Dundas Street, despite stating that the trees, whilst not a common characteristic of the conservation area and in poor condition, have a positive impact on the amenity of the area. However, the Reporter makes the case that the redevelopment of the former RBS Data Centre on the opposite side of Dundas Street includes replacement buildings closer to the street than the former buildings on the site, so the proposed building line for the Centrum House site would have a positive year-round effect on the views from the north. On balance, therefore, the removal of the trees is justified.

Land Use

The proposed residential flats with commercial uses at ground and lower ground level are in keeping with the predominantly residential character and built form of the Second New Town and will contribute to the vitality of the conservation area.

Conclusion in relation to the conservation area

The proposals preserve the character and appearance of the conservation area in accordance with the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) Compliance with the Development Plan

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4.

The relevant NPF4 and LDP policies to be considered are:

- NPF4 climate and nature crises policies 1, 2, 3 and 9
- NPF4 historic assets and places policy 7
- NPF4 infrastructure policy 18
- NPF4 successful places policies 14 and 15
- NPF4 affordable housing policy 16
- NPF4 infrastructure policy 18
- LDP environment policies Env 12 and Env 16
- LDP Des 1, Des 3, Des 4, Des 5, Des 6, Des 7 and Des 8
- LDP housing policies Hou 1, Hou 2, Hou 3 and Hou 4
- LDP shopping and leisure policies Ret 5 and Ret 11
- LDP transport policies Tra 2, Tra 3 and Tra 4
- LDP delivery policy Del 1
- LDP employment policy Emp 10

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF4 Policy 7.

The 'Edinburgh Design Guidance' is a material consideration that is relevant in the consideration of several LPD housing, design, shopping and leisure and transport policies.

Uses

NPF4 Policy 27 supports development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses. The site lies within an urban area and Local Centre as defined in the Edinburgh Local Development Plan (LDP). The proposed mix of uses in this application is appropriate within this urban location.

In terms of office use, the viability of this site for large-scale office accommodation is rapidly approaching an end as there is now greater demand for office locations within the city centre where all public transport networks converge and there are key nodal locations which benefit from suitable infrastructure and scale.

The loss of the existing office use complies with Policy Emp 9 as the proposed residential development will contribute to the regeneration and improvement of the site and wider area and will not prejudice or inhibit the activities of any nearby employment use. While the site is smaller than one hectare and does not trigger the need for business floorspace, the proposed floorspace at ground and lower ground level is designed to provide for a range of business users.

Policy Hou 1 gives priority to the delivery of the housing land supply on suitable sites within the urban area provided proposals are compatible with other policies in the plan. Given the surrounding residential character, this is a suitable site for housing. Compatibility with other policies is assessed elsewhere in this report.

Policy Ret 5 supports retail development in a Local Centre which can be satisfactorily integrated into the centre, is compatible, in terms of scale and type, with the character and function of the centre and makes a positive contribution to the shopping environment and appearance of the centre.

The proposed commercial units are integrated into the development at ground and lower ground level on Dundas Street and on the corner of Fettes Row, which is keeping with the established pattern of the centre in terms of retail below residential. The extensive glazing of the units enclosed by modern interpretations of traditional shopfront piers will create active frontages which contribute to the character and vitality of the area. The proposed Class 2 (office) use would contribute to the appearance of the Local Centre in the same manner.

Policy Ret 11: Food and Drink Establishments presumes against the change of use to Class 3 if likely to lead to an unacceptable increase in noise, disturbance, on-street activity or anti-social behaviour to the detriment of living conditions for nearby residents, or in an area where there is considered to be an excessive concentration of such uses to the detriment of living conditions for nearby residents.

There are café, restaurants and bars within this area, but not in any concentrated sense and Environmental Protection is satisfied that Class 3 use would not cause any significant disruption for residents, if taken up in any, or all, of the proposed commercial units.

Conclusion in relation to uses

The proposed development is in accordance with NPF4 Policy 27 as it will enhance and improve the vitality and viability of this area. The uses proposed are sustainable in terms of allowing people to live and stay in their area with access to local shops, services and facilities. This will reduce car dependency and is consistent with NPF4 Policy 15 which supports developments that contribute to local living, including 20-minute neighbourhoods. The location of housing on a prominent and frequented north-south route within the city will support the prioritisation of women's safety.

Climate Mitigation and Adaptation

NPF4 Policy 1 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. The proposed development contributes to the spatial principles of 'Compact Urban Growth' and 'Local Living' through the use of a brownfield site for sustainable, energy-efficient housing within an existing community.

NPF4 Policy 2 a) supports development proposals that are sited and designed to minimise lifecycle greenhouse gas emissions as far as possible and in 2 b) those that are sited and designed to adapt to current and future risks from climate change.

NPF4 Policy 9 intends to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development. Part d) supports development proposals for the reuse of existing buildings, taking into account their suitability for conversion to other uses and emphasises the need to conserve embodied energy, with demolition regarded as the least preferred option.

The Sustainability Statement submitted compares the embodied and operational carbon of the re-use of the existing building (stripping back to the bare structure and extending to suit the proposed layouts), with the proposed new-build option (involving demolition of the existing building and erection of a new building of an appropriate height within this sensitive historic environment) over a 60-year life cycle.

Whilst the existing buildings are in reasonable structural condition, due to their age the mechanical and electrical systems are at the end of their service life and require replacement. If the buildings were to remain in office use, such a comprehensive refurbishment to meet modern occupational specification requirements would involve a considerable cost that could not be justified without a significant increase in the rental values, and this would render office use unviable in this location. Even if it were, the build performance would preclude optimum air tightness, thermal bridging and use of Air Source Heat Pumps (ASHPs) and Solar/Photovoltaic energy sources. There would also be no option to provide a brown self-seeding roof to reduce rainwater runoff, allow rainwater harvesting and promote biodiversity, due to the load-bearing capacity of the existing structures.

Apart from the build performance identified above, the conversion to residential would result in nine less apartments than proposed in the new-build option, given that an additional storey would have to be added to the existing structure, and this would result in a harmful impact on the setting of the adjacent listed buildings. Also, the existing buildings are set back significantly from the established building line on Dundas Street, so the new residences would lack high-quality amenity space, as there would be a disproportionate amount of open space to the front of the buildings. Similarly, there is also no opportunity to extend outwards whilst retaining an acceptable level of external amenity space.

In terms of embodied carbon, the proposed all-electric new build option is far more efficient than the retained buildings with a gas or part-gas heating system, creating less total carbon emissions and targeting an Energy Performance Certificate (EPC) 'A' rating. The applicant has submitted the sustainability form in support of the application. Part A of the standards is met through the provision of low and zero carbon air source heat pump technology for heating and hot water for the residential properties and no fossil fuel use is proposed on site. In addition, roof mounted photovoltaic (PV) arrays will facilitate on-site electricity generation and the installation will serve the communal areas of the development with any excess energy generated being exported to the grid. The proposal meets the essential criteria with additional desirable measures including communal recycling and rainwater harvesting. A further sustainability measure will be the provision of dedicated recycling holding areas within the development in accordance with the requirements of the Edinburgh Design Guidance.

The development site is near the city centre Air Quality Management Area (AQMA) which has been declared for exceedances in NO₂ and traffic from this development could feed into this AQMA and the Inverleith Row AQMA to the north.

