

# Notice of meeting and agenda

## Development Management Sub-Committee

**10.00am, Wednesday, 6th December, 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 webcast live on the Council's website.

### Contacts

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## 1. Order of business

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

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

## 3. Minutes

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- 3.1 Minutes of Previous Meeting of Development Management Sub-Committee of 8 November 2023 – submitted for approval as a correct record 9 - 20

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

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

- 4.1** 4 East Norton Place, Edinburgh, EH7 5DR - Change of use from residential (Sui Generis) to short-term let (Sui Generis) for three months per annum (June-August) (in retrospect) - application no. 23/04428/FULSTL - Report by the Chief Planning Officer 21 - 32
- It is recommended that this application be **REFUSED**.
- 4.2** Liberton Public Park, Liberton Gardens, Edinburgh - A new opening has been created in the existing boundary stone wall to the north of the site, to form the approved ramped active travel route into Liberton Park. A new opening has been created in the existing boundary stone wall to the west of the site, to form the approved emergency access route. The existing gated access to the west of the site has been removed and the opening in the boundary stone wall has been infilled with stone (in retrospect) (as amended) - application no. 23/02885/LBC - Report by the Chief Planning Officer 33 - 42
- It is recommended that this application be **GRANTED**
- 4.3** 7 Meadowbank (Site 30 Metres Southwest of), Edinburgh - Proposal: Erection of 8x flats, an office unit, relocation of sub-station and associated landscaping - application no. 23/01153/FUL - Report by the Chief Planning Officer 43 - 56
- It is recommended that this application be **GRANTED**.
- 4.4** 29 Paisley Gardens, Edinburgh, EH8 7JN - Reform the existing roof to create more bedroom space. (AS AMENDED) - application no. 23/03834/FUL - Report by the Chief Planning Officer 57 - 66
- It is recommended that this application be **GRANTED**.

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|---|---|----------|
| <b>4.5</b>  | 42 Saughtonhall Avenue (Land 14 Metres Northeast of),<br>Edinburgh - Demolition of garaging and erection of a two storey<br>dwellinghouse - application no. 22/06009/FUL - Report by the<br>Chief Planning Officer  | 67 - 84  |
| It is recommended that this application be <b>GRANTED</b> . |   |          |
| <b>4.6</b>  | 3 Tron Square, Edinburgh, EH1 1RR - Retrospective change of<br>use from residential (Sui Generis) to short-term let (Sui Generis)<br>for three months per annum (June-August) - application no.<br>23/04425/FULSTL - Report by the Chief Planning Officer | 85 - 96  |
| It is recommended that this application be <b>REFUSED</b> . |   |          |
| <b>4.7</b>  | 12 West Savile Road, Edinburgh, EH16 5NQ - Change of use<br>from Class 8 residential institution to Class 10 children's nursery<br>(as amended) - application no. 23/03388/FUL - Report by the<br>Chief Planning Officer                                  | 97 - 108 |
| It is recommended that this application be <b>GRANTED</b>   |   |          |

## 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.**

- |   |  |           |
|---|--|-----------|
| <b>5.1</b>  | 181 St John's Road, Edinburgh - Application for the Modification<br>of Planning Agreement (Section 75) associated with planning<br>permission 18/02831/FUL. Remove clauses to provide on site<br>affordable housing and replace these with clauses seeking to<br>make an off-site financial contribution as the construction costs of<br>delivering the existing consent are non-viable for affordable<br>housing developers- application no. 22/04607/OBL - Report by<br>the Chief Planning Officer | 109 - 120 |
| It is recommended that this application be <b>Accepted, and the Agreement be Modified</b> |  |           |

## 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.**

- |            |  |           |
|------------|--|-----------|
| <b>6.1</b> | 72 - 74 Eyre Place, Edinburgh, EH3 5EL - applications no's 23/04046/FUL and 23/04048/FUL - Protocol Note by the Service Director - Legal and Assurance   | 121 - 124 |
| <b>6.2</b> | 72 - 74 Eyre Place, Edinburgh, EH3 5EL - Erect 7x townhouses with associated amenity space, access, cycle parking, car parking and landscaping - application no. 23/04046/FUL - Report by the Chief Planning Officer<br><br>It is recommended that this application be <b>GRANTED</b> .                                      | 125 - 144 |
| <b>6.3</b> | 72 - 74 Eyre Place, Edinburgh, EH3 5EL - Erection of student accommodation with associated amenity space, access, cycle parking, disabled car parking and landscaping - application no. 23/04048/FUL - Report by the Chief Planning Officer<br><br>It is recommended that this application be <b>GRANTED</b> .               | 145 - 166 |
| <b>6.4</b> | Saltire Street (Land 80 Metres West and East of), Edinburgh - Proposed Phase 4 residential development at Waterfront Avenue with associated infrastructure and landscape (scheme 3) - application no. 22/06290/FUL - Protocol Note by the Service Director - Legal and Assurance   | 167 - 170 |
| <b>6.5</b> | Saltire Street (Land 80 Metres West and East of), Edinburgh - Proposed Phase 4 residential development at Waterfront Avenue with associated infrastructure and landscape (scheme 3) - application no. 22/06290/FUL - Report by the Chief Planning Officer<br><br>It is recommended that this application be <b>GRANTED</b> . | 171 - 204 |

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

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**The Chief Planning Officer has identified the following applications for detailed presentation to the Sub-Committee. A decision to**

**grant, refuse or continue consideration will be made following the presentation and discussion on each item.**

- 7.1** Confirmation of Tree Preservation Order No. 206 (Western Harbour) - Report by the Chief Planning Officer 205 - 216

It is recommended that the order is **NOT CONFIRMED**.

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

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

- 8.1** 8.1  
None.

### **Nick Smith**

Service Director, Legal and Assurance

## **Committee Members**

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Councillors Councillor Hal Osler (Convener), Councillor Alan Beal, Councillor Chas Booth, Councillor Lezley Marion Cameron, Councillor James Dalgleish, 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**

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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**

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If you have any questions about the agenda or meeting arrangements, please contact Taylor Ward, 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](mailto:jamie.macrae@edinburgh.gov.uk) / [blair.ritchie@edinburgh.gov.uk](mailto:blair.ritchie@edinburgh.gov.uk).

A copy of the agenda and papers for this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to [www.edinburgh.gov.uk/cpol](http://www.edinburgh.gov.uk/cpol).

## **Webcasting of Council meetings**

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The Council is a Data Controller under current Data Protection legislation. We broadcast Council meetings to fulfil our public task obligation to enable members of the public to observe the democratic process. Data collected during this webcast will be retained in accordance with the Council's published policy including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Generally the public seating areas will not be filmed. However, by entering the Council Chamber and using the public seating area, individuals may be filmed and images and sound recordings captured of them will be used and stored for web casting and training purposes and for the purpose of keeping historical records and making those records available to the public.

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

If you have any queries regarding this, and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial damage or distress to any individual, please contact Committee Services ([committee.services@edinburgh.gov.uk](mailto:committee.services@edinburgh.gov.uk)).

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# Minutes

## Development Management Sub-Committee of the Planning Committee

**10.00am, Wednesday 8 November 2023**

**Present:**

Councillors Osler (Convener), Bennett (substituting for Councillor Beal), Booth, Cameron, Dalgleish, Mattos-Coelho, Jones McNeese-Mechan, Mowat and Mumford (substituting for Councillor Staniforth).

### **1. General Applications and Miscellaneous Business**

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The Sub-Committee considered reports on planning applications listed in sections 4 and 6 of the agenda for this meeting.

**Substitutions:**

Councillor Bennett for Councillor Beal.

Councillor Mumford for Councillor Staniforth.

**Requests for a Presentation**

Councillor Booth requested a presentation in respect of Item 4.1 – 33-34 Castle Terrace, Edinburgh (Former) – application no. 23/02200/FUL.

**Decision**

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

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

### **2. 14 Ashley Place, Edinburgh**

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The Chief Planning Officer had identified an application to be dealt with by means of a hearing for proposed purpose-built student accommodation with associated infrastructure and landscaping at 14 Ashley Place, Edinburgh - application no. 22/06251/FUL.

**(a) (Report by the Chief Planning Officer)**

Planning permission was sought for the erection of purpose-built student accommodation including amenity space, associated landscaping, and ancillary facilities.

The 'U' shaped building was 4-6 storeys high fronting Ashley Place on two sides with an internal courtyard. There was a small south facing garden fronting Ashley Place. The

building incorporated a roof terrace with the 5th storey set back from the Ashley Place frontage. The wing of the building overlooking the Elizafield Industrial estate was 4 storeys high with a roof garden.

The ground floor layout included the main entrance, internal amenity space, gym, cycle stores, plant, and bin store. The internal amenity space overlooked Ashley Place providing an active frontage to this part of the street.

### Accommodation

The student accommodation provided 232 rooms in total. This consisted of 55 cluster flats (24%), 164 Studio Rooms (70%) and 13 accessible rooms (6%). The cluster flats each contained 5 bedrooms sharing a kitchen, dining, and living area. The amenity areas included a south facing garden of 195 sq. m, a 357 sq. courtyard, a 155 sq. m roof terrace - totaling 707 sq. and 252 sq. M internal amenity space.

### Landscaping

The three main areas of landscaping included the internal courtyard, the roof top terrace and street garden. The courtyard included seating, three trees, shrubs, ornamental planting grass, and block paving. The roof terrace consisted of a sedum green roof, with ornamental planting and a seating area. The street garden was mainly ornamental planting with three trees, seating, and outdoor gym bars.

### Cycle Parking

232 cycle parking spaces (100%) were provided for students on the ground floor level of the building and within covered cycle parking storage in the courtyard. The bike storage consisted of a mix of two-tier bike racks with assisted upper bike racks for 93 spaces (40%) and 93 spaces on the lower tier (40%) as well as 46 spaces on Sheffield stands (20%) with a 2-metre separation distance between them for non-standard bikes. There were an additional six spaces for visitor and short stay cycle parking at the main entrance to the building.

### Sustainability

The roof terrace and upper roof would act as a blue roof attenuating, storing, and filtering rainwater. The two lower roofs would be extensive green roofs. Photovoltaics and air source heat pumps would also be provided at roof level, to provide heating and hot water for the development.

### Waste

The existing site was asphalt with no remaining buildings on site for the reuse of materials. A target of 90% of the construction waste would be diverted from landfill and separated into key waste groups. All accommodation would be provided with recyclable

waste storage areas and space would be allocated in communal bin stores. Refuse collection would be by a private collection service.

### Supporting Information

The following documents had been submitted in support of the application:

- Archaeology Assessment
- Design and Access Statement
- Geo-environmental Assessment
- Noise Impact Assessment
- PAC Report
- Planning statement
- Site Investigation Report
- Surface Water Management Plan and Flood Risk Assessment
- Sustainability Form
- Transport Statement

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday 8 November 2023, 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

#### **(b) Leith Central Community Council**

Charlotte Encombe addressed the Development Management Sub-Committee on behalf of Leith Central Community Council. Ms Encombe indicated that in October 2019, the developer was granted planning permission to build 65 flats in an area which measured 0.2 hectares. 4 years later, the developer wanted to build 230 students' bedrooms almost on the same site, but it had reduced by 300 sq. metres, which was just below threshold that required the developer to build 50% housing.

There were issues with ownership of the site, circumventing the rules of the council by artificially reducing the size of the site allowing the developer to avoid providing 50% housing on site. This created a precedent for other developers to avoid building housing and build more student housing. In Leith and other areas, there was already a growth of student housing and shortage of other housing. The proposals for more student housing would impact on the community in Leith. There were already plans for over 5,000 student units in the pipeline, many of which would come to Leith, which was already densely populated. This trend was ruinous, local residents felt ignored, could not access services and the local community did not receive the benefits of the new housing.

In conclusion, this development would set a dangerous precedent and would cause more student housing on sites that had been artificially reduced. The local community wanted housing that met the requirements set by the Council, that 50 % was dedicated to housing and should respect and enhance the integrity of the local community.

[Development Management Sub-Committee - Wednesday 8 November 2023, 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

**(c) Ward Councillors Caldwell and Rae**

Councillor Caldwell addressed the Sub-Committee. He wanted to thank the developers for their engagement at the pre application stage.

This area was not part of the controlled parking zone (CPZ). Phase 2 of the CPZ would be considered by the Transport Committee. He had several concerns. Firstly, there were issues with the change of size, there were 2 previous PANS and more scrutiny was required. Secondly, there was considerable interest from the local community. Thirdly, the way in which the site fitted in with the 2008 Bonnington Development Brief. Fourthly, the previous consents were only for a car park. The previous 2021 application was a mixed development and was closer to the Bonnington Development Brief. Car parks in the current plan indicated the 2004 approval, which was out of the enforcement period to be built.

In summary, the LDP in 2016 required that 25% should be affordable housing on sites larger than 1/4 hectare, as well as there being a 35% affordable housing requirement in the City Plan. This was below this threshold and he was skeptical of the officer's justification for this.

Councillor Rae addressed the Sub-Committee, indicating that Councillor Caldwell had covered most of the technical questions, especially regarding the original Bonnington Brief. The Community Council had indicated that there was so much student housing in Leith and Leith Walk, that the services were being crippled and this was causing difficulties for residents. The other issue was that when students came to access their accommodation, it was causing chaos and brought the area to a standstill at least twice a year. This development seemed similar to other student developments, as it seemed to be a template for making money for developers. Although there was a housing emergency, in this area, there was only 13% social housing provision and people were being evicted from private sector rentals. While at the same time, the Council was permitting student developments.

She concurred with the previous speaker that members should look at the original development, that included housing. This should not be at 25% but at the Council's goal, which was at least 35%.

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday 8 November 2023, 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

**(d) Applicants and Applicant's Agent**

Hugh Shepherd (Scott Hobbs Planning), Daryl Teague (Glencairn Properties) and Kerri Nicol (ISArchitect) were in attendance in support of the application.

Kerrie Nicol indicated that she represented IS Architects who were the architects involved in the development and she would introduce the scheme. There might be some repetition with what the planning officer had already outlined and then she would hand over to Daryl Teague who was the developer from Glencairn Properties.

The proposed application sought to re-develop 14 Ashley Place into purpose-built student accommodation. This proposal was an amendment to the previously consented development and mirrored the consented massing and form, albeit for the change of use. The proposals retained the massing of the previous scheme, addressing Ashley Place, providing articulation at the prominent corner facing onto Tinto Place. This application introduced an additional wing which faced onto the Elizafield Industrial Estate. The new low-level wing also incorporated an accessible roof terrace.

The applicant then outlined the following issues:

- The top floor of the development was set back from the building edge on both Ashley Place frontages.
- The site had excellent connections to public transport, local shops and services and would be car free.
- Cycle parking for 232 cycles and secure parking areas was provided.
- The site had excellent access to local bus services.
- There would be good access to the transport network and the site met sustainable transport requirements.
- The proposed development was significantly below the 50% threshold set by the supplementary guidance for student accommodation.
- The development would not have a material detrimental effect on the living conditions of the nearby residents.
- The proposals did not prejudice the future development of potential of nearby neighbouring land.
- There was the potential for road access immediately to the north-west of the site, connecting the Elizafield Industrial Estate, access and Ashley Place.
- The new wing followed the established urban layout of perimeter blocks and build line off the street.
- The location of a gym and green walls, with proposed planting would provide ecological improvement and increased biodiversity.
- External amenity had been increased to 28% in the revised submission.
- External amenity was provided by way of the south facing area onto Ashley Place and internal courtyard and a roof terrace.
- The construction of both the roof terrace and the upper roof levels would act as blue roofs, which would further enhance biodiversity.

- There would be the provision of low carbon heat pumps, space for photovoltaics and swift bricks incorporated into the facades.
- The landscape proposals for the site would provide significant enhancement to the existing natural habitat.

In conclusion, it was felt that the proposed development met the requirements of the City of Edinburgh Planning and Design Guidelines. The site was excellently located in transport terms to accommodate the proposed student housing, adding vibrancy, contributing to the local economy and creating a diverse and mixed-use area. The application not only considered the immediate site but also the surrounding area, thus providing comprehensive development of both this site and providing a blueprint for a future regeneration.

Darryl Teague indicated that he wanted to provide some clarity to the site area where there had been some misunderstanding. So, while they had not received the previous planning permission, they started to conduct their community council negotiations and related to the consented scheme. Therefore, the area of car parking consented in the adjacent Miller Homes Application was actually included within the area in question. So, the latter scheme had sought to avoid this crossover with the consent and implemented development for Miller Homes next door.

There had been discussions with Miller Homes about the delivery of this parking and also the road link to complete the Ashley Place, which was what was mentioned earlier when talked about the RCC not being fully completed and the road not fully being adopted. So effectively, until they could complete their works, the road would not become adopted.

However, if they did have to deliver that element of the parking, as pointed out by the case officers, the student housing guidance referred to the development of area of sites of more than 0.25. hectares, having the condition of mixed residential and student accommodation. It was also noted that once the highway land was removed from that, their application site was actually 0.22 hectares, so the public area that was going to become adopted was not considered developed in this case, the site area was 0.22 hectares.