Whilst 31 parking spaces are being provided, the site is close to local services and the city centre commercial core and will be well served by local public transport, so many local journeys by private car will not be necessary. Also, 118 cycle parking spaces will be provided to encourage active travel, including four non-standard spaces for inclusivity. The provision of seven electric vehicle charging points within the basement car park is an additional measure to encourage the use of electric vehicles where car journeys are made.

In addition, the development proposes sustainable spatial and water heating systems which will assist with air quality management.

The proposed development is therefore appropriate in terms of sustainability as it involves the location of housing on an accessible brownfield location and the replacement of the existing buildings, which are poor in terms of current environment standards, with a new structure conforming to current standards. This will contribute to climate change mitigation in the short and long term.

The proposal meets the current standards set out in the sustainability form.

Flooding and Drainage

The applicant has provided the relevant flood risk assessment and surface water management information for the site as part of the self-certification (with third party verification) process. The proposal includes permeable paving within the rear landscaping, a brown roof and storage tanks in the basement parking area.

As regards surface water management, there will be no increase in the volume of surface water discharged from the site as the existing footprint will not increase and Scottish Water has accepted this approach. Surface water will be discharged via gravity to a rainwater harvesting tank with an overflow connection to the public combined sewer on Henderson Place and foul water will be discharged to the combined sewer network. Scottish Water has confirmed that there is capacity in both Glencorse and Edinburgh PFI Water Treatment Works to service the development.

The proposals satisfy the Council's Flood Prevention requirements.

Biodiversity

NPF4 Policy 3 requires that proposals for local development include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance.

The loss of the existing nine perimeter trees on the site is unfortunate, but the tree survey concludes that these trees, comprising seven Limes and two Elms, all Category C, semi-mature and between six and eight metres high, are in poor condition. The trees were planted as part of office development within retained structures below street level and have been subjected to major crown reduction from heavy pruning. The quality and longevity of these trees is limited, so their removal is acceptable.

To mitigate this loss, six small deciduous, ornamental trees will be planted within the rear terrace area. The species proposed are of appropriate scale and type to provide visual interest and shelter within this relatively shaded area without the capability of growing to height and spread where heavy pruning would be required. These new trees will encourage and support biodiversity along with the proposed low-level planting which will suit the local environment.

The proposed brown self-seeding roof will further enhance local biodiversity by creating a natural habitat that supports various plants, invertebrates and birds.

A condition has been applied to ensure that swift bricks are included on the rear elevation.

No bat survey was required given that there is virtually no likelihood of roosting bats on this site.

The development will therefore support and encourage local biodiversity and have no adverse impact on protected species or significant trees, in accordance with NPF4 Policy 3 and LDP Policies Env 12 and Env 16.

Conclusion in relation to climate mitigation and adaptation

In conclusion, the development will meet the sustainability requirements of NPF4 Policies 1, 2 and 9 and LDP Policy 6 in terms of location on a brownfield site, energy efficiency and surface water management. The development will also support and encourage local biodiversity and will have no adverse impact on protected species or significant trees, in accordance with NPF4 Policy 3 and LDP Policies Env 12 and Env 16.

Historic Assets and Places

NPF4 Policy 7 requires that proposals with a potentially significant impact on historic assets or places should be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.

Setting of Listed Buildings

NPF4 Policy 7 c) supports proposals for the alteration or extension of a listed building, or works that impact on its setting, where its character, special architectural or historic interest are not adversely affected.

This has been assessed in section a) and the proposals comply with NPF4 Policy 7.

Character and Appearance of Conservation Area

NPF4 Policy 7 d) only supports development proposals in conservation areas where they preserve or enhance the character and appearance of the conservation area and its setting.

This has been assessed in section a) and the proposals comply with NPF4 Policy 7.

Outstanding Universal Value of World Heritage Site

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

NPF4 Policy 7 I) only supports development proposals affecting a World Heritage Site or its setting where their Outstanding Universal Value is protected and preserved.

The site is on a prominent corner within the New Town Conservation Area and sits to the immediate north of the World Heritage Site boundary.

Edinburgh World Heritage Trust EWH identifies five overarching themes of the key qualities of the OUV and considers the two most likely to be affected are as follows:

- *'A Model City': the Old and New Towns embody the changes in European urban planning from inward looking, defensive walled medieval cities, through 18th and 19th centuries formal Enlightenment planning, to the 19th century revival of the Old Town with its adaptation of a Baronial style of architecture in an urban setting.*

The site is within the Second New Town developed in the earlier half of the 19th century, and its character is a continuation and development of the planning ideals established in the First New Town, including the grid-iron urban plan, aesthetic and spatial hierarchy of 'streets and storeys', consistent building lines and spatial character, architectural character informed by classical forms and ideals, residential use, separation of entrances from public realm over basement level and consistent/high quality materials.

- *'Iconic Skyline': The dramatic hills and green spaces of the landscape, plus key buildings of the Old and New Towns give Edinburgh its iconic skyline that has inspired generations of artists, writers, visitors and residents.*

Edinburgh's architectural form responds to the dynamic views and topography on approach/exit from the World Heritage Site, in a manner that reinforces the New Town planning ideals and character, including the stepping down of eaves levels in response to topographical slope, heights consistent with local character and the traditional forms of roofscapes which are more visible due to the topography.

EWH does not object to the principle of developing this site, on the basis that the existing buildings do not make a positive contribution to the OUV and supports the proposed building lines which reinforce local character. However, EWH considers that important elements of the design do not adequately respond to local character and, as a result, would disrupt the key qualities outlined above, causing harm to the OUV through insensitive development within its setting.

HES, in contrast, did not consider that the previous, similar scheme would impact significantly on the OUV of the adjacent World Heritage Site, even although the proposed building was clearly more pronounced and visible than the existing 1980's development.

EWB acknowledges the improvement of using more contextual materials for the ground floor commercial space but maintains that the proposed scheme does not adequately address the insensitivity of the development within its setting.

Conclusion in relation to the World Heritage Site

The development will therefore have no detrimental impact on the character or appearance of the Georgian New Town, nor its relationship with the medieval Old Town and will cause no harm to the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site, in compliance with NPF4 Policy 7.

Archaeological Remains

NPF4 Policy 7 o) states that non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible.

The site is within an area associated with medieval industry and farming, but it is highly likely that the construction of the 1980's office blocks removed any significant archaeology across the site, so the development will have no adverse impact on any important remains.

Conclusion in relation to Historic Assets and Places

The proposed development will have an acceptable impact on the historic assets affected, in accordance with NPF4 Policy 7 c), d), l) and o).

Design, Quality and Place

NPF4 Policy 14 supports development proposals that are designed to improve the quality of an area and are consistent with the six qualities of successful places.

Built and Landscape Design

LDP Policy Des 1 provides that the design of a development should be based on an overall concept which draws upon the positive characteristics of the surrounding area, to create or reinforce a sense of place, security and vitality. It further provides that planning permission will not be granted for poor quality or inappropriate design, or for proposals which would be damaging to the area's character or appearance, particularly where this has a special importance. Likewise, LDP Policy Des 3 supports development where it is demonstrated that the existing characteristics and features worthy of retention on the site and in the surrounding area have been identified, incorporated and enhanced through its design. LDP Policy Des 4 states that development should have a positive impact on its surroundings in terms of height and form, scale and proportions and materials and detailing.

The proposed scheme will contribute to a sense of place by reinforcing the established pattern of development and uses within this Dundas Street block between Henderson Row and Fettes Row which comprises residential uses on the upper floors with active uses at street level.

The design concept seeks to address the different architectural conditions between Dundas Street and Fettes Row whilst at the same time creating an elegant building that compliments its surroundings at the edge of the Second New Town. Centrum House and the contemporary flats at 30-31 Fettes Row are the only parts of these streets that do not have a consistent building line or neo-classical influenced design. Whilst the proposed development cannot resolve all issues arising from the competing conditions surrounding the site, the building's key function of turning the corner from Dundas Street into Fettes Row in a way that is both elegant and sensitive to its context will be achieved.

The site's existing office use along with the deep setback from the Victorian building line creates a significant break in the otherwise unified building uses and frontages, so the proposed development will complete the block and restore the urban grain, creating active frontages at street level. The proposed building lines also provide the opportunity to improve the visual character of the rear of the site through the creation of green landscaping and this reflects the back gardens of the Second New Town.

Architecturally, the building volume is conceived as three separate forms with breaks on Fettes Row and Dundas Street. The style is contemporary and incorporates elements influenced by characteristic features of the adjacent Georgian terraces and Victorian tenements on Dundas Street and similar features to those of the modern development at 5-6 St Vincent Place which is contemporary and minimalist in style.

The importance of the development's setting within the townscape of the Second New Town has been recognised in the design and key views from the north and south, particularly with regard to the planned views up and down Dundas Street, have been considered in the proposed siting, massing, height, roof form, elevational treatment and materials. The result is a coherent and integrated design in terms of both close up and longer views.

In the appeal decision on the previous application, the Reporter acknowledges that whilst the massing and form of the proposed scheme loosely reflects the traditional tenement buildings in the vicinity, it is not an accurate representation of the buildings that historically occupied the site. However, the Reporter finds that the design and detailing of the proposal responds positively to the surrounding environment, without being pastiche, and is clearly an innovative product of its time. The one element of the proposed building that the Reporter describes as "...jarring and discordant with the wider street scene", i.e., the projecting corner section on the Fettes Row elevation, has been omitted in the current application.

LDP Policy Des 7 supports development which enhances community safety and urban vitality and provides direct and convenient connections on foot and by cycle.

The site is in a central city location within a short distance of local bus stops and within easy walking distance of other modes of public transport, including tram and bus and rail links. Also, secure off-street cycle parking will be provided to encourage active travel.

LDP Policy Des 8 supports development where all external spaces and features have been designed as an integral part of the scheme as a whole. The containment of the proposed green landscaping to the rear of the building follows the established pattern of the area in which the streetscape is austere and private or communal gardens are either concealed to the rear of the terraces or contained within formal shared residents' gardens.

The proposed landscaping layout is designed to be in keeping with the historic context whilst, at the same time, be suited to the specific site conditions given that sunlight will be restricted within the north-facing rear gardens. The proposed sandstone paving within the private terraces on Fettes Row reflects the characteristic sandstone flagstones within the basement lightwells of the Second New Town and the hard and soft landscaping materials specified are suited in type and durability to damp and shaded conditions. Surface pavements will be porous to assist with rainwater attenuation and public safety. The proposed pergola, hedging, trees and sunken levels will provide shelter for users of the gardens.

The design will contribute to a pleasant and distinctive place to live in terms of respecting local and wider building heights, forms and materials, creating visual interest through the careful choice of finishes and detailing, including active frontages at street level and the creation of green outdoor amenity space where there is currently tarmac. Also, the buildings will be adaptable, allowing for flexibility so that they can meet the changing needs and accommodate different uses over time, such as hotel, office, student accommodation, co-working space, or a different mix of residential flats.

Density

LDP Policy Hou 4 states that the Council will seek an appropriate density on sites giving regard to the characteristics of the surrounding area, the need to create an attractive residential environment, accessibility and need to encouraging local services.

The proposed 49 units is comparable in terms of density to the recent flatted development at 120 Dundas Street which contains 24 flats. Although this is higher than that of the Victorian tenements in the block, such a density is acceptable in this urban environment which is close to the city centre. Also, the number of units proposed is linked to the viability of the scheme with an affordable element included, so a higher density than that of the historic tenements is acceptable in this context.

Housing Mix and Sizes

LDP Policy Hou 2 seeks the provision of a mix of house types and sizes where practical.

The flat for sale on the open market are predominantly two- and three-bedroom units with two five-bedroom units. Seventeen of the units (46%) contain three or more bedrooms designed for growing families, which meets the requirements of the Edinburgh Design Guidance. The affordable units are two- and one-bedroom only, but this deviation from the required standards is acceptable in order to accommodate the required 25% affordable element within a viable scheme.

The Edinburgh Design Guidance includes minimal internal floor areas for flats and the units for open market sale and affordable flats all comply with these recommended minimum sizes, ranging from 52-58sqm for one-bedroom, 72-94sqm for two-bedroom, 117-150sqm for three-bedroom and 154-166sqm for five-bedroom.

The number of dual aspect dwellings make up 51% of the overall units and this complies with the criterion of the Edinburgh Design Guidance.

Affordable Housing

NPF4 Policy 16 supports development proposals for new homes where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes.

LDP Policy Hou 6 states that planning permission for residential development, including conversions, consisting of 12 or more units should include provision for affordable housing amounting to 25% of the total number of units proposed. For proposals of 20 or more dwellings, the provision should normally be onsite.

The applicant has engaged early with both the Council and Registered Social Landlords (RSL) to find an onsite affordable housing solution and has submitted an Affordable Housing Statement which proposes the delivery of 12 affordable homes on-site.

There will be a mix of eight one-bedroom flats and four two-bedroom flats within a contained stairwell. The homes will be close to regular public transport links and next to local amenities. The affordable homes will be tenure blind and fully integrated with the rest of the development.

Although the proposal will not deliver a representative mix, the proposed flat sizes are most viable and terms of the overall scheme and most attractive to RSLs. The applicant has engaged with an RSL who is interested in delivering the 12 units as mid-market rent. A letter of support has been submitted by the RSL which confirms that the proposed affordable units will make a positive addition to the provision of affordable housing in the area. Also, 66% of the affordable units are dual aspect which will partly mitigate for their relatively small scale in comparison to the market rent flats.

The applicant has submitted a cost plan for review which shows that the construction costs for the revised scheme will still be higher than for other residential schemes across the city because of site constraints and that the design and materials reflect the prominent location of the development within the New Town Conservation Area and adjacent to the World Heritage Site.

Initial discussion between the developer, the RSL and Housing Management and Development has indicated that the delivery of on-site affordable housing could still be viable based on the current cost plan. However, the use of commuted sums is likely to be required. This could be justified because of the opportunity to get affordable housing in a location this close to the city centre. The site is within the Inverleith ward but immediately adjacent to the City Centre ward.

Any alteration on the delivery of the on-site affordable units would require further planning approval based on the information available at that time.

The provision of 12 on-site affordable housing units complies with LPD Policy Hou 6 and will be secured by a Section 75 legal agreement.