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday 8 November 2023, 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

### **Motion**

To **GRANT** planning permission subject to the conditions, reasons, informatives and a legal agreement as set out in section C of the report by the Chief Planning Officer.

- moved by Councillor Jones, seconded by Councillor Mowat.

### **Amendment**

To **REFUSE** planning permission as the proposals were contrary to LDP Policies Des 5(e), Hou

8(a) and Tra 3 and Tra 4, and Student Housing Guidance (para d), NPF4 Policy 13(b), and Cycle Fact Sheet C7.

- moved by Councillor Booth, seconded by Councillor McNeese-Mechan.

### **Voting**

For the motion: - 3 votes

For the amendment: - 7 votes

(For the motion: Councillors Cameron, Jones and Mowat.

For the amendment: Councillors Bennett, Booth, Dalgleish, Mattos Coelho, McNeese-Mechan, Mumford and Osler.)

### **Decision**

To **REFUSE** planning permission as the proposals were contrary to LDP Policies Des 5(e), Hou 8(a) and Tra 3 and Tra 4, and Student Housing Guidance (para d), NPF4 Policy 13(b), and Cycle Fact Sheet C7.

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

## **4. 33-34 Castle Terrace, Edinburgh (Former)**

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Details were provided of an application for a conversion from restaurant and alterations to form 7x serviced apartments including removal of plant and bars from windows and installation of new windows at 33-34 Castle Terrace, Edinburgh (Former) - application no. 23/02200/FUL.

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

### **Motion**

To **GRANT** planning permission subject to the condition, reason and informatives as set out in section C of the report by the Chief Planning Officer.

- moved by Councillor Jones, seconded by Councillor Mowat.

### **Amendment**

To **REFUSE** planning permission as the proposals were contrary to LDP Policy Hou 7 and NPF4 Policy 30 (e) (i).

- moved by Councillor Booth, seconded by Councillor Osler.

### **Voting**

The voting was as follows:

For the motion: - 4 votes

For the amendment: - 6 votes

(For the motion: Councillors Bennett, Cameron, Jones and Mowat.).

For the amendment: Councillors Booth, Dalgleish, Mattos Coelho, McNeese-Mechan. Mumford, and Osler).

## **Decision**

To **REFUSE** planning permission as the proposals were contrary to LDP Policy Hou 7 and NPF4 Policy 30 (e) (i).

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



## Appendix

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.</p>		
<p><b>4.1 – <a href="#">33-34 Castle Terrace, Edinburgh (Former)</a></b></p>	<p>Conversion from restaurant and alterations to form 7x serviced apartments including removal of plant and bars from windows and installation of new windows - application no. 23/02200/FUL</p>	<p>To <b>REFUSE</b> planning permission as the proposals were contrary to LDP Policy Hou 7 and NPF4 Policy 30 (e) (i).  (On a division.)</p>
<p><b>4.2 – <a href="#">11 Circus Lane, Edinburgh, EH3 6SU</a></b></p>	<p>Proposed change of use from residential house to short-term let (in retrospect) - application 23/03105/FULSTL</p>	<p>To <b>REFUSE</b> planning permission for the reasons set out in section C of the report by the Chief Planning Officer.</p>
<p><b>4.3 – <a href="#">4 Crichton's Close, Edinburgh, EH8 8DT</a></b></p>	<p>Change of use - vacant office accommodation to 18 No. services apartments (Sui Generis). Alterations include internal partitions, new fire escape stair. New double glazing throughout, new protective barriers to allow for safe window cleaning / safe access onto balconies, minor external alterations to entrance to improve existing lobby roof - application no. 23/02908/FUL</p>	<p>To <b>GRANT</b> planning permission subject to the conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer.</p>
<p><b>4.4 – <a href="#">31 Duddingston View, Edinburgh, EH15 3LZ</a></b></p>	<p>Erection of rear extension to dwelling house and installation of new mansard roof over entire extent of existing and extension footprint to create additional living accommodation on the upper floor - application no. 23/03375/FUL</p>	<p>To <b>REFUSE</b> planning permission for the reasons set out in section C of the report by the Chief Planning Officer.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p><b>4.5 - <a href="#">6 Picardy Place, Edinburgh, EH1 3JT</a></b></p>	<p>Application for non-compliance with Condition 1 of permission 21/05443/FUL. Removal/variation of condition sought to ensure the control and treatment of odours from the premises by utilising a recirculation unit; require ongoing maintenance of the odour control equipment and to limit the range of cooking equipment to that used by Taco Bell - application no. 23/02655/FUL</p>	<p>To <b>REFUSE</b> planning permission for the reasons set out in section C of the report by the Chief Planning Officer.</p>
<p><b>4.6 - <a href="#">Development At Pittville Street Lane, Edinburgh</a></b></p>	<p>Demolition of water tower and alterations to former laundry building. To be replaced with residential dwelling, with garage and garden deck (as amended) - application no. 20/04260/FUL</p>	<p>To <b>GRANT</b> planning permission subject to the conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer.</p>
<p><b>4.7 – <a href="#">Development at Pittville Street Lane, Edinburgh</a></b></p>	<p>Full demolition of water tower and partial demolition of former laundry building (as amended) - application no. 21/04594/CON</p>	<p>To <b>GRANT</b> conservation area consent subject to the conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer.</p>
<p><b>4.8 – <a href="#">81 Rose Street, Edinburgh, EH2 3DT</a></b></p>	<p>Change of use from coffee shop (retail) to studio (short-term letting) - application no. 23/00868/FULSTL</p>	<p>To <b>GRANT</b> planning permission subject to the conditions and reasons as set out in section C of the report by the Chief Planning Officer.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p><b>6.1 - <a href="#">14 Ashley Place, Edinburgh, EH6 5PX - Proposed purpose-built student accommodation with associated infrastructure and landscaping - application no. 22/06251/FUL</a></b></p>	<p>Protocol Note by the Service Director – Legal and Assurance</p>	<p>Noted.</p>
<p><b>6.2 - <a href="#">14 Ashley Place, Edinburgh, EH6 5PX</a></b></p>	<p>Proposed purpose-built student accommodation with associated infrastructure and landscaping - application no. 22/06251/FUL</p>	<p>To <b>REFUSE</b> planning permission as the proposals were contrary to LDP Policies Des 5(e), Hou 8(a) and Tra 3 and Tra 4, and Student Housing Guidance (para d), NPF4 Policy 13(b), and Cycle Fact Sheet C7.</p> <p>(On a division.)</p>

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## Development Management Sub-Committee Report

**Wednesday 6 December 2023**

**Application for Planning Permission STL  
4 East Norton Place, Edinburgh, EH7 5DR.**

**Proposal: Change of use from residential (Sui Generis) to short-term let (Sui Generis) for three months per annum (June-August) (in retrospect).**

**Item – Committee Decision  
Application Number – 23/04428/FULSTL  
Ward – B14 - Craigentinny/Duddingston**

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

The application has been referred to the Development Management Sub-Committee because the application has attracted a petition in support with more than 20 signatures. 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 **Refused** subject to the details below.

### **Summary**

The proposal complies with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building, or its setting and it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a short-term let (STL) will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. 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 policy NPF 4 policy 30(e) 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 site is a one-bedroom flat on the ground floor at 4 East Norton Place, Abbeyhill. The property has its own main door access off the main street. The surrounding area is mixed. East Norton Place is mainly residential on the upper floors of tenements with a mix of residential, retail, bars and cafes on the ground floors.

The application site is a B listed building (ref: LB 29460: date of listing 19.04.1966).

The site lies within the New Town Conservation Area.

### Description of the Proposal

The application is for a change of use from residential to short term let (sui-generis) for three months per annum (June to August). No internal or external physical changes are proposed.

### Supporting Information

Covering letter.

### Relevant Site History

22/04794/FUL

4 East Norton Place

Edinburgh

EH7 5DR

Retrospective change of use from flatted dwelling to short term let.

Refused

5 April 2023

### Other Relevant Site History

No other relevant planning site history.

### Pre-Application process

There is no pre-application process history.

### Consultation Engagement

No consultations undertaken.

### Publicity and Public Engagement

**Date of Neighbour Notification:** 13 October 2023

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

**Press Publication Date(s):** 6 October 2023

**Site Notices Date(s):** 3 October 2023

**Number of Contributors:** 2

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

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

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

### Conclusion in relation to the listed building

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

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

There are no external changes proposed. The change of use from a residential premises to a short term let 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.

#### Listed Buildings and 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. The proposals 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 relate 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*

Although the application property has its own main door access and is located in a mixed use area, there are three floors of residential properties above.

The proposed one bedroom short stay use would enable two or more visitors to arrive and stay at the premises for a short period of time on a regular basis for three months in the year (June to August) every year, in a manner dissimilar to that of permanent residents. 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 than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect in this mixed use location.

The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

### *Loss of residential accommodation*

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential accommodation, this will only be supported where the loss is outweighed by demonstrable local economic benefits.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. The use of the property by guests and the required maintenance and upkeep of STL properties are likely to result in a level of job creation and spend within the economy which can be classed as having an economic benefit.

The applicant's covering letter states that NPF 4 Policy 30 (e) (ii) does not apply to the proposal as the property will remain in residential use for nine months of the year. The application property is a residential unit and the current lawful use of the property is residential. Consequently, the use of the property as an STL for three months in the calendar year (June to August) would result in a loss of residential accommodation during this period each year, potentially impacting on the use of the property as a residential home. Given the recognised need and demand for housing in Edinburgh, it is important to retain housing where appropriate.

Further, it is important to recognise that residential occupation of the property contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, as well as by making contributions to the local community.

In this instance, it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. As such, the proposal does not comply with NPF 4 30(e) part (ii).

## Car Parking

There is no car parking available at the property. This is acceptable and there is no requirement for cycle parking for STLs. The proposal complies with policies Tra 2 and Tra 3.

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

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. 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 policy NPF 4 policy 30(e) and LDP policy Hou 7

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

The following material planning considerations have been identified:

#### 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.

#### 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.

### Public representations

Two representations received. One objection and one petition in support with 24 signatures.

A summary of the representations is provided below:

#### *material considerations - objections*

- Negative impact on housing stock. Addressed in c) above.
- Contradicts NPF 4. Addressed in c) above.

#### *non-material considerations - objections*

- Contradicts City Plan 2030. Addressed in d) above.
- Will be a burden on refuse collection. The applicant should agree a waste strategy with CEC Waste Services.

#### *material considerations -in support*

- Temporary STL use retains the property as a residential dwelling. Addressed in c) above.
- Retains local jobs eg. cleaning, property management, laundry services and hospitality.
- Appearance of listed building is preserved. Addressed in a) above.
- Appearance of conservation area is preserved. Addressed in b) above.

#### *non-material considerations -in support*

- NPF 4 Policy 27 supports and encourages development in city centres. The application must be assessed against relevant policies.
- STL use will ensure the building is maintained.

### **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 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building, or its setting and it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. 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 policy NPF 4 policy 30(e) 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;

### Conditions

### Reasons

#### 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 property as a short term 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 4 Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this property as a short term let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

### Background Reading/External References

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

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

**Date Registered: 14 September 2023**

### Drawing Numbers/Scheme

01, 02

Scheme 1

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

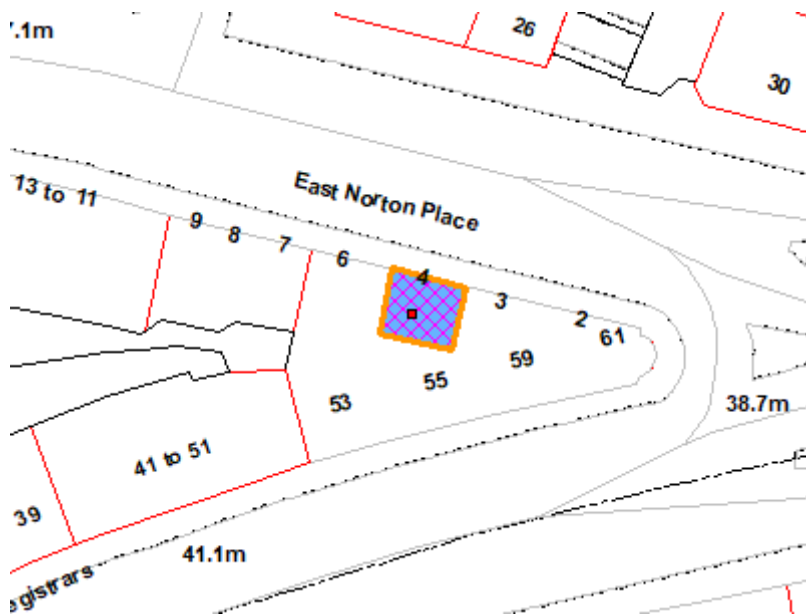
Contact: Lesley Porteous, Planning Officer  
E-mail: [lesley.porteous@edinburgh.gov.uk](mailto:lesley.porteous@edinburgh.gov.uk)



## Summary of Consultation Responses

No consultations undertaken.

### Location Plan



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## Development Management Sub-Committee Report

**Wednesday 6 December 2023**

**Application for Listed Building Consent  
Liberton Public Park, Liberton Gardens, Edinburgh.**

**Proposal: A new opening has been created in the existing boundary stone wall to the north of the site, to form the approved ramped active travel route into Liberton Park. A new opening has been created in the existing boundary stone wall to the west of the site, to form the approved emergency access route. The existing gated access to the west of the site has been removed and the opening in the boundary stone wall has been infilled with stone (in retrospect) (as amended)**

**Item – Committee Decision  
Application Number – 23/02885/LBC  
Ward – B16 - Liberton/Gilmerton**

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

In accordance with the Council Scheme of Delegation, the application has been referred for determination by the Development Management Sub-committee as more than 20 objections have been received in letters of representations from third parties and the recommendation is to grant listed building consent in retrospect.

### **Recommendation**

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

### **Summary**

The works have not harmed the listing building or its setting and there are no compelling reasons for not granting listed building consent in retrospect. The works are acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material matters which outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The site is three parts of a boundary wall historically associated with the Alnwickhill Reservoir Complex (ARC) which has since been redeveloped for residential purposes under 12/00046/PPP then 14/00577/AMC. The boundary wall is a Category B listed building (LB43246 / Date Added: 15 April 1996).

### **Description of the Works Undertaken**

Listed building consent in retrospect is sought for three alterations to the boundary wall:

- 1) Conversion of a gated vehicular access into a wall to the rear of 38 and 40 Coulter Crescent;
- 2) Formation of an opening between the Alnwickhill Road / Stanedykehead junction and the northernmost entrance to the British Army Reserve Centre for emergency vehicle access; and
- 3) Formation of a pedestrian link to Liberton Public Park (LPP) to the north of 27 and 29 Coulter Crescent.

The application was amended prior to this recommendation. Scheme 2 updated the drawings associated with Alteration 3).

### **Supporting Information**

Covering Letters were submitted in support.

### **Relevant Site History**

12/00046/PPP  
Land 50 Metres East Of Alnwickhill Reservoir  
Liberton Gardens  
Edinburgh

Planning Permission in Principle for residential development with associated roads, parking, landscaping and access.

Granted  
7 April 2014

14/00577/AMC  
Land 50 Metres East Of Alnwickhill Reservoir  
Liberton Gardens  
Edinburgh

Residential development of 296 dwellings, including associated accesses, roads and landscaping (as amended).

Approved  
8 October 2014

14/00577/VARY  
Land 50 Metres East Of Alnwickhill Reservoir  
Liberton Gardens  
Edinburgh

Non-material variation for revising the position of the houses along the north east boundary; amending the parking arrangement to the flats in the northern part of the site, and; amending the position of the pedestrian access from the site into Liberton Park.

Granted  
18 September 2015

### **Other Relevant Site History**

02/01110/LBC  
Liberton Gardens  
Edinburgh  
EH16 6NE

Replacement of existing metal fencing and gates to the entire boundary, of the WTWsite, replace with a new 3.00m high overall, barbican fence and gates over the boundary wall

Granted  
14 June 2002

02/01110/FUL  
Liberton Gardens  
Edinburgh  
EH16 6NE

Replacement of existing metal fencing and gates with 3.00m high overall, barbican fence and gates

Granted  
7 June 2002

11/00019/LBC  
Alnwickhill Reservoir  
Liberton Gardens  
Edinburgh

Remove and rebuild sections of boundary wall

Granted  
7 February 2011

12/01194/LBC  
Land 50 Metres East Of Alnwickhill Reservoir  
Liberton Gardens  
Edinburgh

Partially demolish structure.  
Granted

17 September 2012

14/03139/LBC  
Land 50 Metres East Of Alnwickhill Reservoir  
Liberton Gardens  
Edinburgh

Take down Outlet House 2 and rebuild to relate to proposed ground levels.  
Granted  
11 November 2014

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

Historic Environment Scotland

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

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** Not Applicable  
**Date of Renotification of Neighbour Notification:** Not Applicable  
**Press Publication Date(s):** 14 July 2023  
**Site Notices Date(s):** 11 July 2023  
**Number of Contributors:** 71

## **Section B - Assessment**

### **Determining Issues**

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

- Having due regard to Historic Environment Scotland Policy and guidance, have the works harmed the listed building or its setting?
- If they comply with Historic Environment Scotland Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for not granting listed building consent in retrospect?
- If they do not comply with Historic Environment Scotland Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for granting listed building consent in retrospect?