Residential Amenity

LDP Policy Des 5 seeks to ensure that the amenity of neighbouring residents is not adversely affected by development and that future occupiers of residential properties have acceptable levels of amenity.

The proposed residential use and commercial uses are compatible with the predominantly residential character of this area and will not lead to an unacceptable loss of amenity for any residential properties in the vicinity.

Communal/Private Outdoor Space

Residents will have access to the communal landscaped garden at the rear which has seating and sheltered areas. In addition, some flats will have private gardens or terraces and others will have full-length windows with small balconies. Those living on the upper floors will enjoy views across the city and beyond.

Approximately 33% of the total site area will be provided as usable green space, exceeding the 20% target set out in LDP Policy Hou 3. The private rear gardens are approximately 2.96 metres deep, which is only marginally short of the 3-metre minimum specified in the Edinburgh Design Guidance. The site is also close to King George V Park opposite Royal Crescent and within easy walking/bus distance of the Royal Botanic Garden and Princes Street Gardens.

The commercial units will also have separate areas of external amenity space at lower ground floor level.

Daylighting and Sunlight

A Daylight and Sunlight Report has been submitted which tests the effect of the proposed development on daylighting levels for the neighbouring residential properties and future occupants of the new flats. The daylighting levels will meet the requirement as set out in the Edinburgh Design Guidance within this urban context.

As regards the effect on the daylighting of the south-facing (gable) windows in 120 Dundas Street, daylight to gables and side windows is generally not protected under the standards set out in the Edinburgh Design Guidance. This building was constructed in 2009-10 to replace a 1980's office building and the design did not anticipate the possibility of the redevelopment of the Centrum House site in its inclusion of these windows.

In the appeal decision for the previous application, the Reporter concludes that there would be an adverse impact on the levels of daylight to these south-facing gable windows lighting dining rooms/kitchens at 120 Dundas Street to the extent that the levels would fail the standards set out within the EDG, even although the additional east-facing windows lighting the same rooms would mitigate these effects to an extent.

To address this situation, the current scheme proposes 1.4 metres set back section to the Dundas Street element of the new building adjacent to 120 Dundas Street. The effect of this set back is that the extent of failure of the gable windows is reduced significantly to between a marginal range of 0.62 to 0.67% under the Vertical Sky Component (VSC) measurement. Furthermore, only one window of the east-facing windows of these rooms fails the VSC criterion and overall, this is not significant given that this room has another east-facing window on the Dundas Street elevation.

The current level of daylighting at the rear of 120 Dundas Street will be improved significantly from the existing situation as the rear building line of the proposed flats is close to that of no. 120, whereas Centrum House formed a deep, overshadowing step back.

The Edinburgh Design Guidance sets out that new amenity areas should receive two hours of sunlight to at least 50% of their area at the Spring Equinox (March 21).

As the site lies to the north of existing buildings on Dundas Street and Fettes Row, overshadowing is inevitable. This is illustrated by a solar study that has been carried out to the specifications set out in the Edinburgh Design Guidance. The study shows that the minimum standard for sunlight hours will not be met, although sunlight will reach certain areas of the rear terrace at the Spring Equinox. However, this level of sunlight for the new amenity areas is acceptable, given the proximity of the site to a public park and other outdoor amenity spaces.

Privacy/Overlooking/Outlook

Only the windows in the south elevation of the new development (facing Fettes Row) will directly face the windows of neighbouring residences. Fettes Row is a relatively wide street and the separation distance between any directly facing windows will be approximately 23 metres.

There are no overlooking issues regarding the proposed raised terrace at the rear or rooftop terraces. The terminal wall of the proposed rear deck adjacent to the communal area of 120 Dundas Street is 2.2m high so this will provide adequate screening and no other existing residential amenity spaces are in sufficiently close proximity to be overlooked from the rear terrace. The revised scheme has significantly reduced the extent of the private terrace of the proposed penthouse flat immediately adjacent to the existing penthouse flat at the south end of 120 Dundas Street. This amendment, along with the introduction of a planter screen at the north end of the new terrace, will mitigate any loss of privacy to an adequate extent.

As regards outlook for the residents of 120 Dundas Street with dining room/kitchen windows facing south, the proposed building in the previous application would have blocked the immediate outlook of these windows, i.e., directly south up Dundas Street. The Reporter judges in the appeal decision that this outlook would be severely compromised, especially as it would be largely restricted to a blank wall in very close proximity to the affected windows. The current scheme, incorporating a 1.4 metres set back section on the north part of the new building's Dundas Street elevation, will maintain an immediate south-facing outlook for these neighbours, albeit different to the current view. Sight of the west side of Dundas Street southwards beyond Fettes Row will be replaced by views of the front elevation of the new building.

The immediate outlook for the top floor property at 120 Dundas Street will be further improved, compared to those in the previous application, through the reduced scale of the external terrace for the neighbouring penthouse property in the new building.

The level of impact on the immediate outlook of these south-facing windows within 120 Dundas Street is acceptable given that the proposed development seeks to reinstate the prevailing Victorian building line on Dundas Street. This would not be achieved, as well as losing vital accommodation space, were the 1.4 metres set back extended to the entire Dundas Street elevation.

Noise

The nearest residential properties are at 120 Dundas Street, 31 Fettes Row and 15 Henderson Place. A Noise Impact Assessment (NIA) has been submitted which recommends minimum wall and ceiling specifications for the commercial units and maximum plant noise levels to protect the amenity of the neighbouring residential properties and future occupiers of the development. The NIA also includes glazing specifications to address road traffic noise which could affect residents within the new flats.

Environmental Protection recommends the application of conditions to ensure that these noise reduction measures are implemented and the specified noise levels are met. A specific issue is that the no suitable ventilation details or specific equipment has been proposed for commercial Unit C that would allow it to operate in Class 3 use without causing potential odour issues for residents. This is due to practical reasons of providing this level of detail at this stage. Conditions have therefore been applied in line with Environmental Protection's recommendations to address this specific issue and general noise/odour matters.

As regards noise generated from the proposed rooftop and rear terraces, noise can be generated at present from existing domestic and commercial external amenity spaces at present and planning legislation has no control over the behaviour of future occupiers of the development using these spaces.

Ground Contamination

Due to the previously developed nature of the site, a condition has been applied requiring a site contamination investigation to be carried out and any necessary mitigation measures to be put in place in the interests of future occupiers of the development, as recommended by Environmental Protection.

Road Safety and Infrastructure

NPF4 Policy 18 supports development proposals which provide (or contribute to) infrastructure in line with that identified as necessary in LDPs.

Access and Traffic Generation

A Transport Statement has been submitted in support of the application which provides an assessment of the transport considerations associated with the proposal. The vehicular access to the site remains as currently in place, which is a single vehicular access point from Henderson Place. The main existing pedestrian routes to the site are safe and there is level access into each proposed residential stair and commercial unit. The Roads Authority has requested the upgrading of the footway on the east side of Henderson Place to tie in with the existing concrete paved footway to the north-west of the site.