## Assessment

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

### a) **The works have harmed the listed building or its setting**

The only relevant matters are whether the works have harmed the listed building or its setting and if any equalities and human rights impacts have been raised; these are considered under Section b). The Historic Environment Policy for Scotland and the following Historic Environment Scotland Managing Change Guidance are relevant to this application: Accessibility, Boundaries and Use and Adaption of Listed Buildings.

#### Alteration 1) Conversion of a gated vehicular access

These works are minor in scope and are suitable with respect to the character and appearance of a much-altered listed building by seeking to mirror the stonework of the boundary wall's more historic sections. The now removed vehicular access gates were relatively modern and not of any historical or architectural interest. Whilst the coping for this alteration is different when compared with what is evident on either side, the boundary wall is not uniform in that regard, which is likely a result of its frequent maintenance and modification. This difference has not harmed the character and appearance of the listed building when its interest is considered as a whole.

#### Alteration 2) Formation of an opening for an emergency vehicle access

These works are also minor in scope and have demonstrated suitable respect to the character and appearance of a much altered listed building by again seeking to mirror the stonework of the boundary walls more historic sections. The coping also contrasts but this is deemed acceptable for the same reasons as alteration 1) in that a continuous single treatment for the full length of the boundary wall is not evident. It is noted that the works are currently quite conspicuous but over time, it is considered that the effects of weathering will dull its appearance to a point where it better harmonises with the boundary wall's more historic sections.

#### Alteration 3) Formation of pedestrian link

The principle of a pedestrian link to LPP has been established by the granting of 12/00046/PPP and 14/00577/AMC. Significant weight has been given to the fact that the residential redevelopment of the ARC has materially changed the original purpose of the boundary wall which was to 'keep people out'. It is accepted that to not have sought and then secured a direct pedestrian link in order to give residents more convenient access to LPP would have been an undesirable and irregular situation.

Notwithstanding the above, and much like alteration 1) and 2), the works have demonstrated suitable respect to the character and appearance to a much-altered listed building. It is once again noted that the stonework and coping (in this case) which has been used to reinstate the boundary wall has sought to match the adjoining more historic sections. The modern stone used to form the walls of the pedestrian link are of similar 'colour' to what would have been the original 'colour' of the boundary wall's more historic sections if not for the effects of weathering.

It is deemed an appropriate material to have used considering it is evident throughout the residential redevelopment, promoting consistency between the old and new. It will also dull in appearance over time to better harmonise with the boundary wall's more historic sections. The railings are metal and black which suitably reflects those atop a significant length of the boundary wall and the pedestrian link is generally considered to constitute a relatively small scale and justifiable intervention that has sought to minimise the loss of historic fabric whilst balancing the need to promote inclusive movement.

As the pedestrian link is located within the residential redevelopment, the interpretation of the boundary wall's original line is still readily identifiable although LPP falling outwith the site of 12/00046/PPP and 14/00577/AMC and being Council owned land has probably had some influence on this. Regardless, the fact that the relatively small scale works protrude into the residential redevelopment rather than into LPP has minimised any detrimental impact on the listed buildings' setting and it has also allowed the boundary wall, from certain more acute views, to still appear continuous.

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

The works have not harmed the listing building or its setting and there are no compelling reasons for not granting listed building consent in retrospect. The works are acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material matters which outweigh this conclusion.

#### **b) there are any other matters to consider**

The following matters have been identified for consideration:

##### Equalities and human rights

Section 149 of the Equality Act 2010 places a duty on public authorities to eliminate unlawful discrimination, advance equality of opportunity and foster good relations in respect of nine protected characteristics. It replaced legislation such as the Disability Discrimination Act 2005.

The works have raised no material concerns with regard to the protected characteristics of gender reassignment, race, religion or belief, sex or sexual orientation. Since alteration 3) involves the provision of pedestrian infrastructure, regard has been given to whether it has raised material inclusivity of movement concerns with respect to the protected characteristics of age, disability and pregnancy and maternity. The Department for Transport (DfT) 'Inclusive Mobility: A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure' is the considered the most relevant guidance for the assessment of these works.

The width of the alteration 3) footpath is 1.7m which is below the 'normal circumstances' minimum of 2m. It is, however, above the 'physical constraints' minimum of 1.5m which is deemed to apply in this case owing to the change in levels between the site and LPP. No gradient exceeds 1 in 60 and landings and handrails to either side have been provided. Alteration 3) is considered acceptable when assessed against the relevant sections of the DfT's Inclusive Mobility Guidance and has raised no material inclusivity of movement concerns.

With regard to alteration 2), only the formation of the opening requires listed building consent and the route into the site is outwith the considerations of this application.

Due regard has been given to Section 149 of the Equality Act 2010 and human rights; no material concerns have been identified.

### Public representations

70 letters of representation were received. 67 are in objection, three are in support and one from the Liberton and District Community Council (LDCC) maintains a neutral position.

Those in support relate to the ability to access LPP and Alnwickhill Road. The LDCC note that it would *"not be constructive to object to the specific proposals in the planning application, proposals with which we agree in principle. We also note that at recent LDCC meetings Liberton Grange Residents Association have raised general concerns about the structural integrity of the walls and in recent correspondence expressed concern about whether or not the access points are compliant with disability access requirements. These concerns have been and will be communicated to CEC councillors at LDCC meetings"*. Considerations raised by those in objection are summarised below with any material matters being addressed under Section a) or b).

#### *Material matters*

- Works not in keeping with the character and appearance of the listed building or its setting.
- Works not inclusive.

#### *Non-material matters*

- Ownership of the wall.
- Retrospective nature of the application.
- Structural integrity of the wall.
- Works falling outwith the site.
- Any other matter which does not specifically relate to whether the works have harmed the listed building or its setting and equalities and human rights impacts.

For the avoidance of doubt, an application for listed building consent, whether in retrospect or not, has a relatively narrow focus and it is not a mechanism through which the identified non-material matters can be resolved. This recommendation of grant should not be taken as the Council conferring an opinion on any of the identified non-material matters.

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

The works do not raise any issues in relation to these identified matters.

### **c) Overall conclusion**

The works have not harmed the listing building or its setting and there are no compelling reasons for not granting listed building consent in retrospect. The works are acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material matters which outweigh this conclusion.

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

The recommendation is subject to the following;

### **Conditions**

1. No conditions are attached to this consent.

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

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

**Further Information - Local Development Plan**

**Date Registered: 4 July 2023**

### **Drawing Numbers/Scheme**

01A, 02A, 04, 05, 06, 07

Scheme 2

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

Contact: Graham Fraser, Assistant Planning Officer  
E-mail: [graham.fraser@edinburgh.gov.uk](mailto:graham.fraser@edinburgh.gov.uk)



## Appendix 1

### Summary of Consultation Responses

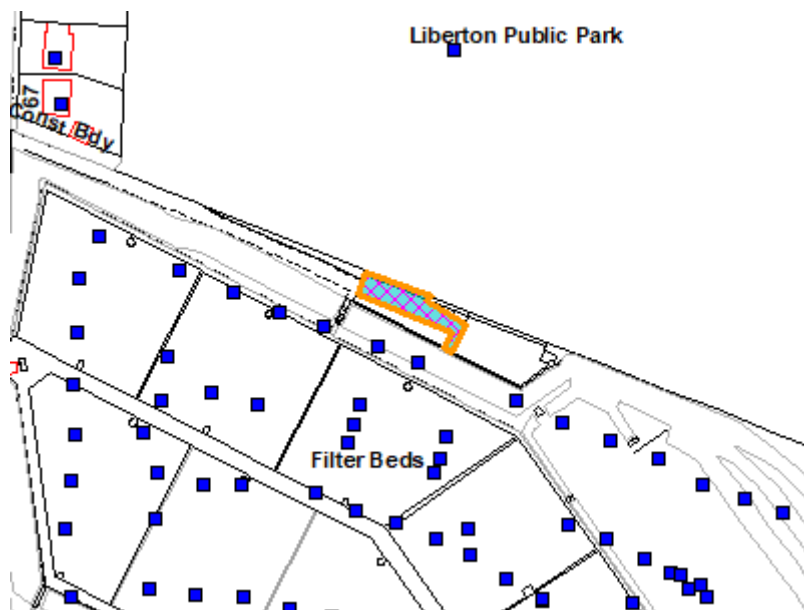
NAME: Historic Environment Scotland

COMMENT: No comment

DATE: 17 July 2023

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 6 December 2023**

### **Application for Planning Permission**

**Site 30 Metres Southwest of 7 Meadowbank, Edinburgh,**

**Proposal: Erection of 8x flats, an office unit, relocation of sub-station and associated landscaping.**

### **Item – Committee Decision**

**Application Number – 23/01153/FUL**

**Ward – B14 - Craigentinny/Duddingston**

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

The application has been referred to the Development Management Sub-Committee because thirty-nine letters of representation have been received, of which thirty-eight in objection to the proposals. 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**

The proposal complies with National Planning Framework 4 Policies 1,7,14 and 22 and Edinburgh Local Development Plan Policies Hou 1, Hou 4, Des 1 and Des 4. The development is acceptable in terms of scale, design, and materials in this location. 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 complying with NPF 4 Policies 14 and LDP Policy Des 5. It encourages use of sustainable modes of transport and reduced reliance on car usage and subject to condition acceptable cycle parking provision can be provided, complying with NPF 4 Policy 13 and LDP Policy Tra 3. There are no other material considerations to outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The site lies on the north side of Meadowbank Terrace on undeveloped land to the east of an existing tenement block. The land is a triangular area of ground measuring approximately 325sqmetres which is presently occupied by an electricity substation. To the south of the site, on the other side of the road, there is a row of four storey tenement buildings and to west there is a three-storey tenement. The main railway line is at the rear to the north and north-west of the site and further west is a road junction with London Road.

### **Description of the Proposal**

The proposal is for the erection of eight flats, an office unit, the relocation of the sub-station and associated landscaping.

The building would be a single block, five storeys high, with a flat roof. The existing electricity substation is to be relocated and positioned separate from the proposed building. There would be cycle parking, an office and one flat on the ground floor, with four floors of residential accommodation above. The accommodation would comprise of two-bedroom flats on each floor. There would be a recycling and refuse area at ground floor level, adjacent to the residential block.

The proposed materials are sandstone and grey cladding for the walls.

No car parking spaces would be provided, but 16 cycle spaces would be formed within the ground floor. Amenity space would be provided to the rear of the building and external balconies.

### **Supporting Information**

The following information is submitted in support of this application.

Design and access Statement  
Revised Acoustic Report  
Noise Impact Assessment

### **Relevant Site History**

18/03011/FUL  
Site 30 Metres Southwest of 7  
Meadowbank  
Edinburgh

New build apartment block with 11 dwellings and relocation of existing electricity sub-station (as amended)  
Granted  
22 March 2019

## **Other Relevant Site History**

No other relevant site history

## **Pre-Application process**

There is no pre-application process history.

## **Consultation Engagement**

Environmental Protection

Transport Planning

Archaeology

Network Rail

Scottish Power

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

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 28 March 2023

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

**Press Publication Date(s):** Not Applicable

**Site Notices Date(s):** Not Applicable

**Number of Contributors:** 39

## **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 Global Climate and Nature Crises Policy 1
- NPF 4 Historic Assets and Places Policy 7
- NPF 4 Brownfield, Vacant and Derelict Land and Empty Buildings Policy 9
- NPF 4 Sustainable Transport Policy 13
- NPF 4 Design Policy 14
- NPF 4 Quality Homes Policy 16
- NPF 4 Flood Risk and Water Management Policy 22
- LDP Design Policies Des 1, Des 4, Des 5
- LDP Housing Policies Hou 1, Hou 2, Hou 3 and Hou 4
- LDP Transport Policies Tra 2 and Tra 3

The non-statutory Edinburgh Design Guidance is a material consideration.

### Principle of Development

The site lies within the urban area of the LDP, where both the NPF 4 and LDP prioritise the delivery of housing land supply, providing proposals are compatible with other policies.

The neighbouring land uses are a mix of commercial and residential uses. The proposal would contribute to local placemaking by increasing the density of development on the site, and providing a mix of uses which are compatible with the existing character.

Through its city centre location, the proposal promotes sustainability complying with NPF 4 Policy 1.

The proposal complies with NPF 4 Policies 1 and 16 and LDP Policies Hou 1 and Hou 4.

## Scale, Design and Materials

LDP Design Policies Des 1 - Des 8 set a requirement for proposals to be based on an overall design concept which draws on the positive characteristics of the surrounding area with the need for a high quality of design which is appropriate in terms of height, scale and form, layout, and materials.

The new development would occupy the majority of the site which would be in-keeping with the density of the tenement flats to the west and south. It is located close to the city centre, where there are higher densities and a good level of public transport. The proposal creates two-bedroom flats, again in keeping with the character of the area.

The building form in this area is a variety of character and density which creates a mixed urban environment, with varying architectural styles. On this side of Meadowbank Terrace, the tenements are four storeys high at the western end, reducing to three storeys. On the opposite side of the road the topography is higher, and this is reflected in the tenements being greater in height. Corner buildings are frequently emphasised by having a higher roof profile.

The proposed building form would help to define the street corner and the increased scale and massing of the building would reflect a similar scale to that which exists nearby.

The building would be clad in sandstone cladding and rainscreen cladding, thereby reflecting the stone-built character of the area. The use of these materials would be acceptable and would complement the contemporary design. The glazing pattern would give an overall vertical emphasis to the built form and proportions.

The site lies to the east of the view cone of key view E8 London Road, Meadowbank-Calton Hill. When considering the view from the Meadowbank Terrace junction on London Road, the proposed development would not impinge on this view.

The proposal will retain the setting of the surrounding area and is acceptable in terms of scale, design, and materials. It complies with NPF 4 Policy 14 and LDP Policies Des 1 and Des 4.

## Residential Amenity for Existing Residents

The new flats would face onto the Meadowbank Terrace and the railway line to the rear and comply with the requirements of the Council's Edinburgh Design Guidance in terms of privacy distances. This proximity to the railway matches the pattern of development in the area.

The incorporation of a commercial office space into the development would be in-keeping with the mixed uses of the area.

Having a mix of uses in a development can help both its sustainability and the sustainability of an area as a whole.

The proposal would be in compliance with LDP Policy Des 5 and the Edinburgh Design Guidance.

## Residential Amenity for the Future Occupier

The new residential units are for two bedroomed units, which would have either have single or double-aspects. Three of the new units would be single aspect. The unit on the ground floor and fourth floor would be dual aspect, while the single aspect units at first, second and third floor level would have external balconies.

The proposed internal floor area for the ground floor flat would be 63 sq. metres, while those on the upper levels would be 60 sq. metres and 65 sq. metres, an infringement to the Guidance. The top floor flat would be 82 sq. metres. The ground floor flat would have private external space and balconies would provide amenity space to each of the upper flats. This is acceptable within a tenement environment and the site is close to Holyrood Park, which would provide high quality open space for the use of the occupants of the development. The proposal is in accordance with LDP Policy Hou 3.

A Noise Impact Assessment (NIA) was submitted in support of the application. In terms of transportation noise from road and rail, a specification for glazing and ventilators was established that will achieve the required internal noise standard. The glazing and acoustic ventilator specifications have been recommended as conditions. Given the urban location, there are noise sources to both front and rear; the opportunity to provide a quiet side to the development is not possible in these circumstances.

Vibration from the rail line was also assessed in the NIA and no mitigation measures would be required.

As there is an existing electricity substation on the site and the proposal involves it relocation within the site, there is the potential for ground contamination. Therefore, a condition has been attached requiring a site investigation.

The proposal is in keeping with the requirements of NPF 4 Policy 16 and LDP Policy Des 5.

## Archaeology

The site has been identified as being within an area of local archaeological interest in terms of Edinburgh's industrial and railway heritage. It is recommended that a detailed historic building survey should be undertaken prior to any construction works. This will be secured by a condition.

The proposal complies with NPF 4 Policy 7.

## Road Safety and Car Parking

The Roads Authority was consulted and returned no objections subject to appropriate conditions and informatives.

No car parking is proposed and this accords with the Council's parking standards. Cycle parking within the building would provide 16 cycle spaces, using a two-tier stack arrangement. The applicant is considering single tier parking. Therefore, a condition has been added requiring the details of cycle parking to be submitted.



Other issues raised regarding the provision of a car club vehicle and Travel Pan have been added as informatiives.

There are no road safety issues relating to the proposal.

The proposal complies with NPF 4 Policy 13 and LDP Policy Tra 3.

#### Surface Water Drainage and Flooding

The site has not been identified in SEPA flood maps as a site where there is a likelihood of surface water flooding.

The housing development would be connected into the existing public drainage network and any new external surfaces will either be green or porous paving.