The site is in an accessible location within easy walking distance to a range of local services and the city centre amenities (approximately 0.5 miles from Princes Street) and has good linkages to public transport. The nearest bus stops are adjacent to the site on the west side of Dundas Street and approximately 100 metres away on the opposite side of Dundas Street. An informative has been applied recommending the development of a Travel Plan by the applicant to encourage the use of sustainable modes of travel. This is in keeping with the NPF4 principles of connected and healthy places that make moving around easy and reduce car dependency.

Car and Cycle Parking

LDP Policy Tra 2 requires that developments make provision for car parking levels that comply with and do not exceed the parking levels set out in the non-statutory guidance.

The Council's parking standards contain no minimum levels for car parking and the proposed 31 spaces for this development is a reduction of over 30% in terms of the maximum number permissible in Zone 1. Included within this total number are three accessible spaces, two motorcycle spaces and seven electric vehicle spaces which complies with the minimum standards.

The Roads Authority has requested that the applicant contributes the sum of £7,000 towards the provision of one car club vehicle in the area this will be secured through a Section 75 legal agreement.

LDP Policy Tra 3 requires that cycle parking and storage within the development complies with Council guidance. A total of 118 cycle parking spaces will be provided at basement level within defined secure spaces, in excess of the minimum requirement of 106 spaces. The four non-standard spaces included will cater for a range of cyclists' needs.

The cycle stands will be mainly two-tier with Sheffield racks for the four non-standard spaces. Whilst this specification does not fully comply with the Council's cycle parking Factsheet, the two-tier racks were accepted in the previous application and were considered acceptable in order to accommodate 100% parking provision on this constrained site, along with a viable level of living space.

Waste/Serviceing

Waste will be collected via Henderson Place and a Swept Path Analysis has been provided to demonstrate that an appropriately sized vehicle can enter the site. There are also the requirements for trade waste producers to comply with other legislation, in particular the Waste (Scotland) Regulations. The Council's Waste Planning services supports the proposed waste and recycling strategy.

Education Infrastructure

This site falls within Sub-Area CB-3 of the Craigroyston/Broughton Education Contribution Zone.

The proposed development is required to make a financial contribution of £39,200 towards the delivery of the identified education infrastructure actions and current delivery programme within this zone based on the established 'per house' and 'per flat' rates for the appropriate section. This sum is calculated on the basis of 40 proposed flats (excluding the 9 one-bedroom flats within the development) and will be secured through a Section 75 legal agreement.

Conclusion in relation to the Design, Quality and Place

The development is in accordance with NPF4 Policy 14 in terms of improving the quality of this urban area and being consistent with the six qualities of successful places.

Conclusion in relation to the Development Plan

The proposed development broadly complies with the provisions of NPF4 and the LDP and there is not considered to be any significant issues of conflict.

c) Other matters to consider

The following matters have been identified for consideration:

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time 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. The scheme provides accessible access to all uses within the development and there are internal lifts to access all floors. Three accessible parking spaces are provided within the basement car park.

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 objections

New Town and Broughton Community Council (NTBCC)

Building Line

The major concern raised by local residents is with regard to the proposed bringing forward of the building line of the new development.

The set-back included in the current scheme mitigates to a degree the impact on the amenity on the majority of the residents in the adjoining 120 Dundas Street block and also improves the immediate streetscape fronting Dundas Street in terms of creating a more active frontage. NTBCC acknowledges the provision of more amenity space to the rear of the building but notes that this space is shielded by the new development and existing buildings as well as facing predominantly north, so it may not be used frequently.

Street Trees

NTBCC regrets the loss of all of the trees fronting the existing building. The trees in front of 108-116 Dundas Street have been a major feature of this part of the New Town for around forty years and are seen as a natural break in the local landscape and serve to frame the entrance from the north into the Second New Town and the World Heritage site. Street trees in an urban environment also contribute to carbon net-zero targets and improvements to biodiversity, so some trees should be retained on this lower stretch of Dundas Street - either existing or more appropriate replacements.

Residential Amenity (Daylight/Sunlight)

The set-back building line now proposed has significantly improved the daylight/sunlight assessment for the front elevation windows of 120 Dundas Street. However, the penthouse flat at 120 Dundas Street, which has deeper floor to ceiling south facing windows, will suffer in terms of outlook and privacy.

Building Height/Massing

NTBCC believes that EWH's suggestion to remove the top storey of the development and introduce a roof scape design which reinforces local character, along with a further stepping down of the height of the Fettes Row elevation after the corner block may help to address some of the concerns raised.

Active Frontage

A set-back, tree-shaded terrace at the front of the building providing outside space for the proposed commercial (Class 3) units would be more successful in this regard than the current proposal and contribute to place-making.

General

Sustainability

- the sub-structure of the existing buildings should be retained due to embodied carbon
- loss of street trees

- Historic Environment
- inappropriate building lines on Fettes Row and Dundas Street that do not preserve the "gateway" to the New Town
- does not respect the character of the surrounding listed buildings
- does not take into account the architectural features of the New Town Conservation Area

Design

- does not contribute to a sense of place
- over-large height and scale
- mundane, ugly and imposing architectural style
- does not respect the quality of the surrounding residences

- Amenity
- negative impact on daylighting, privacy and outlook of adjacent residences
- noise and disturbance from the proposed communal gardens and roof terraces

Transport

- added pressure on existing on-street parking difficulties
- increase of traffic at all times of the day and night that will cause additional noise and pollution

Services

- increased demand on recycling facilities/bins at the corner of Fettes Row/Dundas Street which are already regularly overflowing

These points have been assessed in section a) and section b) in the paragraphs on "Climate Change and Mitigation", "Biodiversity", "Architecture and Landscaping", "Residential Amenity" and "Road Safety and Infrastructure". The existing recycling facilities/bins at the corner of Fettes Row/Dundas Street will not be used by occupiers of this development and the proposals include a dedicated recycling area within the basement.

support comments

New Town and Broughton Community Council

- the retention of the undercroft/basement parking provision
- the re-instatement of basement wells along Fettes Row West
- a residential-lead development on this site and inclusion of affordable housing;
- the commercial units at street level which could improve the active street frontage and the vitality of the streetscape
- the integration of refuse and recycling storage into the design

General

- the proposal will facilitate and reinvigorate a tired brownfield site and is a good use of land available
- the location is central, accessible and highly sustainable with excellent active travel links/public transport facilities
- the inclusion of green energy sources, recycling facilities and ample cycle parking will assist with climate change mitigation
- much needed housing, including 25% affordable will be provided
- the proposed residential and commercial uses will boost the local economy
- the development will really enhance the attractiveness of the area and contribute to a sustainable community
- the re-design of the projecting corner bay along Fettes Row improves the setting of nearby listed buildings
- the character and appearance of the New Town Conservation Area will be preserved
- the outstanding universal value of Edinburgh's World Heritage Site will be maintained
- the design will create an improved 'place' at a scale/density appropriate to a city centre location
- the proposed building is better aesthetically than the existing and will align with the neighbouring buildings in style and appearance
- the building set back improves the immediate outlook and amenity for immediate neighbours.
- the amendments address the previous reasons for refusal

non-material comments

- noise and disruption during construction works
- potential damage to property as a result of construction works
- the structural stability of neighbouring properties
- payment for any damages during construction
- access to roof of 120 Dundas Street for maintenance
- access to recessed area at street level beside 120 Dundas Street
- timing of application submission

Whilst the issues raised regarding the effects of the associated construction works are non-material in planning terms, an informative has been added recommending that the proposed demolition/construction management plan is discussed with adjacent residents to identify possible impacts and mitigation measures. Dilapidation surveys are also recommended to be carried out in the adjacent properties before the works start and upon completion.

Conclusion in relation to other matters considered

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

Overall, the development is in accordance with the development plan. The proposals will deliver a sustainable and well-designed, predominantly residential scheme that will contribute to climate mitigation and adaptation and the restoration and enhancement of biodiversity. The design draws on the character of the surrounding area to create a strong sense of place and is consistent with the six qualities of successful places as set out in NPF4. The development is also in keeping with the overall aims of the Edinburgh Local Development Plan 2016 (LDP).

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Other material considerations support the presumption to grant planning permission.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. i) Prior to the commencement of construction works on site:
 - a) A site survey (including intrusive investigation where necessary) must be carried out to establish, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and
 - b) Where necessary, a detailed schedule of any required remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning Authority.
 - ii) Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided for the approval of the Planning Authority.
3. A detailed specification, including trade names where appropriate and sources, 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.
4. The approved landscaping scheme shall be fully implemented within six months of the completion of the development.

5. Swift bricks shall be installed on the rear elevation of the development. The proposed specification and locations shall be submitted to and approved in writing by the planning authority prior to construction works commencing on site.
6. The electric vehicle parking spaces (as shown on drawing L(PL)051 Rev D and dated 04/12/2020) shall be served by at least a 13- amp 3Kw (external three pin-plug) with capacity in mains for 32 - amp 7Kw electric vehicle charging sockets. These points shall be installed and operational in full prior to the development being occupied.
7. Noise from Commercial Units (internal)

The minimum octave band noise reductions to be provided by the partitions (walls and floors) between the proposed commercial units and the closest proposed noise sensitive receptor at each octave band shall be incorporated within the development in accordance with the levels set out in Table 9, page 16 of the ITP Energised Noise Impact Assessment (dated 14 November 2022) prior to the uptake of the approved commercial uses on site. Confirmation should be provided from a suitably qualified building engineer that the above sound insulation levels have been met.

8. Plant Noise

a) The enclosure proposed for plant located on the roof should be continuous (close boarded with no gaps) and have a density of at least 10 kg/m³.

b) The maximum cumulative octave band noise levels from roof plant shall comply with the levels at 1 metre as set out in Table 14, page 19 of the ITP Energised Noise Impact Assessment (dated 14 November 2022).

These measures shall be implemented prior to the uptake of the residential use on site and confirmation from a suitably qualified building engineer should be provided to confirm that the above maximum cumulative plant specifications have been met.

9. Use Classes

Unit C shall be restricted to Class 1 or 2 only. If units A and/or B are taken up as a Class 3 then the following information should be provided and agreed with Planning in advance of the premises beginning operations:

Noise

A noise impact assessment should be provided which confirms that noise from the fan, flue and extraction point will all be within NR25 noise level;

- i) inside the nearest residential property with the window open for ventilation purposes (for external noise coming into the nearest residential property) and;
- ii) within the upstairs/adjacent residential properties with the window closed (for internal noise transference through the floor/wall) and;
- iii) all noise mitigation measures required to meet the NR25 criterion are shown on a referenced and dated drawing including all specifications (including position and specification of silencers/attenuators, fan specifications including maximum noise levels).

Ventilation

In any case where Units A and/or B operate as a Class 3 premises, then the ventilation details as shown on drawing L(PL)058 Rev D and dated 2020 12 04 (including risers to roof through all floors) and drawing L(PL)059 Rev C and dated 2020 12 04 (including roof extraction area) shall be installed and operational prior to start of commercial operations on site.

Confirmation from a suitably qualified ventilation specialist which confirms the following shall also be provided:

- i) The system will be able to attain a minimum of 30 air changes per hour.
- ii) All internal ventilation system features and requirements (including fan(s) positions, specifying/showing number of fans, flue exit point from Class 3) are all shown on a referenced and dated drawing.

All noise and ventilation measures specified within a noise impact assessment and on drawings shall be installed and operational prior to the start of commercial operations beginning on site and with written confirmation provided by a suitably qualified person that the above requirements have been achieved.

Reasons

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.
3. In order to enable the planning authority to consider this/these matter/s in detail.
4. In order to ensure that the approved landscaping works are properly established on site.
5. In order to safeguard protected species.
6. In the interests of sustainable transport.
7. In order to safeguard the amenity of neighbouring residents and other occupiers.
8. In order to safeguard the amenity of neighbouring residents and other occupiers.
9. In order to safeguard the amenity of neighbouring residents and other occupiers.

Informatives

It should be noted that:

1. Planning permission shall not be issued until a suitable legal agreement has been concluded to secure the following:

Affordable Housing

25% of the residential units to be of an agreed affordable tenure. The affordable housing within this development is intended to be delivered as mid-market rent. If there is a change to the intended tenure prior to the formation of the legal agreement the housing shall be delivered in accordance with the Council's affordable housing policy and guidance.

Transport

- the sum of £7,000 (£1,500 per order plus £5,500 per car) towards the provision of one car club vehicles in the area
- the upgrading of the footway on the east side of Henderson Place fronting the proposed development/existing car park to concrete pavement to tie in with the concrete paved footway to the immediate north, to the satisfaction of and at no cost to the Council.

Education

The sum of £39,200 (£980 per unit - flats with two or more bedrooms only) towards education infrastructure for Sub-Area CB-3 of the Craigroyston/Broughton Education Contribution Zone.

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

2. The proposed demolition/construction management plan should be discussed with adjacent residents to identify possible impacts and mitigation measures. Dilapidation surveys are also recommended to be carried out in the adjacent properties before the works start and upon completion.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 22 November 2022

Drawing Numbers/Scheme

01.05-07,09,10,11A-16A,17,18,19A,20A+21-23

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Clare Macdonald, Senior Planning Officer
E-mail:clare.macdonald@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Archaeologist

COMMENT: No known, significant, archaeological implications regarding this application.

DATE: 6 December 2022

NAME: New Town/Broughton Community Council

COMMENT: Comments submitted as a representation (full summary within the assessment).

DATE: 30 December 2022

NAME: Historic Environment Scotland

COMMENT: No comments to make on the proposals.

DATE: 16 December 2022

NAME: Affordable Housing

COMMENT: No comments received.

DATE:

NAME: Environment Protection

COMMENT: No objection, subject to conditions on ground contamination and noise and ventilation.

DATE: 24 January 2023

NAME: Communities and Families

COMMENT: No comments received.