The proposal is in accordance with NPF 4 Policy 22.

#### Rail Safeguarding

Network Rail was consulted on the proposal and raised no objection subject to the inclusion of suspensive conditions requiring details of landscaping, a trespass proof fence to be erected and a method construction statement to protect the stability of the adjacent railway embankment, the adjacent railway lines, and the safety of the rail network.

Whilst these concerns relating to construction are noted, these matters are subject to control under separate legislation.

Landscaping is included as part of the new development on the northern boundary adjacent to railway lines. Therefore, a condition has been attached requiring a landscaping plan to ensure the species selection is appropriate to the intended location.

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

The proposal complies with National Planning Framework 4 and Edinburgh Local Development Plan. The development provides a suitable residential development within a city centre location where there is a good level of public transport.

#### **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:

Thirty-nine comments were received with one supporting, while thirty-eight are objecting to the development.

### *Material Considerations - In Support*

- more housing is a suitable land use; this has been addressed above in section a)

### *Material Considerations - Objecting*

- size and design; this has been addressed above in section a)
- parking issues: this has been addressed above in section a)
- block view of Edinburgh skyline; this has been addressed above in section a)
- increased noise and overlooking for existing residents; this has been addressed above in section a)
- noise from railway reduce amenity for future occupiers; this has been addressed above in section a)
- loss of light for existing residents; this has been addressed above in section a)
- use of office on ground floor is out of character with residential uses; this has been addressed above in section a)
- site has historic significance, as it was once a private station for the queen; this has been addressed above in section a)
- no front gardens are provided unlike tenements opposite; this has been addressed above in section a)
- impact on sunlight and daylight for opposite properties; this has been addressed above in section a)

### *Non-Material Considerations*

- construction of site detrimental to living conditions - this is not a material planning consideration.
- disruption during construction - this is not a material planning consideration.
- pre-meeting should have been held by applicant - this is not required for a local development
- refuse bins on the pavements - this is not a material planning consideration.
- no mention of affordable housing - LDP Policy Hou 6 requires proposals for residential development consisting of 12 or more units to include provision for affordable housing - This proposal is proposing less than 12 units.

- Didn't receive notification of development - neighbour notification was carried out in the correct manner.

### **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 National Planning Framework 4 Policies 1,7,14 and 22 and Edinburgh Local Development Plan Policies Hou 1, Hou 4, Des 1 and Des 4. The development is acceptable in terms of scale, design, and materials in this location. 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 complying with NPF 4 Policies 14 and LDP Policy Des 5. It encourages use of sustainable modes of transport and reduced reliance on car usage and subject to condition acceptable cycle parking provision can be provided, complying with NPF 4 Policy 13 and LDP Policy Tra 3. There are no other material considerations to outweigh this conclusion.

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

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

4. 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.
5. All mitigation measures identified in the Noise and Vibration Impact Assessment RMP Technical Report (NIA) R-8298A-NS-RGM 31st May 2023 shall be implemented prior to the occupation of the development hereby approved.
6. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and all planting, shall be submitted to, and approved in writing by the Planning Authority before work is commenced on site.
7. Notwithstanding information shown on the approved plans, details showing the design layout and specification of 16 secure cycle parking spaces for the residential development shall be submitted and approved by the Planning Authority. Cycle parking shall be installed and made available prior to the occupation of the development.
8. The ground floor North (Railway line) facing unit 0/1 shall have double glazing consisting of 6/12/4mm or equivalent glazing with an RTRA of at least 29dB.
9. The upper floor North (Railway line) facing units shall have double glazing consisting of 6.4/12/10mm or equivalent glazing system with an RTRA of at least 36dB.
10. The properties overlooking Meadowbank Terrace shall have double glazing consisting of 6.4mm laminated glass - 12mm air cavity - 10mm float glass or an acoustically equivalent glazing unit which provides a minimum RTRA of 36dB.

## 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 safeguard the interests of archaeological heritage.

4. In order to enable the planning authority to consider this/these matter/s in detail.
5. In order to protect the amenity of the occupiers of the development.
6. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
7. In order to ensure adequate provision of cycle parking facilities.
8. In order to protect the amenity of the occupiers of the development.
9. In order to protect the amenity of the occupiers of the development.
10. In order to protect the amenity of the occupiers of the development.

### **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. A 1.8m high acoustic barrier shall be constructed along the north boundary line of the site, as marked up in Technical Report (NIA) R-8298A-NS-RGM 31st May 2023, Appendix A: The barrier shall be set back 500mm from the existing boundary fence. The barrier could be a masonry wall or a timber fence with close boarded or overlapping boards. The boards shall have a minimum density of 12kg/m<sup>2</sup> typically 18mm boards. There shall be no gaps at the base or anywhere else within the barrier.
4. The electrical substation building shall be fitted with acoustic louvres on the Meadowbank Terrace façade such as IAC SL100, or an alternative with the same or better acoustic performance as detailed in Technical Report (NIA) R-8298A-NS-RGM 31st May 2023, Table 10.
5. The specification of acoustic trickle vents is in part determined by the numbers in each room and is annotated on drawing 003 rev A.
6. Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development.

7. Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.
8. The applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Details of the proposed fencing shall be submitted to the Planning Authority for approval before development is commenced and the development shall be carried out only in full accordance with such approved details.
9. The applicant should consider the provision of a car club vehicle in the area. A contribution of £7,000 (£1,500 per order plus £5,500 per car) would be required.
10. 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: 16 March 2023**

### **Drawing Numbers/Scheme**

1A-9

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](mailto:jennifer.zochowska@edinburgh.gov.uk)

## Appendix 1

### Summary of Consultation Responses

NAME: Environmental Protection

COMMENT: Environmental Protection offer no objections to the proposed development subject to conditions relating to noise.

DATE: 1 September 2023

NAME: Transport Planning

COMMENT: No objections subject to appropriate conditions and informatives.

DATE: 13 November 2023

NAME: Archaeology

COMMENT: The City Archaeologist offers no objections to the proposal and recommends that a programme of archaeological excavation is undertaken prior to/during development.

DATE: 17 April 2023

NAME: Network Rail

COMMENT: Network Rail have no objections to the proposed development subject to conditions.

DATE: 11 September 2023

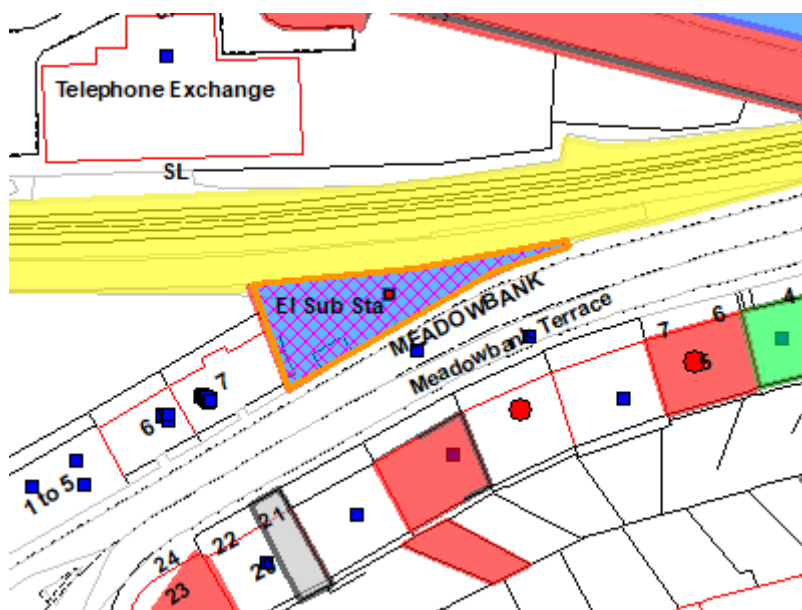
NAME: Scottish Power

COMMENT: Scottish Power offer no objections to the proposed development.

DATE: 17 July 2023

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 6 December 2023**

**Application for Planning Permission  
29 Paisley Gardens, Edinburgh, EH8 7JN**

**Proposal: Reform the existing roof to create more bedroom space.  
(AS AMENDED)**

**Item – Committee Decision  
Application Number – 23/03834/FUL  
Ward – B14 - Craigentenny/Duddingston**

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

This application has been referred to the Development Management Sub-Committee because it has received twenty-six objections and is recommended to be approved. 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**

The proposed works to the dwelling are in accordance with the Development Plan. The works are compatible with the existing dwelling and surrounding neighbourhood character, are considered to provide due regard to global climate and nature crisis and will not result in an unreasonable loss of neighbouring amenity. There are no material considerations which indicate that the proposal should be refused. Therefore, the proposal is acceptable and complies with National Planning Framework 4 Policy 1, Policy 16g, Edinburgh Local Development Plan Policy Des 12, and the non-statutory Guidance for Householders.

## **SECTION A – Application Background**

### **Site Description**

The application refers to a 1.5 storey detached bungalow located at the end of a cul-de-sac in Paisley Gardens, Willowbrae.

The site features a front and rear garden, with an existing single storey rear extension and detached garage. The bungalow has a hipped roof with a front dormer, gable end to the rear with a dormer bay window, and rooflights on the north and south roof elevations.

The surrounding area is residential, predominately with detached properties of various styles. The property sits at an elevated position and backs on to Holyrood Park a designated Garden and Designed Landscape, Scheduled Monument, and area of Green Belt and Open Space.

### **Description of the Proposal**

It is proposed to replace the property's existing hipped roof with a new hipped roof at a 50-degree pitch with a replacement dormer, rooflights and a Juliet balcony to the rear.

### Amendments

The proposal was updated to remove two large north elevation rooflights serving a bedroom, these were replaced with a single small rooflight. Drawing information notes were updated and a section drawing provided to provide more clarity. These changes alleviate concerns raised in public representations and do not raise new material planning considerations; therefore, no further neighbourhood notification was required.

### **Relevant Site History**

07/02372/FUL  
29 Paisley Gardens  
Edinburgh  
EH8 7JN  
Garage/playroom + studio  
Granted  
10 September 2007

15/01228/FUL  
29 Paisley Gardens  
Edinburgh  
EH8 7JN  
Rear extension and detached garage (as amended).  
Granted  
22 May 2015

15/01228/VARY.  
29 Paisley Gardens  
Edinburgh  
EH8 7JN  
Non-material variation for 15/01228/FUL.  
VARIED  
23 December 2015

### **Other Relevant Site History**

None

### **Pre-Application process**

There is no pre-application process history.

## Consultation Engagement

No consultations undertaken.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 5 September 2023

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

**Press Publication Date(s):** Not Applicable

**Site Notices Date(s):** Not Applicable

**Number of Contributors:** 26

## 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 NPF4 and LDP policies to be considered are:

- NPF4 Policy 1.
- NPF4 Policy 16g.
- LDP Design policy Des 12.

The non-statutory Guidance for Householders is a material consideration that is relevant when considering NPF4 policies 1 and 16g, and LDP policy Des 12.

### Global climate and nature crisis

Policy 1 of National Planning Framework 4 prioritises the climate and nature crisis in all decisions. It has been applied together with other policies in NPF4 and the overall intended outcome of NPF4. The proposal will have a neutral impact on sustainability and the environment. On balance, the proposed development does not conflict with the intended outcomes of NPF4 and thus, complies with NPF4 Policy 1.

### Scale, Form, Design, and Neighbourhood Character

Policy 16g) i) of National Planning Framework 4 states development will be supported where there is no detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design, and materials.

Policy Des 12a) and c) of the Edinburgh Local Development Plan states that planning permission will be granted for alterations and extensions to existing buildings which in their design and form, choice of materials and positioning are compatible with the character of the existing building; and will not be detrimental to neighbourhood character.

The non-statutory 'Guidance for Householders' sets out design requirements for bungalow alterations, which states that bungalow roof alterations should be in keeping with the existing hipped roof design; must respect the original design of the property; and must not imbalance the primary elevation.

The proposal would increase the pitch of the roof from 35 degrees to 50 degrees, however the property would still maintain the hipped roof appearance and the interpretation of a bungalow property would not be altered.

The proposed alteration to the front dormer and rooflights would be suitable for a residential roof. In place of an existing rear dormer bay window, the proposal would create a 'Juliet balcony' which has sliding doors opening to a fixed glass balustrade. A Juliet balcony is fixed flat to the façade of the dwelling and does not form an external rear terrace or 'walk on' balcony. This design is suitable for a residential property and would be compatible with the fenestration of the host dwelling.

The wider area of Paisley Gardens features various build types and forms, the alteration to the roof design would not be an incongruous feature within this context. The scale of the alterations is suitable for a residential property and a minor variation from the existing roof form. The proposal is not of a scale which would interrupt or harm the setting and of Holyrood Park.

Therefore, the proposals are of an acceptable scale, form and design and are compatible with the existing bungalow dwelling and the surrounding area. The proposal complies with NPF 4 policy 16g)i); LDP Policy Des 12a) and c); and the non-statutory Guidance for Householders.

### Neighbouring Amenity

Policy 16g)i) of National Planning Framework 4 states development will be supported where they do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

Policy Des 12b) and c) of the Edinburgh Local Development Plan states that planning permission will be granted for alterations and extensions to existing buildings which will not result in an unreasonable loss of privacy or natural light to neighbouring properties; and will not be detrimental to neighbourhood amenity.

The non-statutory 'Guidance for Householders' sets out tests and requirements with respect to privacy, overlooking, physical impact, overshadowing and loss of daylight or sunlight, the proposals have been assessed against these requirements.

The proposed changes to the roof would comply with the tests outlined in the Guidance for Householders and would not introduce an unreasonable impact to the neighbouring daylight or sunlight amenity.

The proposal includes replacement rooflights to side elevations. These do not introduce new privacy issues and comply with the Guidance for Householders. The guidance outlines that windows on side gables, as often found on bungalows, are not protected in terms of privacy unless they are more than 9 metres from the boundary. In this situation there are existing windows on the host and neighbouring properties, and these are already less than 9 metres from the boundary.

With respect to overlooking, there is existing potential for overlooking from the three-north elevation rooflights and rear bay window, however, there is also natural screening provided by the trees and foliage along the boundary treatment between the properties. The proposal, as amended, has replaced two large rooflights with a single small rooflight to match others on the north elevation in a manner similar to the existing fenestration. Considering the amendment, the existing situation, and natural screening provided, the proposal would not introduce an unacceptable level of overlooking and there would be no unreasonable impact to neighbouring amenity.

With regard to noise, the planning authority cannot control the use of private residential space or prejudice an application based on potential use. Residential noise which qualifies as a statutory nuisance can be mitigated through the provisions of the Environmental Protection Act 1990.

The proposals will not result in any unreasonable loss to neighbouring amenity. The proposal complies with NPF 4 policy 16g) ii), LDP Policy Des 12b) and c), and the non-statutory Guidance for Householders.

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

The proposals have due regard to global climate and nature crisis, are of an acceptable scale, form, and design, are compatible with both the existing building and neighbourhood character and do not result in an unreasonable loss of neighbouring amenity. Therefore, the proposals comply with the overall objectives of the Development Plan.

**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 on the Proposed City Plan 2030 and its supporting documents. These documents have now been submitted 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 City Plan 2030 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

There have been 26 objections received, these have been summarised as:

*material considerations*

- Impact to surrounding neighbourhood character - assessed in section a) above.
- Impact to natural setting of Holyrood Park - assessed in section a) above.
- Impact on neighbouring internal privacy and overlooking to gardens - assessed in section a) above.
- Concern for privacy and overlooking impact from the north/side elevation rooflights - assessed in section a) above.
- Concern for privacy and overlooking impact from the rear Juliet balcony - assessed in section a) above.
- Concern for the introduction of an external 'walk on' balcony - assessed in section a) above.

### *non-material considerations*

- Concern for residential noise impact - This is a non-material planning consideration because the planning authority cannot control the use of private residential space. There are statutory provisions to mitigate these concerns under the Environmental Protection Act 1990.
- Concern for flue height - This is a non-material planning consideration because there are no planning requirements for flue heights. This aspect will be considered by Building Standards during a building warrant application.
- Impact on property value - This is a non-material planning consideration because private property values are not safeguarded by the planning process or legislation.

### **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 works to the dwelling are in accordance with the Development Plan. The works are compatible with the existing dwelling and surrounding neighbourhood character, are considered to provide due regard to global climate and nature crisis and will not result in an unreasonable loss of neighbouring amenity. There are no material considerations which indicate that the proposal should be refused. Therefore, the proposal is acceptable and complies with National Planning Framework 4 Policy 1, Policy 16g, Edinburgh Local Development Plan Policy Des 12, and the non-statutory Guidance for Householders.

## **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.

### **Reasons**

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.

### **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. The development proposal includes a flue. The associated solid fuel stove/burner, which does not require planning permission, should be an 'exempt appliance' in terms of the Clean Air Act 1993 and the City of Edinburgh Council's Smoke Control Area Orders. Advice on this matter is available at [http://www.edinburgh.gov.uk/info/20237/pollution/312/smoke\\_control](http://www.edinburgh.gov.uk/info/20237/pollution/312/smoke_control) or by contacting Environmental Assessment on 0131 469 5475 / email [environmentalassessment@edinburgh.gov.uk](mailto:environmentalassessment@edinburgh.gov.uk)

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

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

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

**Date Registered: 30 August 2023**

### **Drawing Numbers/Scheme**

01, 02, 03, 04A

Scheme 2

**David Givan**  
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## Summary of Consultation Responses

No consultations undertaken.