DATE:

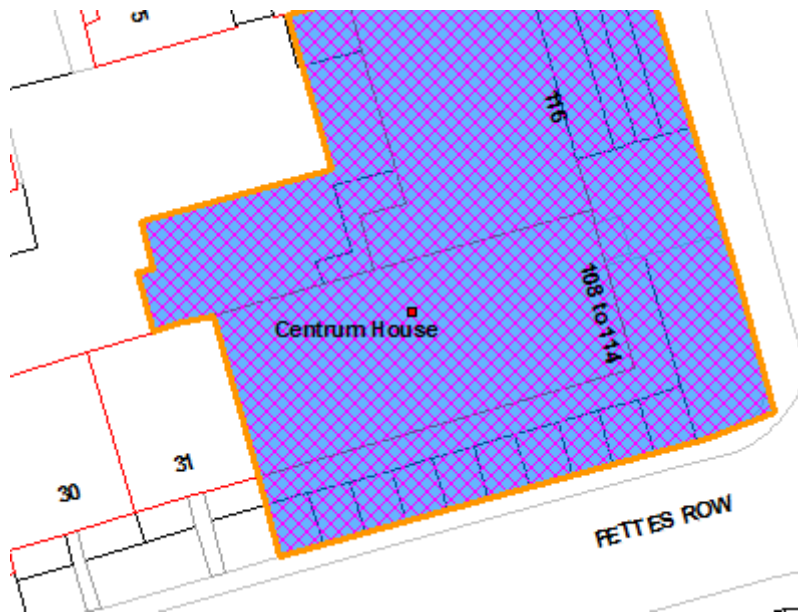
NAME: Edinburgh World Heritage

COMMENT: Acknowledges the improvement of using more contextual materials for the ground floor commercial space but cannot support the current proposals as they would cause harm to the OUV of the World Heritage Site.

DATE: 13 December 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 23 August 2023

**Application for Conservation Area Consent
Centrum House, 108 - 114 & 116 Dundas Street, Edinburgh.**

Proposal: Complete demolition in a conservation area.

**Item – Committee Hearing
Application Number – 22/05884/CON
Ward – B05 - Inverleith**

Reasons for Referral to Committee

The proposed demolition affects buildings on a sensitive site within the New Town Conservation Area around which there are several listed buildings and there is an associated application for planning permission that has received more than six objections. Therefore, the application must be determined by the Development Management Sub Committee due to being of significant public interest.

Recommendation

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

Summary

The demolition of the existing building is acceptable in terms of Section 66 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the interim HES guidance.

SECTION A – Application Background

Site Description

The application relates to a site measuring approximately 0.167 hectares in area located at the north-west corner of Dundas Street and Fettes Row, bounded by Henderson Place to the rear (west).

The existing buildings on site comprises two adjoining office blocks 108-114 Dundas Street 116 Dundas Street, dating from the 1980s. Both blocks are seven storeys high in total with a combined internal floor area of approximately 4,600sqm and two below ground levels including a car park with 35 spaces at basement level.

Several category B listed buildings are in proximity to the site, the nearest being the adjacent buildings to the south at 13-24 Fettes Row (inclusive numbers) and 104 and 106 Dundas Street (reference LB28755, listed on 10 November 1966). The other listed buildings are on the opposite corner to the site at 1-12 Fettes Row (inclusive numbers) and 99-103 Dundas Street (reference LB28754, listed on 15 July 1965), 87-97A Dundas Street (reference LB28712, listed on 13 September 1964) and 79-85 Dundas Street and 34B Cumberland Street (reference LB28711, listed on 13 September 1964). All these buildings are category B listed.

The site is within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site boundary runs adjacent to the southern edge of the site.

The former Royal Bank of Scotland offices occupy the corner site opposite on the east side of Dundas Street and north side of Fettes Row. A recent residential development at 120 Dundas Street, built around 15 years ago, adjoins the site to the north and there are residential flats to the north-west of the site on Henderson Row.

The site is mainly level, with a gradual rise from north to south up Dundas Street. There are nine street trees located within the hard landscaping of the basement lightwell to the front of the buildings which is enclosed by a plinth with railings. The land to the rear of the site comprises a tarmac car park and the north boundary is marked by a residential block and its communal garden wall.

Description of the Proposal

The application is for the demolition of the existing buildings on the site comprises two adjoining office blocks: 108-114 Dundas Street 116 Dundas Street, dating from the 1980s.

An associated application for planning permission has been submitted for the demolition of the existing buildings on the site and erection of a mixed-use development comprising 49 flats, including 12 affordable units, with three commercial units in Class 1 (retail), 2 (office) and 3 (café/restaurant) uses at ground and lower ground level, private and communal amenity space, landscaping and basement level car and cycle parking (application number 22/05886/FUL).

Supporting Information

- Heritage Statement
- Planning Statement
- Design and Access Statement and
- Tree Survey and Report

Relevant Site History

20/05645/FUL
Centrum House
108 - 114 Dundas Street
Edinburgh

Proposed demolition of existing office buildings and erection of a mixed-use development comprising 50 flats with 3 commercial units (Class 1, 2 and 3 uses), amenity space, landscaping, basement level car and cycle parking and other associated infrastructure (as amended).

Refused

7 October 2021

20/05646/CON

Centrum House

108 - 114 And 116 Dundas Street

Edinburgh

Complete demolition of existing buildings

Refused

7 October 2021

Other Relevant Site History

Appeals against refusal of above planning permission (application number 20/05645/FUL) and conservation area consent (application number 20/05646/CON) dismissed on 7 July 2022 (DPEA references PPA-230-2364 and CAC-230-2005). The Reporter concludes that the general principle of the proposed mixture of uses within the appeal site is supported, as is the demolition of the existing buildings. However, the Reporter dismissed the appeals on the following specific grounds that tip the balance out of favour of the development:

- the detrimental impact on the amenity of the neighbouring properties on 120 Dundas Street due to blocking the existing unimpaired outlook from the gable windows and specifically, the severe impact on the outlook from the large feature windows of the top floor property and
- the negative effects that the floating corner projection element of the design would have on the setting of the listed buildings and special character and appearance of the surrounding area.

Related Planning History

Former RBS site (on the opposite corner of Dundas Street/Fettes Row

1 September 2021 - planning permission granted for demolition of existing buildings and erection of mixed-use development comprising residential, hotel, office and other commercial uses, with associated landscaping/public realm, car parking and access arrangements at 34 Fettes Row (application number 20/03034/FUL).

26 February 2021 - conservation area consent granted for complete demolition in a conservation area at 34 Fettes Row (application number 20/03661/CON).

120 Dundas Street (adjacent the application site to the north)

19 January 2009 - planning permission granted to demolish office building and erect mixed use residential development (24 units) and commercial development (classes 1, 2 and 4) at 118 Dundas Street (formerly 120 Dundas Street) (application number 06/00946/FUL).

18 July 2006 - conservation area consent granted for demolition of office building at 118 Dundas Street (formerly 120 Dundas Street) (application number 06/00946/CON).

Pre-Application process

Pre-application discussions took place on this application.

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): 9 December 2022

Site Notices Date(s): 6 December 2022

Number of Contributors: 30

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 and replacement

Section 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in making a decision on the demolition of a building in a conservation area, certain provisions of the same Act shall have effect in relation to buildings in conservation areas as they have effect in relation to listed buildings.

Historic Environment Scotland's Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (April 2019) outlines criteria to assess the acceptability of the demolition of unlisted buildings within conservation area, including:

- *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.*
- *if the building is considered to be of any value, either in itself or as part of a group, a positive attempt should always be made by the planning authority to achieve its retention, restoration and sympathetic conversion to some other compatible use before proposals to demolish are seriously investigated.*
- *where demolition may be thought appropriate, for example, if the building is of little townscape value, if its structural condition rules out its retention at reasonable cost, or if its form or location makes its re-use extremely difficult, consent to demolish should be given only where there are acceptable proposals for the new building.*

The existing buildings sit on prominent corner towards the northern edge of the New Town Conservation Area. The south side of Fettes Row/Royal Crescent represents the northern most expansion of the Second New Town in its completed form. The corner blocks within Dundas Street form a visual 'gateway' into the Second New Town from the north.