### Location Plan



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## Development Management Sub-Committee Report

**Wednesday 6 December 2023**

### **Application for Planning Permission**

**land 14 metres northeast of, 42 Saughtonhall Avenue, Edinburgh.**

**Proposal: Demolition of garaging and erection of a two storey dwellinghouse.**

### **Item – Committee Decision**

**Application Number – 22/06009/FUL**

**Ward – B06 - Corstorphine/Murrayfield**

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

The application is being referred to the Development Management Sub-Committee because a statutory consultee has formally objected. 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**

The proposed development is within the urban area where residential development is acceptable in principle. The site can contribute to local living and the 20 minute neighbourhood principle whilst delivering a sustainable development on a brownfield site. Therefore, it is considered that proposals comply with the Development Plan policies of NPF4 and the LDP. The design is high quality and will complement the character of the surrounding area. A satisfactory living environment for future occupiers will be achieved and no unreasonable impact on neighbour's amenity will occur. 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 application site is a vacant, undeveloped triangular 'wedge' of land located on the north western corner of Saughtonhall Avenue bounding the residential property boundary of number 42 Saughtonhall Avenue to the west. Some trees are present along the eastern and southern site boundaries, and there are two single storey, garages located at the site entrance onto Saughtonhall Avenue. The site's eastern boundary is formed by a boundary wall which separates the Water of Leith situated down a slight slope. Vehicular and pedestrian entrances to the site take access from Saughtonhall Avenue.

The street consists of a mixed built character, formed predominantly by two storey residential properties dating pre and post war, with single story residential properties also located on nearby streets.

### Description of the Proposal

The application proposes to construct a new detached dwellinghouse comprising two storeys, with three bedrooms and associated garden ground. The proposed materials consist of larch cladding on the majority of the external walls of the property, with use of dark wood panelling for the bay window section and solar shading elements. The proposed window openings will make use of powder-coated aluminium for the frames, and use of a zinc sanding seam roof.

Additionally, the application proposes a passive form design approach to reduce the need for energy consumption, and integration of sustainable building technologies including Mechanical Ventilation with heat recovery (MVHR), use of 100% Dedicated Energy Efficient lighting throughout, Energy metering, an Efficient Air Source Heat Pump and Photovoltaics (PV).

### Revised Scheme-

A revised scheme was submitted for consideration in September 2023 which reflected proposed amendments to address points regarding potential overlooking and amenity concerns resultant from the proposed balcony section on the southern elevation. The extent of balcony proposed was reduced to address the concerns raised in regard to detrimental impact on the amenity of neighbouring residential properties.

### Supporting Information

- Design statement
- Drainage plan
- Surface Water Management Plan checklist
- Flood Risk Assessment
- Sustainability statement

## Relevant Site History

10/02383/FUL  
Land 14 Metres Northeast Of  
42 Saughtonhall Avenue  
Edinburgh

Demolition of existing garages construction of new 2 storey dwelling house with associated landscaping and ground works, construct new replacement boundary wall to north of site.

Refused  
13 December 2010

## Other Relevant Site History

### Pre-Application process

Pre-application discussions took place on this application.

### Consultation Engagement

SEPA

Infrastructure, Structural Services Flood Prevention

Natural Environment

Children and Families

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

### Publicity and Public Engagement

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

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

**Press Publication Date(s):** Not Applicable

**Site Notices Date(s):** Not Applicable

**Number of Contributors:** 5

## 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 Places Policies 1, 2, 3, 4, 7, 8, 9
- NPF4 Liveable Places Policies 14, 15, 16, 17, 22
  
- LDP Developer Contributions Policy Del 1
- LDP Design Policies Des 1, Des 3, Des 4, Des 5, Des 7, Des 10
- LDP Environment Policies Env 16, Env 21
- LDP Housing Policies Hou 1, Hou 3, Hou 4, Hou 5
- LDP Transport Policies Tra 2, Tra 3

The 'Edinburgh Design Guidance' is a material consideration that is relevant in the consideration of several LPD policies.

### Principle of Use

LDP 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.

LDP policy Hou 3 states planning permission will be granted for development which makes adequate provision for greenspace to meet needs of future residents. A minimum of 20% of the total site area should be useable green space.

Supporting para 226, states an exception from these standards may be justifiable based on following policy on density.

LDP policy Hou 4 refers to an appropriate density being sought on site including consideration of site characteristics and the surrounding area.

NPF 4 policy 15 states development proposals will contribute to local living and 20-minute neighbourhoods.

NPF 4 policy 16 f) states development proposals on land not allocated for housing in the LDP will only be supported in limited circumstances.

The site is in the urban area where the character is mainly residential and has local access to services, shops, sustainable transport, and greenspace. In this respect, it is a suitable location for housing in principle.

The scheme will deliver an acceptable level of usable greenspace for future occupiers. The combined provision proposed in the front and rear garden ground ensures that a minimum of 20% of the total site area will be useable greenspace, compliant with policy Hou 3.

The proposal would achieve an acceptable density when considering the footprint of the proposed dwelling in the context of the overall site area, and the plot densities present within the immediate and surrounding residential streets.

The proposal supports objectives of NPF 4 policies of contributing to local living and 20-minute neighbourhoods. Overall, it complies with NPF 4 policies 15, 16, LDP policies Hou 1 and Hou 4.

#### 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.

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.

The Scottish Governments' Chief Planners' letter 'Transitional Arrangements for NPF 4' 8th February, sets out this policy is unlikely to be a key consideration for smaller scale developments.

NPF4 Policy 9 supports development proposals which encourage, promote, and facilitate the reuse of brownfield, vacant and derelict land, and empty buildings, and help reduce the need for greenfield development. Part a) supports development proposals for the sustainable reuse of brownfield land.

The proposal requires the demolition and removal of two single storey garages in situ on site. Given the small scale of the structures currently on site subject to demolition, the demolition aspect and development of a single residential unit will limit the embodied carbon and associated environmental impacts from the proposed development.

In addition, the proposed development contributes to the spatial principles of 'Compact Urban Growth' and 'Local Living' through the use of a brownfield site for sustainable, housing within an existing community.

In light of the above, and small-scale of the proposals no further information has been sought with regard to NPF 4 policy 2.

Overall, the proposal involves re-use of a brownfield site in a sustainable location and complies with NPF 4 policy 1 and 9.

### Design

NPF4 Policy 14 (Design, quality and place) a) states development proposals will be designed to improve the quality of an area.

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.

LDP policy Des 10 (Waterside Development) applies to all new development on sites on the coastal edge or adjoining a watercourse, including the Union Canal. To comply with policy Des 10, proposals on applicable sites are required to:

- a) provides an attractive frontage to the water in question
- b) where appropriate, maintains, provides or improves public access to and along the water's edge
- c) maintains and enhances the water environment, its nature conservation or landscape interest including its margins and river valley
- d) if appropriate, promotes recreational use of the water.

In assessing the suitability of the proposal based on the requirements of the NPF4 and LDP design policies there are several key factors for consideration including the proposed design approach, the proposed massing, scale, form, and overall height of the proposed dwelling in the context of the existing townscape.



In relation to townscape, there are not considered to be any prevalent or identifying characteristics of the built environment present on Saughtonhall Avenue and the surrounding residential streets in close proximity to the site such as Baird Grove, Saughtonhall Terrace and Riversdale Road. This being in terms of general consistency of a standard design approach, material selection and the built form employed for the residential properties. Additionally, the site is not within or in close proximity to any Conservation Areas or Listed Buildings. Given that there is no defined townscape within the immediate vicinity of the site, the introduction of a new, contemporary design approach for the site does not require adherence to a set design approach in this case.

With reference to the proposed height, massing and scale the proposal would not visually dominate the immediate streetscape. The proposed ridge height of 9.04 metres would result in an increase of 0.44 metres in contrast to the terraced row of properties which form the established building line along Saughtonhall Avenue. The relatively small increase in ridge height, coupled with the position of the proposal as a 'bookend' and gateway to the Saughtonhall Avenue from the east ensure the proposed height is acceptable in this case.

Regarding the relationship between the site, the proposal and Water of Leith as the adjoining watercourse, the design treatment on the east and south elevations presents an attractive frontage on to the watercourse, through a contemporary design approach, use of a mix of materials with adequate fenestration to add interest to the applicable elevations. The proposal is acceptable per the provisions of LDP policy Des 10.

The design is high-quality and relates well to the surrounding built environment in regard to materials, window and door proportions. The modern, contemporary design approach would create a point of interest on the street scene, specifically as the site acts as a 'bookend' and gateway to the existing street. The proposed design solution in the context of the site and immediate townscape is considered acceptable and would not damage the character or appearance of the surrounding built environment.

The proposal is a high-quality, modern design concept, that complements the surrounding built environment and is compatible with the character of the townscape in compliance with LDP design policies and NPF policy 14 a).

### Amenity

LDP Policy Des 5 (Development Design - Amenity) requires development proposals to demonstrate that neighbouring amenity of a development will have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy, or immediate outlook. It further requires new development to offer suitable level of amenity to future residents.

LDP Policy Hou 3 (Private Green Space in Housing Development) requires developments to provide adequate provision for green space to meet the needs of future residents.

### Amenity of Future Occupiers-

NPF4 Policy 14 requires development proposals to be designed to improve the quality of an area and be consistent with the six qualities of successful places: healthy, pleasant, connected, distinctive, sustainable and adaptable.

The LDP policies Des 1 - Des 9 ensure new development is of the highest quality, integrates with and respects the special character of the city and meets the needs of residents and other users.

The Edinburgh Design Guidance (EDG) states it is important that buildings are spaced far enough apart that reasonable levels of privacy, outlook daylight and sunlight can be achieved. Further, that people value the ability to look outside, to gardens, streets, or more long-distance views.

Additionally, EDG requires provision of well defined, functional, good quality private gardens to all houses and ground floor flats. EDG refers to spaces having different sunlight requirements, however, generally half the area of gardens should be capable of receiving sunlight for more than two hours during the spring equinox.

The EDG requires a minimum internal floor area of 91 sqm for three bedrooms or more with enhanced storage designed for growing families.

The dwelling will cater for a good quality residential environment, supported by the size of windows which will allow good levels of natural light and outlook internally, as well as ease of movement internally per the proposed layout. Internally, the 91 sqm requirement will be met.

The scheme will deliver an acceptable level of usable greenspace for future occupiers. The combined provision proposed in the front and rear garden ground ensures that a minimum of 20% of the total site area will be useable greenspace, compliant with policy Hou 3.

The position of the dwelling will be compatible with the spatial pattern of the street. This will allow a level of privacy for future occupiers that is characteristic of the area.

The proposals are in accordance with the intent and outcomes of NPF4 Policy 14 and LDP policies Des 1 - Des 9.

#### Amenity of Neighbouring Properties-

The Edinburgh Design Guidance states buildings should be spaced out so that reasonable levels of daylight to existing buildings are maintained.

The layout of buildings in an area will be used to assess whether proposed spacing is reasonable.

Sunlight to neighbouring gardens can be tested by checking whether new development rises above a 45-degree line drawn in section from the site boundary. Daylight to gables and side windows are generally not protected.

Furthermore, the pattern of development in an area will help define appropriate distances between buildings and privacy distances.

As part of the assessment the scheme was revised and the proposed balcony section at first floor level was reduced in terms of overall size, with the section present above the proposed car port on the western elevation removed from the proposal in order to safeguard the amenity of those in the neighbouring property at numbers 42, 40, 38 and 36 Saughtonhall Avenue.

#### Daylight-

An assessment of daylight provision to the nearest neighbouring residential property at 42 Saughtonhall Avenue was undertaken. In reviewing the daylight assessment findings, the proposed dwelling would not result in a detrimental loss of daylight to the residential property at 42 Saughtonhall Avenue. When assessed in the context of levels of daylight currently experienced by the occupants of 42 Saughtonahll Avenue given the current site condition, the orientation of the proposed dwelling within the site and separation distance (7 metres) to the closest neighbouring property, analysis ensures that there would be no significant detrimental impact on daylight provision to 42 Saughtonhall Avenue.

#### Overlooking-

In considering any potential overlooking associated with the new dwellinghouse an assessment of the relationship between the proposed and nearby existing residential properties has been undertaken. Specifically, the presence of the proposed balcony and outlooks, levels of fenestration, orientation of the proposed dwelling within the site and the presence of boundary treatments and level of screening present.

In assessing the potential impact on the amenity of neighbouring residential properties resultant from overlooking, the properties located south west of the site at 1 and 3 Baird Grove would be located at a distance of 25.4 metres (1 Baird Grove) and 33.7 metres (3 Baird Grove) from the proposed balcony per the proposal. The property located immediately west of the site at 42 Saughtonhall Avenue would be separated by a distance of 10.7 metres from the nearest point of the balcony to the rear elevation of number 42 Saughtonhall Avenue. The residential properties located west of the site beyond number 42 at numbers 40, 38 and 36 Saughtonahall Avenue would not suffer any detrimental impact in terms of overlooking. This being resultant from separation distances (in excess of 14 metres), orientation of the proposed balcony and corresponding rear garden ground layouts, as well as the provision of a privacy screen required by condition on the west elevation of the balcony.

The combination of the separation distances in place, combined with the retention of defined boundary treatments on the southern boundary between the site and neighbouring properties and provision of a privacy screen on the west elevation of the balcony will ensure no detrimental impact on the amenity of properties considered as part of the assessment by way of overlooking.

The design revision to the scheme to reduce the extent of balcony coupled, with provision of a privacy screen on the western elevation of the balcony, and the proposed building footprint and separation distances to neighbouring residential properties, the proposal complies with NPF4 Policy 14 c) and LDP policy Des 5.

## 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.

LDP Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) requires proposals to consider existing characteristics and features worthy of retention on site and in the surrounding area, and ensure they have been identified, incorporated and enhanced through design.

LDP Policy Env 15 (Sites of Local Importance) states development likely to have landscape or geological features of a Local Nature Reserve or a Local Nature Conservation Site will not be permitted unless it can be demonstrated that:

- a) the reasons for allowing the development are sufficient to outweigh the nature conservation interest of the site
- b) the adverse consequences of allowing the development for the value of the site have been minimised and mitigated in an acceptable manner.

The proposal would see the retention of the mature treeline present along the southern boundary of the site. Detailed landscaping proposals have not been submitted as part of the assessment; however an appropriate condition has been attached to ensure provision of these details prior to development commencement, with a requirement for the integration of native species. Furthermore, the inclusion of both bat and bird boxes within the built fabric of the building are secured via condition.

Overall, the proposed mitigation measures outlined will ensure that the development aligns with the policy provisions of NPF4 Policy 3 and Policy Des 3 and Env 15 of the Edinburgh Local Development Plan resulting in a positive impact on local biodiversity by protecting the fabric of the Water of Leith Local Nature Conservation Site.

## 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.

The site is identified as 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.

The proposal would provide a single car parking space in compliance with policy Tra 2 and is therefore acceptable in this context.

### 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 1 cycle space for studios dwellings, 2 spaces for 3 habitable rooms and 3 spaces for 4 habitable rooms or more.

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

No cycle storage is included on the plans however there is adequate space to accommodate the required provision on-site. A condition has therefore been included for details of cycle storage to be submitted prior to commencement of the development.

### Flooding

NPF 4 Policy 22 (Flood risk and water management) intent refers to strengthening resilience to flood risk by promoting avoidance as a first principle and the vulnerability of existing and future development to flooding.

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

The site sits within the functional floodplain based on the SEPA Flood Maps. This indicates that there is a medium to high risk of flooding to the site from the river. In light of flood risk to the site, extensive consultation with the Council Flood Planning team has taken place as part of this assessment.

SEPA is a statutory consultee and in this instance has objected in principle to the proposed development, as the proposed development is expected to put people or property at risk of flooding which is contrary to Scottish Planning Policy.

There is a Flood Protection Scheme (FPS) along the Water of Leith which affords a level of protection to existing properties and infrastructure located behind it. This area falls within Phase 2 of this scheme. In July 2018, SEPA published a Planning Information Note 4 which set out the position it now takes for development behind a FPS. In summary, where a planning application will result in land use change to a highly vulnerable use such as residential, SEPA requires the development to be protected to a 1:200 year standard including an appropriate allowance for climate change.

SEPA has a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce flood risk and promote sustainable flood risk management. It states that the cornerstone of sustainable flood risk management is the avoidance of flood risk. It is SEPA's view that vulnerable uses such as residential development should be directed to alternative locations rather than incorporating mitigation measures.

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).

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

However, SEPA recognises that in determining applications, 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.

The applicant provided a Flood Risk Assessment (2022) which contained several recommendations to mitigate flood risk to the site accounting for climate change. These included the use of flood resilient materials and construction methods (such as the flooring and the lower 1m of the ground floor walls and doors) for the ground floor of the proposed residential unit.