The character of the south side of Fettes Row is that of a planned classical style residential development built in blonde Craigleith sandstone, dating from the 1820s, with the key characteristics of a monumental palace block with unifying symmetrical and rhythmic elevational treatment, no projecting elements in the wall planes and shallow roof pitches and slightly advanced terminal pavilions that are a storey higher.

The monumental palace designs of the east-west streets of the Second New Town were not possible to achieve on its steep south-north slopes, so the buildings on these streets are mostly tenement blocks. Whilst there is regularity and symmetry within the blocks, they step down as on Dundas Street as emphasised by the eaves and cornice.

The corner blocks of the east-west streets facing Dundas Street are usually on a level and of the same height (for example, in Great King Street). In order to deal with the Dundas Street slope, some east-west streets did not include terminal pavilion blocks, such as Cumberland and Northumberland Streets and the downwards 'step' continues on the north side of the street.

In contrast, the current and previous buildings on this site have not formed part of any planned development, although a residential development was planned for the area between Fettes Row and Henderson Row, probably by William Burn in the 1820s. Only a small part of this scheme was built, and the remainder of the area became occupied by an assortment of light industrial buildings constructed in the later 19th century and replaced by the current offices in the 1980s.

The existing buildings forming Centrum House form part of a small group of early 1980's structures of corporate character that are at odds with their predominantly residential context. BUPA house and Centrum House were design by Ian Burke Associates. The group includes the former Royal Bank of Scotland Computer Centre by Michael Laird and Partners, dating from 1978 on the opposite side of Dundas Street and Fettes Row, the subject of a recently granted application for conservation area consent to demolish the building (reference 20/03661/CON). "The Buildings of Scotland: Edinburgh" by Gifford, McWilliam and Walker, 1985 describes Centrum House and its adjoining office BUPA House as parodies of the RBS Computer Centre.

Some features of the buildings are unsympathetic to their location, particularly in terms of building lines design and landscaping. On Dundas Street, the two buildings are set back approximately 9.5 metres from the building line of the recent flatted block at No. 120. Whilst this line equates to that of the RBS Computer Centre opposite, it does not relate to the historic building line of the late Victorian tenements at 122-160 Dundas Street, nor to the Second New Town tenements at 78-106 Dundas Street. The mansard roofs are out of character with the shallow-pitch roofs of the listed Georgian buildings and later tenements.

The existing structures on the site are not without merit in terms of the setback building line on Fettes Row, natural sandstone frontages and inclusion of modern interpretations of traditional features, including basement lightwells, entrance platts and boundary railings. However, they are not particularly sensitive to the particular character of this part of the New Town Conservation Area in terms of their relationship to the nearby listed tenements and should not provide design precedents for any replacement buildings.

It should be noted that in the appeal decision for the previous application for conservation area consent, the Reporter concludes that the existing buildings do not contribute to the special character and appearance of the conservation area.

A condition is recommended to ensure that the buildings are not demolished before a detailed scheme has been granted and the Notification of Initiation of Development has been received with a start date for the detailed development.

Conclusion in relation to the demolition and replacement

The demolition of the existing building is therefore acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the interim HES guidance.

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

The New Town Conservation Area Character Appraisal identifies the key characteristics of the Second New Town as:

- *grand formal streets lined by fine terraced buildings expressing neo-classical order, regularity, symmetry, rigid geometry, and a hierarchical arrangement of buildings and spaces with controlled vistas and planned views;*
- *the generally uniform height ensuring that the skyline is distinct and punctuated only by church spires, steeples and monuments; and*
- *the important feature of terminated vistas within the grid layouts and the long-distance views across and out of the conservation area.*

As detailed in the assessment for the parallel planning application (reference 22/05886/FUL), the demolition of these buildings would enable the development of the site in a coherent and positive way. The replacement hard and soft landscaping is appropriately designed and specified in terms of the overall characteristics of the site.

Conclusion in relation to the conservation area

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) there are any other matters to consider?

The following matters have been identified for consideration:

Archaeological remains.

The site is within an area associated with medieval industry and farming, but it is highly likely that the construction of the 1980's office blocks removed any significant archaeology across the site, so the development will have no adverse impact on any important remains.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. The demolition of the buildings will enable the formation of improved access routes into the site and its facilities for people with mobility issues.

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

material objections

- Centrum House represents a specific time and style which should be preserved, adapted and reused to maintain the history of the street and preserve the conservation area.

support comments

- the removal of the existing buildings will preserve the character and appearance of the conservation area; and
- the existing buildings have no existing features worthy of retention.

non-material comments

The majority of comments, including those from the New Town and Broughton Community Council (NTBCC), relate to the associated application for planning permission (reference 22/05886/FUL) or are non-material in planning terms.

Conclusion in relation to other matters considered

The proposals do not raise any concerns in relation to other material considerations identified.

Overall conclusion

The demolition of the existing building is acceptable in terms of Section 66 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the interim HES guidance.

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 of Development for planning permission application reference 22/05886/FUL.

Reasons

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

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: 22 November 2022

Drawing Numbers/Scheme

01, 02A + 03A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Clare Macdonald, Senior Planning Officer
E-mail: clare.macdonald@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: No comments to make on the proposals.

DATE: 12 December 2022

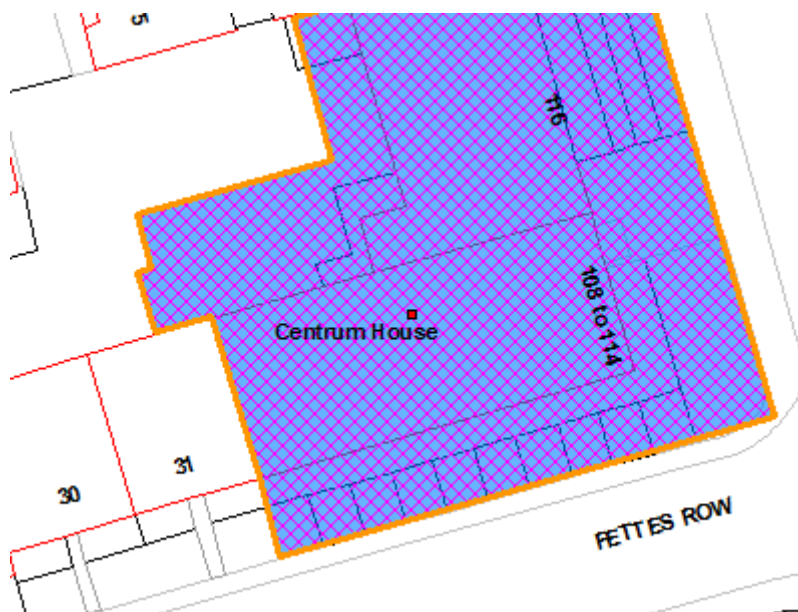
NAME: Archaeologist

COMMENT: No known, significant, archaeological implications regarding this application.

DATE: 6 December 2022

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

Location Plan



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