Flood Planning reviewed the submitted Flood Risk Assessment, and in issuing their consultation response advised that they have no objection to the proposal subject to provisions for access to the Water of Leith flood defence to not be obstructed during construction to allow for maintenance and operation of the flood defences. An appropriately worded informative has been included.

In considering the acceptability of the proposal on flood risk grounds, the comments provided by SEPA as part of their consultation response are noted. However, the applicant has noted and considered constructive feedback provided by the Council Flood Planning team, notably from detailed engagement via pre-app stage through to submitting a detailed proposal for the site, with provision of sufficient mitigation measures per the design solution to safeguard against future flood risk events. On balance it is considered that the proposal can be deemed acceptable regarding flood risk.

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.

#### Developer Contributions

No contributions have been identified.

#### **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.

#### **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 total of five representations have been received. These include four objections and a single comment in support as summarised below:

Objection-

### *material considerations*

- Overdevelopment of site
- Loss of amenity
- Impact on biodiversity of watercourse
- Increased risk of flooding
- Visual amenity and overbearing impact

These comments have been addressed in section B of this report.

### *non-material considerations*

- Access and legal issues

Support-

### *material considerations*

- Visual improvement

These comments have been addressed in section B of this report.

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

The material considerations support the presumption to grant planning permission.

## **Overall conclusion**

The proposed development is within the urban area where residential development is acceptable in principle. The site can contribute to local living and the 20 minute neighbourhood principle whilst delivering a sustainable development on a brownfield site. Therefore, it is considered that proposals comply with the Development Plan policies of NPF4 and the LDP. The design is high quality and will complement the character of the surrounding area. A satisfactory living environment for future occupiers will be achieved and no unreasonable impact on neighbour's amenity will occur.

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

## 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. Prior to the commencement of the development 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; Note: samples of the materials may be required.
3. Prior to the commencement of the development, full details of all hard and soft Surface, Boundary and Landscaping treatments, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site. The soft landscaping must include native species. All hard and soft landscaping to be completed within six months of the occupation of the development hereby approved.
4. Prior to the commencement of the development details of fully enclosed accessible and secure cycle stores shall be submitted to and approved in writing by the Planning Authority. The cycle stores shall thereafter be implemented prior to the first use of the approved dwelling.
5. The trees on the site shall be protected during the construction period by the erection of fencing, in accordance with BS 5837:2012 " Trees in relation to design, demolition and construction".
6. Prior to the commencement of the development details of a privacy screen on the west elevation of the balcony shall be submitted to and approved in writing by the Planning Authority. The privacy screen shall thereafter be implemented prior to the occupation of the approved dwelling.
7. Prior to the commencement of development, a site-specific habitat creation plan shall be submitted to and approved in writing by the Planning Authority. The plan shall detail measures for the residential unit incorporating two bat bricks at eaves height and two swift nest bricks at eaves height.

### 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. For the planning authority to consider this matter in detail.
4. In order to provide appropriately designed cycle storage for future residents.
5. In order to safeguard existing trees on site.
6. In the interest of amenity.
7. In the interest of enhancing environmental quality and of biodiversity.

### **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. During the construction of the development access to the Water of Leith Flood Defence Wall must remain free from obstruction to allow for maintenance and operation of the flood defences.

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

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

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

**Date Registered: 28 November 2022**

**Drawing Numbers/Scheme**

01A,02,03,04,06A, 07A

Scheme 2

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

Contact: Jay Skinner, Planning Officer  
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## Appendix 1

### Summary of Consultation Responses

NAME: SEPA

COMMENT: SEPA object in principle to the application and recommend that planning permission be refused.

DATE: 17 January 2023

NAME: Infrastructure, Structural Services Flood Prevention

COMMENT: No objection to proposal subject to conditions.

DATE: 10 March 2023

NAME: Natural Environment

COMMENT: No objection to proposal.

DATE: 12 July 2023

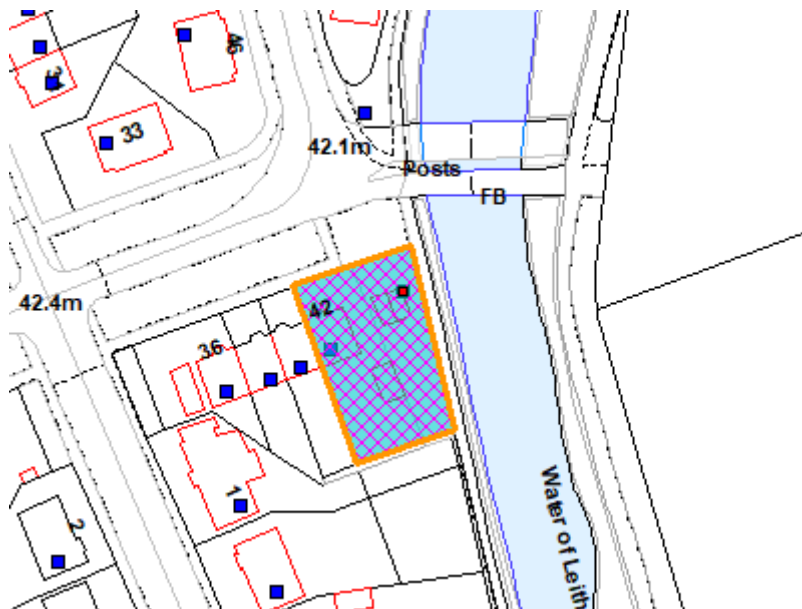
NAME: Children and Families

COMMENT: No education contribution requirement.

DATE: 18 July 2023

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 6 December 2023**

**Application for Planning Permission STL  
3 Tron Square, Edinburgh, EH1 1RR**

**Proposal: Retrospective change of use from residential (Sui Generis) to short-term let (Sui Generis) for three months per annum (June-August).**

**Item – Committee Decision  
Application Number – 23/04425/FULSTL  
Ward – B11 - City Centre**

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

The application has been referred to the Development Management Sub-Committee because the application has attracted a petition in support with more than 20 signatures. 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 **Refused** subject to the details below.

### **Summary**

The proposal complies with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building, or its setting and it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a short-term let ( STL) will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. 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 policy NPF 4 policy 30(e) 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 site is a two bedroom flat at 3 Tron Square, adjacent to the Cowgate. The property has its own main door entrance. It shares access to The Cowgate via a courtyard area and a communal gate and footpath.

Tron Square comprises three 4-storey blocks. It is entirely residential.

The application property is a category B listed building (LB29229, 14.12.1970).

The application site lies within the Old Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

### **Description of the Proposal**

The application is for retrospective change of use from residential to short term let (sui generis) for three months of the calendar year (June to August). No internal or external physical changes are proposed.

### **Supporting Information**

Covering letter.

### **Relevant Site History**

22/04793/FUL

3 Tron Square

Edinburgh

EH1 1RR

Retrospective change of use from a flatted dwelling to short term let.

Refused

12 April 2023

### **Other Relevant Site History**

No other relevant planning site history.

### **Pre-Application process**

There is no pre-application process history.

### **Consultation Engagement**

No consultations undertaken.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 29 September 2023

**Date of Renotification of Neighbour Notification:** Not Applicable  
**Press Publication Date(s):** 6 October 2023  
**Site Notices Date(s):** 3 October 2023  
**Number of Contributors:** 3

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

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

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

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

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

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

There are no external changes proposed. The change of use from a residential premises to a short term let 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.

### Listed Buildings, Conservation Area and Edinburgh World Heritage Site

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. The proposals 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 relate 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 applicant has submitted a supporting letter. The letter states that Tron Square is situated on a busy thoroughfare between the Royal Mile and the Cowgate and it does not have a quiet residential setting.

The application property is located within Tron Square which is set back from the Cowgate. The character of the immediate area is entirely residential. Access to the property is gained via a pedestrian courtyard and communal gate that is overlooked by a large number of flats within Tron Square. The use of this property as an STL would introduce an increased frequency of movement to the property and the shared courtyard entrance area and communal gate. The proposed two bedroom STL use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis for three months in the year (June to August) every year, in a manner dissimilar to that of permanent residents. 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 than individuals using the property as a principal home.

The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbance, further impacting on neighbouring amenity. However, this would be of lesser impact as it is likely that servicing would be conducted during the daytime.

The potential for noise to be generated as described would be significantly different from the ambient background noise that neighbouring residents in a residential development with shared courtyard might reasonably expect, and will have a significantly detrimental 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*

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential accommodation, this will only be supported where the loss is outweighed by demonstrable local economic benefits.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. The use of the property by guests and the required maintenance and upkeep of STL properties are likely to result in a level of job creation and spend within the economy which can be classed as having an economic benefit.

The applicant's supporting letter states that as the proposed STL use is for three months of the year only (June to August) and will remain in residential use for nine months, then residential use is not lost.

The application property is a residential unit and the current lawful use of the property is residential. Consequently, the use of the property as an STL for three months in the calendar year would result in a loss of residential accommodation for this period each year potentially impacting on the use of the property as a residential home. Given the recognised need and demand for housing in Edinburgh, it is important to retain housing where appropriate.

Further, it is important to recognise that residential occupation of the property contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, as well as by making contributions to the local community.

In this instance, it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. As such, the proposal does not comply with NPF 4 30(e) part (ii).

#### Car Parking

There is no car parking available at the property. This is acceptable and there is no requirement for cycle parking for STLs. The proposal complies with policies Tra 2 and Tra 3.

The proposals comply with LDP Policies Tra 2 and Tra 3.

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

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. 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 policy NPF 4 policy 30(e) and LDP policy Hou 7

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

The following material planning considerations have been identified:

#### 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.

## 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.

## Public representations

Three representations were received. Two objections. One petition in support with 25 signatures.

A summary of the representations is provided below:

### *material considerations -objections*

- Negative impact on residential amenity. Addressed in c) above.
- Three months for STL use is too long. Addressed in c) above.

### *material considerations -in support*

- No negative impact on residential amenity. Addressed in c) above.
- Temporary STL use retains the property as a residential dwelling. Addressed in c) above.
- Retains local jobs eg. cleaning, property management, laundry services and hospitality. Addressed in c) above.
- Appearance of listed building is preserved. Addressed in a) above.
- Appearance of conservation area is preserved. Addressed in b) above.

*non-material considerations -in support*

- NPF 4 Policy 27 supports and encourages development in city centres. The application must be assessed against relevant policies.
- STL use will ensure the building is maintained.

**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 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building, or its setting and it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. 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 policy NPF 4 policy 30(e) 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;

**Conditions**

**Reasons**

**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 property as a short term 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 4 Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this property as a short term let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

## **Background Reading/External References**

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

**Further Information - Local Development Plan**

**Date Registered: 14 September 2023**

## **Drawing Numbers/Scheme**

01, 02

Scheme 1

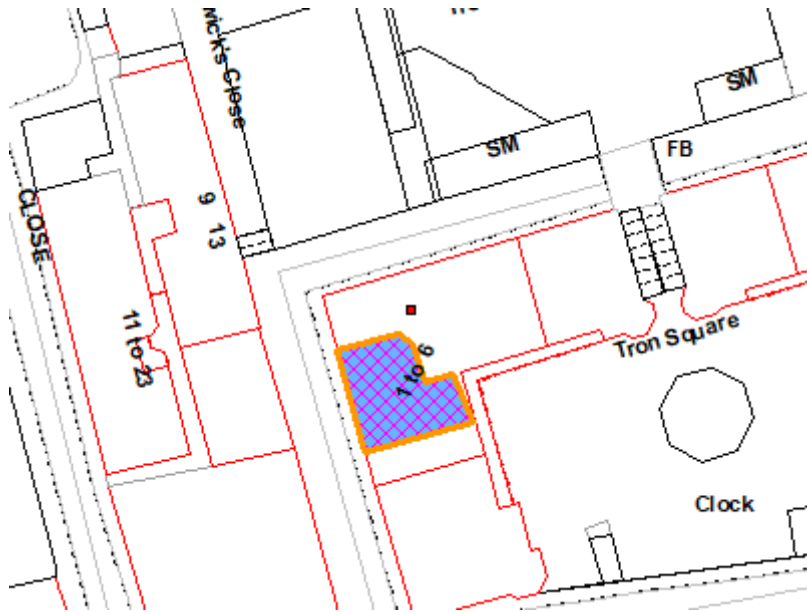
**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Lesley Porteous, Planning Officer  
E-mail: [lesley.porteous@edinburgh.gov.uk](mailto:lesley.porteous@edinburgh.gov.uk)

## Summary of Consultation Responses

No consultations undertaken.

### Location Plan



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## Development Management Sub-Committee Report

**Wednesday 6 December 2023**

**Application for Planning Permission  
12 West Savile Road, Edinburgh, EH16 5NQ.**

**Proposal: Change of use from Class 8 residential institution to Class 10 children's nursery (as amended).**

**Item – Committee Decision  
Application Number – 23/03388/FUL  
Ward – B15 - Southside/Newington**

### **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 objections, and the recommendation is to grant planning permission.

### **Recommendation**

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

### **Summary**

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal complies with policies 1, 7, 13, 14 and 21 of National Planning Framework 4 and policies Des 1, Des 12, Hou 7, Tra 2 and Tra 3 of the Edinburgh Local Development Plan. The proposal is in accordance with the relevant non-statutory guidance. There are no material considerations which outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site is a two-storey detached property in the Newington area of Edinburgh. The property has been in Class 8 use forming part of the Royal Blind Asylum and School since 1875. Operations ceased at the site in 2014 and the property is currently vacant.

The immediate area is predominantly residential in character with a range of guest houses and non-residential institutions in the surrounding streets.

The site is located within the Craigmillar Park Conservation Area.

### **Description of the Proposal**

The application proposes a change of use from Class 8 (residential institution) to Class 10 (children's nursery).

The proposed nursery would accommodate up to 60 children and would operate Monday - Friday between 08:00hrs and 17:35hrs.

No off-street parking is proposed. A long stay two storey cycle store provides space for six standard cycles above and four standard or two cargo bikes below. Two short stay visitor cycle sheffield stands are proposed with capacity for four standard cycles or two standard plus two cargo cycles. The existing paved area to the rear garden would be changed to an astro synthetic surface and a new 2.1m high hedge planted around the perimeter as privacy screening.

Scheme 4 amends the cycle parking provision, removes the timber privacy fencing to the rear garden and replaces this with a 2.1 high hedgerow. The site plan is also corrected to show no removal of trees.

### **Supporting Information**

The following information is submitted in support of the application:

Noise Impact Assessment.

Supporting Planning Statement.

Transport Statement.

### **Relevant Site History**

11/02027/FUL

Drever House

12 West Savile Road

Edinburgh

EH16 5NQ

Formation of a wheelchair ramp to front door.

Granted

5 August 2011

### **Other Relevant Site History**

No other relevant site planning history.

### **Pre-Application process**

There is no pre-application process history.

## Consultation Engagement

Transport Planning

Environmental Protection

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

## Publicity and Public Engagement

**Date of Neighbour Notification:** 4 August 2023

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

**Press Publication Date(s):** 11 August 2023

**Site Notices Date(s):** 8 August 2023

**Number of Contributors:** 81

## 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:

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

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

- *Managing Change - Setting*

The Craigmillar Park Conservation Area Character Appraisal emphasises the predominance of high quality stone-built Victorian architecture of limited height which provides homogeneity through building lines, heights, massing and the use of traditional materials, and the predominant residential use.

The proposal has been amended to include a hedgerow as privacy screening to the rear garden. This will enhance the appearance of the conservation area. The other external alterations include a bike/buggy store and bin enclosure to the front garden area, and these will be screened by the existing boundary hedge to the street elevation. The timber gates proposed to the sides of the property are discreet and will not be detrimental to the character or appearance of the conservation area.

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

The proposal has regard to the desirability of preserving or enhancing the character or appearance of the conservation area. The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

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 Policy 1 Global Climate and Nature Crises
- NPF4 Policy 7 Historic Assets and Places
- NPF4 Policy 13 Sustainable Transport
- NPF4 Policy 14 Design, Quality and Place
- NPF4 Policy 21 Play, Recreation and Sport

- LDP Design Policies Des 1 and Des 12
- 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 the above policies.

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering the above policies.

### Global Climate and Nature Crises

Policy 1 of the NPF4 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. This application addresses this through:

- The inclusion of cycle storage.
- The reuse of this vacant premises to meet the needs of the community.

### Conservation Area

The impact on the character and appearance of the conservation area has been assessed above in a). It is concluded that the proposal will not adversely impact on the character or appearance of the conservation area.

The proposal complies with NPF4 Policy 7.

### Principle

The proposed change of use from class 8 to class 10 is acceptable in principle. The existing class 8 use is lawful, and capable of operating with no restrictions on activities or hours of operation. The property could be used for any of the purposes within class 8.

The proposed nursery would accommodate up to 60 children and would operate Monday - Friday between 08:00hrs and 17:35hrs. The hours of operation would be restricted by condition. The proposal would provide opportunities for play and recreation for use by children, proportionate to the scale and nature of the building and its curtilage.

The proposal complies with NPF4 Policy 21.

### Neighbouring Amenity

Environmental Protection has been consulted on the proposal and recommend refusal due to the potential impact on neighbouring residential amenity.

However, the characteristics of a residential institution, providing specialist education for children of varying ages, and that of a nursery are not so dissimilar, with each use being capable of providing a range of activities for children both within and outside the building.

In addition, regard must be had to the ability of the Planning Authority to control the proposed class 10 use, through the use of a condition restricting the hours of operation; this would provide protection to neighbouring residential amenity. This is in contrast to the existing situation, where the lawful class 8 use can operate with no restrictions on its operations.

In these particular circumstances, having regards to the existing lawful use of the premises, there would not be an unacceptable impact on amenity levels of neighbours.

The proposal complies with LDP Policy Hou 7.

### Parking and Road Safety

No off-street parking is provided for the use, and any drop off and pick up from the nursery would take place within the existing street. A Transport Statement has been provided in support of the application and the application site is easily accessible by public transport. Given the ability of the premises to resume its lawful Class 8 use, with the potential resultant increase in vehicle movements, the proposal would not have an unacceptable impact on parking and road safety within the surrounding area.

Cycle storage shall be provided on site, and this complies with the standards set out in the Edinburgh Design Guidance which details a minimum of one cycle space per nine pupils at schools/nurseries. A total of fourteen standard cycle spaces will be provided or eight standard and six non standard cycles. There will be one long stay two tier store and two short stay visitor cycle Sheffield stands.

Transport has raised no objections subject to the applicant considering developing a Travel Plan.

The proposals comply with NPF4 Policy 13 and LDP Policies Tra 2 and Tra 3.

### Design

The alterations to the external areas are acceptable in terms of their design and form, choice of materials and positioning and are compatible with the character of the existing building. The hedgerow to the rear garden area is acceptable in the context of the surroundings and would not require planning permission. The other external alterations are minimal and would have no detrimental impact on neighbourhood amenity or character.

The proposal complies with NPF4 Policy 14 and LDP Policies Des 1 and Des 12.

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

The proposals comply with the relevant policies within NPF4 and the LDP and are in accordance with the relevant non-statutory guidance.

### **c) 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 total of eighty-one representations have been received including thirty six objections and forty five support comments.

A summary of the representations is provided below:

#### *material objections*

- Will result in increased traffic and car parking on surrounding streets; This has been addressed above in section b).
- Adverse impact on residential amenity through noise and disturbance; This has been addressed above in section b).
- Adverse impact on privacy of neighbours; This has been addressed above in section b).
- Increased waste; A waste strategy should be agreed between applicant and CEC's Waste Services.
- Privacy fence out of keeping with Conservation Area; This has been addressed by the amended Scheme 4.
- Privacy fence would block sunlight to neighbouring gardens; This has been addressed by the amended Scheme 4.
- Bin store and bike store out of keeping with Conservation Area; This has been addressed above in section a).
- Intensity of existing Class 8 use was very light when operational; This has been addressed above in section b).
- Inaccuracy of Noise Impact Assessment; The impact of noise on residential amenity has been considered above in section b).
- Inaccuracy of Transport Statement; The impact on road safety and parking has been considered above in section b).
- Cumulative impact from nearby nurseries in area; Each application is assessed on its own merits.

### *non-material objections*

- Adverse effects on wellbeing of neighbours; This is not a material planning consideration.
- The property should be used for residential use; The lawful use of the property is Class 8.
- Nursery owners lack responsibility; This is not a material planning consideration.

### *material support comments*

- Will contribute to education, well-being and development of children; This has been addressed above in section b).
- Will support local community; This has been addressed above in section b).
- Property has been used for a similar purpose before; This has been addressed above in section b).

### *non-material support comments*

- Nursery operator is well-regarded and established; This is not a material planning consideration.
- Will increase availability of nursery places; This is not a material planning consideration.

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

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

### **Overall conclusion**

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal complies with policies 1, 7, 13, 14 and 21 of National Planning Framework 4 and policies Des 1, Des 12, Hou 7, Tra 2 and Tra 3 of the Edinburgh Local Development Plan. The proposal is in accordance with the relevant non-statutory guidance. There are no material considerations which outweigh this conclusion.

## **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. Hours of operation to be restricted to 0700 - 1900 hours Monday to Saturday.



## Reasons

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.

## 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. The applicant should consider developing a Travel Plan including provision of 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: 31 July 2023**

## Drawing Numbers/Scheme

01-03, 04C, 05-06

Scheme 4

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

Contact: Stephanie Fraser, Planning Officer

E-mail:stephanie.fraser@edinburgh.gov.uk

## Summary of Consultation Responses

NAME: Transport Planning

COMMENT: No objections subject to the applicant considering developing a Travel Plan.

DATE: 18 August 2023

NAME: Environmental Protection

COMMENT: Environmental Protection have serious concerns about the impact this proposal will have on local residential amenity and recommend that the application is refused. However, if granted conditions should be applied.

DATE:

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 6 December 2023**

**Application for Planning Obligation  
181 St John's Road, Edinburgh, EH12 7SL.**

**Proposal: Application for the Modification of Planning Agreement (Section 75) associated with planning permission 18/02831/FUL. Remove clauses to provide on site affordable housing and replace these with clauses seeking to make an off-site financial contribution as the construction costs of delivering the existing consent are non-viable for affordable housing developers.**

**Item – Committee Decision  
Application Number – 22/04607/OBL  
Ward – 00 - No Ward Number**

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

The application has been referred to the Development Management Sub-Committee because the proposal seeks to significantly modify the terms of that obligation and must be determined by the Development Management Sub-Committee.

### **Recommendation**

It is recommended that this application be **accepted, and the agreement be modified** subject to the details below.

### **Summary**

That affordable housing is no longer proposed to be provided on site because it is not financially viable and that a commuted sum is considered acceptable, as independent financial advice has been obtained, and a sum of £10,000 per unit (£87,500 in total) complies with LDP Policy Hou 6, NPF 4 Policy 16 and Non-Statutory Guidance on Affordable Housing where the commuted sum can be used within the ward or an adjacent ward.

The modification to the planning obligation, to provide a commuted sum, is acceptable and the legal agreement can be modified.

## **SECTION A – Application Background**

### **Site Description**

The site extends to an area of 0.56 hectares. It is located on the southeast side of junction between St John's Road and Manse Road.

The previous buildings, contained on the site, have now been demolished.

The site is located in the Corstorphine Town Centre, as defined in the Edinburgh Local Development Plan. The surrounding area is comprised of mixed use with a strong commercial presence on St John's Road and a residential character on Manse Road.

The south side of St John's Road is characterised by three-storey tenement blocks with ground floor shops. Manse Road is characterised by stone-built terraced houses and semi-detached cottages ranging from one-and-a-half storeys to two storeys in height.

The site is bound by the Manse and its curtilage to the south. The Manse is a large, detached dwelling set in a generous garden with mature trees. Manse Road is a one-way street where vehicles travel north onto St John's Road.

The site is located in the Corstorphine Conservation Area.

### **Description of the Proposal**

This application seeks to modify the planning obligation (dated 11 February 2020) regarding on-site affordable housing forming a part of that development, (reference 18/02831/FUL).

That permission was granted for the demolition of the existing buildings on the site and the construction of a mixed-use development, incorporating residential development, together with commercial (shops) floorspace (including a hot food takeaway use), car parking and associated works.

This application seeks to remove the existing clauses requiring the provision of on-site affordable housing units and to replace them with clauses providing the payment of a commuted sum to provide for off-site affordable housing provision.

The proposed form of replacement clauses, as proposed at this stage of the process, make no provision for when the monies would be paid in relation to the construction of the development, but does seek to limit its use to a period of 5 years for the date of payment.

The clauses contained in the original obligation that provide for financial contributions towards both land and infrastructure education costs are to remain unaltered.

### **Supporting Information**

- Supporting Statement; and
- Financial Appraisal.

## Relevant Site History

18/02831/FUL  
181 St John's Road  
Edinburgh  
EH12 7SL

Mixed use development incorporating residential development (Class 9 and sui generis flats) together with commercial floorspace (including Class 1, 2 and 3) and hot food takeaway (sui generis), car parking and associated works. (Amended).

Granted  
11 March 2020

18/02831/VARY  
181 St John's Road  
Edinburgh  
EH12 7SL

Non-Material Variation application for 18/02831/FUL.

VARIED  
8 June 2022

## Other Relevant Site History

### Pre-Application process

There is no pre-application process history.

### Consultation Engagement

Housing Management and Development (Affordable Housing)

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):** Not Applicable

**Site Notices Date(s):** Not Applicable

**Number of Contributors:** 0

## Section B - Assessment

### Determining Issues

Section 75A(1)(a) of the Town and Country Planning (Scotland) Act 1997 states - A planning obligation may not be modified or discharged except, by agreement, between the planning authority and a person against whom that obligation is enforceable.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that planning decisions, including the modification or discharge of a section 75 agreement, be made in accordance with the development plan, unless material considerations indicate otherwise.

In determining such an application for the modification or discharge of a planning obligation, the specific provision should be considered against the five policy tests set out in Planning Circular 3/2012. These tests relate to: necessity, planning purpose, relationship to the proposed development, relationship to scale and kind and reasonableness.

### Assessment

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

#### **a) the modification of the obligation is considered to be acceptable?**

National Planning Framework 4 (NPF 4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF 4 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. There are several policies in the Edinburgh Local Development Plan (LDP) that are equivalent to policies within NPF 4. The relevant policies to be considered are:

- NPF 4 Liveable Places Infrastructure first Policy 16.
- LDP Strategy policy Del 1
- LDP Housing policy Hou 6

The non-statutory 'Affordable Housing Guidance (updated May 2021)' and is a material consideration that is relevant when considering the proposal.

NPF 4 Policy 16 (Quality Homes) encourages, promotes and facilitates the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.

NPF 4 Policy 18 (Infrastructure first) encourages, promotes, and facilitates an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking. Those provisions are to be in full compliance with the relevant Circular tests with regards to each development and determination made by the planning authority.



*e) Development proposals for new homes will be supported 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, unless the LDP sets out locations or circumstances where:*

- i. a higher contribution is justified by evidence of need, or*
- ii. a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes.*

*The contribution is to be provided in accordance with local policy or guidance."*

LDP Policy Del 1 (Developer contributions and infrastructure delivery) requires development to contribute to the specified infrastructure provision where relevant and necessary to mitigate any negative additional impact (either on an individual or cumulative basis) and where commensurate to the scale of the proposed development. In order to provide further detail on the approach to implementation of this policy and to provide the basis for future action programmes the policy states that Supplementary Guidance will be prepared to provide guidance on a number of matters including the required infrastructure in relation to specific sites and/or areas.

LDP Policy Hou 6 (Affordable Housing) states 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 on-site. Whenever practical, the affordable housing should be integrated with the market housing.

The supporting text to the policy states that the provision on an alternative site may be acceptable where the housing proposal is for less than 20 units or if there are exceptional circumstances.

The Affordable Housing Guidance sets out the criteria for when the payment of commuted sums in lieu of on-site provision will be acceptable. All the below criteria should be met:

- There are exceptional reasons to avoid on-site provision, such as the site being poorly located for affordable provision, where conversions do not lend themselves to affordable provision, where it is evidenced to be unviable or unfeasible or where there are other advantages to the Council in accepting a commuted sum such as achieving more, higher quality or better-located affordable units elsewhere; and
- The Council is confident that that the commuted payments can be spent on providing affordable units within the same area of the city within ten years of the payment being made; and
- The proposal is for less than 50 dwellings or is for a conversion.

The current section 75 agreement sets out in the Affordable Housing clauses the requirement for 25% of the total unit numbers to be affordable housing units. With various clauses in relation to the tenure, location, design standards and milestones. In the details of the original application the total number of residential units was to be 35 dwellings, with the number of affordable housing units to comprise 9 units of both one and two bed flats. That would equate to 25.71% provision, 25% equating to 8.75 units.

The supporting financial details of the development and the affordable housing paper have been reviewed. The applicant has provided details that with the present construction cost inflation the average cost of each unit on site would be £336,936 a figure significantly beyond the threshold for viability for a Registered Social Landlord (or RSL). That figure excludes any land value or profit.

The supporting documentation has been independently checked. On the basis of land value and construction costs this value equates to £10,000 per unit, therefore a total off-site affordable housing contribution of £87,500 for the 8.75 units (25% of the overall development).

The District Valuer recommends a commuted sum totalling £87,500. In this instance, and in the absence of any proposed trigger point for the payment of this contribution by the applicant, it is deemed that this would be full contribution payment (index linked from the date of the District Valuers determination (i.e. Quarter 2 of 2023)) made prior to the first commencement of construction of any part of the development on the site.

It is concluded that the proposed commuted sum meets the requirements of LDP Policy Hou 6, the criteria set out in the Affordable Housing Guidance, and NPF 4. Having considered the proposals we are satisfied with the information submitted and are confident that the commuted sum can be used within an agreed timeframe within the ward or an adjacent ward.

## **b) the proposal meets the tests of Circular 3/2012**

Scottish Government Circular 3/2012 (updated 18 November 2020) - Planning Obligations and Good Neighbour Agreements

The circular explains that obligations are to be promoted in strict compliance with the five policy tests. These tests relate to necessity; planning purpose; relationship to the development; scale and kind; and reasonableness.

### Necessity:

In terms of the 'necessity' test, the planning obligation should be necessary to permit the proposed development. With a financial contribution a planning condition cannot be used.

The proposal seeks to modify an existing legal agreement to change the requirements for affordable housing to use a commuted sum. The use of a planning obligation for this matter continues to be required. The use of an obligation is appropriate, thereby satisfying the 'necessity' test.

Planning purpose:

The Circular states that planning authorities should satisfy themselves that an obligation is related to the use and development of land. This judgement should be rooted primarily in the development plan.

LDP Policy Hou 6 (Affordable Housing) sets out the parameters for assessing and requiring affordable housing whilst noting that provision should normally be on-site. The Affordable Housing Guidance provides further information on using the policy, including the circumstances for when a commuted sum will be acceptable.

NPF 4 Policy 16 (Quality Homes) encourages, promotes and facilitates the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.

NPF 4 Policy 18 (Infrastructure first) encourages, promotes, and facilitates an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.

This test is met.

Relationship to the proposed development:

Planning obligations must relate to the development being proposed. There should be a clear link between the development and any mitigation offered as part of the developer's contribution.

The information provided justifies a commuted sum in this instance and relates to the specific details of the development.

Scale and kind:

In terms of the 'scale and kind' test, the Circular states that the planning obligation must be related in scale and kind to the proposed development.

The requirement for 25% affordable houses as part of the original application was acceptable in scale and kind and met the requirements of LDP Policy Hou 6 and NPF 4 policy 16.

The Circular does state that entering into an obligation can have financial consequences for developers and may make proposals uneconomic.

In this circumstance, the modification to provide a commuted sum in lieu of onsite affordable housing provision meets the scale and kind test as it is tailored to this specific development.

### Reasonableness:

In terms of the 'reasonableness' test, the Circular provides a number of questions of which a negative answer to anyone would generally render a planning obligation inappropriate.

(i) is an obligation, as opposed to conditions, necessary to enable a development to go ahead?

(ii) in the case of financial payments, will these contribute to the cost of providing necessary facilities required as a consequence of or in connection with the development in the near future?

(iii) is the requirement in the obligation so directly related to the regulation of the proposed development that it should not be permitted without it?

(iv) will the obligation mitigate the loss of, or the impact upon, any amenity or resource present on the site prior to the development?

Taking these questions in turn:

- i) Yes, the obligation cannot be secure through a condition.
- ii) Yes, the commuted sum would be utilised elsewhere in the area.
- iii) Yes, an obligation is required, or it fails the policy requirement for affordable housing.
- iv) Residential led mixed use development that converts a number of former industrial buildings. Affordable housing is required by the LDP and NPF 4

The affordable housing policy is well established and in assessing the supporting information for the proposed commuted sum it is reasonable to take this approach.

The tests of the circular are met.

### **c) 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

None received.

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

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

#### **Overall conclusion**

That affordable housing is no longer proposed to be provided on site because it is not financially viable and that a commuted sum is considered acceptable, as independent financial advice has been obtained, and sum of £10,000 per unit (£87,500 in total) complies with LDP Policy Hou 6, NPF 4 Policy 16 and Non-Statutory Guidance on Affordable Housing where the commuted sum can be used within the ward or an adjacent ward.

The modification to the planning obligation, to provide a commuted sum, is acceptable and the legal agreement can be modified.

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

The recommendation is subject to the following;

#### **Informatives**

It should be noted that:

1. Please submit an engrossed Discharge or Minute of Variation (as appropriate) in accordance with the terms of this Decision Notice for execution and registration by the City of Edinburgh Council along with the required registration forms and registration fee. Submissions should be sent to The City of Edinburgh Council, Legal Services, 4 East Market Street, Edinburgh, EH8 8BG.

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

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

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

**Date Registered: 13 September 2022**

#### **Drawing Numbers/Scheme**

01

Scheme 1

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

Contact: John Maciver, Senior planning officer  
E-mail: [john.maciver@edinburgh.gov.uk](mailto:john.maciver@edinburgh.gov.uk)

## Summary of Consultation Responses

NAME: Housing Management and Development (Affordable Housing)

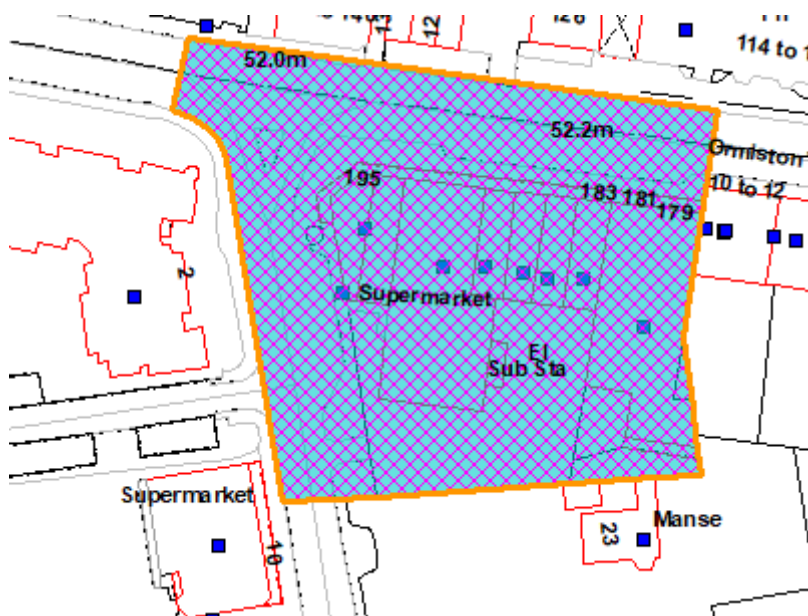
COMMENT: The applicant seeks amendments to the existing Section 75 agreement to reflect that the affordable housing will not be able to be delivered onsite.

- The costs of the development have been independently checked and verified.
- The average construction cost exceeds £335,000 per home, and it is not viable for a RSL to deliver onsite affordable housing at that cost. The funding shortfall is at least £1 million for the 8.75 affordable homes required.
- The high construction costs rule out other methods on onsite delivery, such as low-cost home ownership.
- The District Valuer has calculated a commuted sum based on land value.
- Their recommendation is a commuted sum of £87,500 in total or £10,000 per affordable housing unit required.
- The sum would be secured through a Section 75 legal agreement.

DATE: 14 June 2023

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 6 December 2023**

### **Protocol Note for Hearing**

**72-74 Eyre Place, Edinburgh – Erect 7x townhouses with associated amenity space, access, cycle parking and landscaping – application no. 23/04046/FUL**

**72-74 Eyre Place, Edinburgh – Erection of student accommodation with associated amenity space, access, cycle parking, disabled car parking and landscaping – application no. 23/04048/FUL**

<b>Report number</b>	<b>6.1</b>
<b>Wards</b>	<b>B5 – Inverleith</b>

#### **Nick Smith**

Service Director – Legal and Assurance

Contacts: Taylor Ward, Committee Services

Email: [taylor.ward@edinburgh.gov.uk](mailto:taylor.ward@edinburgh.gov.uk)

# Summary

## Protocol Note for Hearing

### Summary

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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

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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

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1	<b>Chief Planning Officer</b> - presentation of report	10.10 - 10.30
2	<b>Representors or Consultees</b> Newtown and Broughton Community Council Eyre Place Land Owners Association Rodney Street Residents Association	10.35 – 10.42 10.47 – 10.54 10.59 – 11.06
3	<b>Ward Councillors</b> Councillor Jule Bandel (TBC) Councillor Max Mitchell Councillor Vicky Nicolson	11.10 – 11.15 11.20 – 11.25 11.30 – 11.35
4	<b>Break</b>	11.40 – 11:55
5	<b>Applicant and Applicant’s Agent</b> Scott Hobbs Planning (Paul Scott) Fletcher Joseph Associates (Paul Harkin)	12.00 – 12.15
6	<b>Debate and Decision on Application by Sub-Committee</b>	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 6 December 2023**

**Application for Planning Permission  
72 - 74 Eyre Place, Edinburgh, EH3 5EL.**

**Proposal: Erect 7x townhouses with associated amenity space, access, cycle parking, car parking and landscaping.**

**Item – Committee Decision  
Application Number – 23/04046/FUL  
Ward – B05 - Inverleith**

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

The application is subject to 75 material representations objecting to the application. Consequently, under the Council's Scheme of Delegation the application must be determined by the Development Management Sub-Committee as the recommendation is for approval. Due to the community interest in the application a hearing has been proposed by the Chief Planning Officer.

### **Recommendation**

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

### **Summary**

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. 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). A deviation from the LDP in terms of the total site area as open space is justified given the constraints of the site. There are no material considerations that alter this recommendation.

## **SECTION A – Application Background**

### **Site Description**

The proposal relates to a vacant plot located on the east side of Eyre Place Lane to the south of Eyre Place. The site covers an area of 0.1 hectares and was formerly in use as a builders' merchant/yard (Class 6). The former builders' yard has been sub divided into two and this application relates to the southern section. All buildings and structures relating to this former use have now been demolished which mainly consisted of single storey warehouse buildings and stock display areas. A children's activity centre, forming part of King George V Park and known as The Yard, is located to the south of the site.

The site is located out with, but abutting, the boundary of the New Town Conservation Area which bounds the site to the west side of Eyre Place Lane. Part of this application site falls within the Historic Garden Designed Landscape - Inventory Site: New Town Gardens and Dean.

The existing site is on two distinct levels, with a lower section to the south. It is proposed that this is graded level and meet Eyre Place Lane.

### **Description of the Proposal**

The application proposes the erection of seven residential dwellings. These will be a single terrace of three storey, four bedroom townhouses. Six car parking spaces will be included to the rear of the houses, each with EV charging capabilities.

The design of the houses will feature a flat roof with blue/green capabilities, and solar photovoltaic panels. Proposed materials include a predominantly brick finish with feature areas of aluminium cladding to ground and first floor, with aluminium standing seam finish to the second floor which will have a recessed dormer appearance.

A new two metre wide publicly accessible footpath is to be formed in front of the townhouses and will extend the full length of the eastern side of Eyre Place lane.

### **Supporting Information**

- Design & Access Statement ('D&AS')
- Heritage Statement
- Archaeological Desk Based Assessment
- S1 Sustainability Form
- Air Quality Impact Assessment
- Noise Impact Assessment
- Bat Roost Potential Survey
- Surface Water Management Plan (inc. Flood Risk Assessment)
- Transport Statement
- Phase 1 Site Investigation

## **Relevant Site History**

22/03833/FUL  
72 - 74 Eyre Place  
Edinburgh  
EH3 5EL

Proposed erection of nine townhouses with associated amenity space, access, cycle parking, car parking and landscaping.

Appeal Dismissed

15 February 2023

## **Other Relevant Site History**

Appeals against non determination of a previous planning application for residential development on this site were dismissed by a reporter on 14 June 2023 (PPA-230-2409). The Reporter concluded that although the principle of residential development on the site was acceptable, the application was refused on the following specific grounds which tip the balance out of favour of the development:

- The impact of the development within the immediate environs of the site where I find the fourth quality of a successful place ‘distinctive’ (as described in Appendix D of NPF4) would lead to conflict with development plan policy.
- No attempt was made to step the development to reflect the gradient or the stepped form of the existing mews housing opposite.
- Insufficient information was provided to demonstrate that daylight to the windows of the existing or proposed development on the lane can be achieved in line with the technical standards advocated by the Edinburgh Design Guide.

## **Pre-Application process**

Pre-application discussions took place on this application.

## **Consultation Engagement**

Scottish Water

Archaeology

Environmental Health

Waste Services

Historic Environment Scotland

Children and Families

Flooding

Transport Planning

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

## Publicity and Public Engagement

**Date of Neighbour Notification:** 8 September 2023

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

**Press Publication Date(s):** 15 September 2023

**Site Notices Date(s):** 12 September 2023

**Number of Contributors:** 144

## 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:

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

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

- Managing Change : Setting
- Managing Change : Gardens and Designated Landscapes

The proposed development site lies outwith, but directly adjacent to the boundary of the New Town Conservation Area. The conservation area boundary runs along the length of Eyre Place Lane and along the southern boundary of the site adjoining 'The Yard' and extends over King George V Park. As a result of the proximity of the site to the conservation area, any development has the potential to impact on its setting.

The 'New Town Conservation Area Character Appraisal' identifies that there are a number of key areas of setting and edges to the conservation area. The area around the application site is not identified as a key gateway to the conservation area and the proposals will not impact on any significant vistas and views. A Heritage Statement has been submitted with the application which identifies and provides an assessment on the impact of the proposals on nearby heritage assets which lie within 500 metres of the site. The statement identifies that the northern part of the New Town Conservation Area, has a different character to the formal planned areas to the south. As a result, the proposals would have a low adverse impact on the setting of existing built heritage.

The southern end of site is designated as part of the Historic Garden Designed Landscape - Inventory Site: New Town Gardens and Dean. The boundary of this designation also runs along Eyre Place Lane itself adjoining the application site. The proposals will involve the redevelopment of an existing vacant brownfield site within an existing urban area. The site is not directly adjacent to any areas which are part of the historically designed public and private open spaces which characterises this designation. Historic Environment Scotland have been consulted and no concerns raised have been raised in relation to the impact of the proposals on the designated landscape. The proposals will have a neutral impact on the setting of the designated landscape.

### Conclusion in relation to the conservation area

The proposals are acceptable with regards to Sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the works will preserve the special character and appearance of the conservation area.

### b) 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 NPF4 and LDP policies to be considered are: -  
NPF4 Climate and nature crises policies 1, 2, 3 and 9;  
NPF4 Historic assets and places policies 7, 9, 12, 13, 20 and 22;  
NPF4 Successful places policies 14, 15, 16 and 18;  
LDP Design policies Des 1, Des 2, Des 3, Des 4, Des 5, Des 7 and Des 8;  
LDP Environment policies Env 21;  
LDP Housing policies Hou 1, Hou 2, Hou 3 and Hou 4;  
LDP transport policies Tra 2, Tra 3 and Tra 4;  
LDP Delivery policy Del 1;  
LDP Employment policy Emp 9.

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 and transport policies.

### Principle

Within the urban area, LDP Policy Hou 1 gives priority to the delivery of housing land supply and the relevant infrastructure on suitable sites in the urban area provided proposals are compatible with other policies in the plan. The proposal for residential townhouses at this site, complies in principle with the requirements of this policy (subject to other policy considerations).

LDP policy Hou 2 (Housing Mix) states that the Council will seek a mix of house types and sizes where practicable to meet a range of housing needs. The site sits directly opposite an existing terrace of townhouses. However, the predominant house type in the local area is tenement flats. Although the proposals feature a single house type, this meets the need for family homes within the immediate area and complies with Hou 2.

The proposals are consistent with NPF4 policy 15 (Local living and 20 minute neighbourhoods) and future occupiers will be able to meet the majority of daily needs within a reasonable distance from the site through the use of walking, public transport and cycling.

NPF4 policy 16 supports "smaller scale" developments within existing settlement boundaries which the proposals will accord with. Build out time scales will relate to trigger points for relevant developer contributions required.

NPF4 policy 9 states that development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported.

The principle of the development of the site for residential is accepted.

### Loss of employment Uses.

LDP Policy Emp 9 (Employment Sites and Premises) supports the redevelopment of premises in the urban area for uses other than business provided that the introduction of non-employment uses will not prejudice or inhibit the activities of any nearby employment use and the proposal will contribute to the comprehensive regeneration and improvement of the wider areas. As the site area falls under one hectare, there is no requirement for replacement business spaces to be provided.

The surrounding area is mainly residential in character, a children's activity centre is located at the end of Eyre Place Lane with small business uses found on Eyre Place. The proposed residential use in this location would not inhibit these nearby uses. The proposal complies with Emp 9 and NPF4 policy 15.

### Conservation Area Setting

The impact on the setting of the New Town Conservation Area has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of NPF4 Policy 7 in this regard.

### Climate Mitigation

NPF4 Policy 1 (Tackling the climate and nature crisis) 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 an existing developed site for alternative uses.

NPF4 Policy 2 a) (climate mitigation and adaption) 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 encourages the use of previously developed land over greenfield development. In particular, criterion a) states development proposals that will result in the sustainable reuse of brownfield land will be supported.

Measures are proposed to ensure building fabric performance and overall energy consumption will meet relevant building standards. The energy strategy removes all requirements for fossil fuels and includes air source heat pumps and solar photovoltaic array for water and space heating. Sustainable transport is prioritised by the low car parking levels proposed in the new development, each with EV charging, private cycle storage and accessibility to the wider city for active residents.

### Ecology

NPF 4 policy 3 (Biodiversity) states that proposals for local development should include appropriate measures to conserve, restore and enhance biodiversity. The site is existing developed land with little opportunity for habitat. Active bat surveys have been carried out and no evidence of current roosting found on the site. The inclusion of planting to be conditioned as part of a landscape plan will increase the biodiversity value of the site.

A condition has also been included to require the inclusion of swift bricks/boxes within the fabric of the houses to provide new habitat.

### Height, scale and massing

NPF4 Policy 14 (Design, quality, and place) supports development proposals that are designed to improve the quality of an area and are consistent with the six qualities of successful places. The proposals will provide an attractive built environment, located in an area which has high connectivity to reduce car dependency. The townhouse design is a modern interpretation of the three storey mews design found in the street and expand the range of house types found in the local area. The scale and built form of the proposals will contribute to the sense of place. Natural surveillance onto communal areas has been encouraged by design to create safer and more communal shared amenity.

LDP Policies Des 1 (Design Quality and Context), Des 3 (Development Design - Incorporating and Enhancing Potential Features) and Des 4 (Development Design - Impact on Setting) ensure that developments will create or contribute towards a sense of place, based upon positive characteristics of the surrounding area, and planning permission will not be granted for poor quality or inappropriate design that would damage the surrounding character of the area.

The Edinburgh Design Guidance (EDG) seeks to ensure that new developments will have a positive impact on their surroundings through height and form, scale and proportions, site layouts and materials utilised.

The spatial character of the area is mixed with tenement scale flats and lower scale mews properties to Eyre Place Lane. The application proposes houses which will reflect the existing mews character of the lane and respect the street hierarchy. The terrace will be stepped to reflect the existing site levels and the existing mews opposite. The applicant has provided detailed sections and elevations to demonstrate that the heights are appropriate in their immediate context, complying with and LDP Policies Des 3 and Des 4.

In terms of immediate outlook, the proposals are within an existing urban area, and although near to an area of open space at King George V Park, there are no significant local views of this space which would be affected by the proposals.

LDP Policy Hou 4 Housing Density seeks an appropriate density of development on each site having regard to a number of factors. The approximate density of the proposed development is 57 dwellings per hectare, which is relatively low in relation to the wider area. However, this is a secondary lane in terms of the street hierarchy, and low rise development is an appropriate design response where mews style properties are commonly found in lanes to the rear of tenement scale buildings.

### Design and Materials

LDP Policy Des 1 (Design Quality and Context) states that proposals should be based on an overall design concept that draws on the positive characteristics of the surrounding area. The proposed elevational treatment of the block is relatively uniform, with a principal elevation facing Eyre Place and secondary elevations to the east and west.

The proposed material palette of brick with aluminium cladding detailing and upper floors are appropriate within the location and will not detract from the character of the wider area. The use of materials and choice of colours references not only the industrial heritage of the site, but also the texture of the neighbouring buildings such as the existing townhouses on Eyre Place Lane which are finished in buff harling with standing seam window and dormer detailing.

The design and the proposed materials are suitable for the context and the mix of building forms and elevational treatment provides interest in compliance with LDP policy Des 1.

### Landscaping

LDP Policy Hou 3 (Private Green Space) sets out that adequate provision for green space should be made to meet the needs of future residents. To the front elevation planters will be formed as part of the access arrangements to each of the dwellings. The EDG state that 'Where private gardens cannot be provided or where their depth is limited (for example less than 3m), there will be a greater need for street trees to be provided.' For urban design reasons, deep front gardens are not an appropriate design response in the lane and as a result, street trees are to be provided at the southern end of the new pavement.

To the rear, the ability to provide landscaped areas is restricted by the presence of a Scottish Water sewer asset in the south east corner of the site. As a result, an area of hard standing is required to allow for vehicles to access this area for maintenance purposes. Consequently, landscaping to each house is provided through a series of terraces and decks with outdoor space or balconies provided at each of the three storeys on the east elevation. The collective area for these ranges from approx. minimum 18sqm and max. 26sqm due to the design of the ground floor terrace. This equates to 11% - 16% respectively of the individual GFA and represents an overall area of 151 sqm which is equivalent to 14% of the application site area. A condition can be added to ensure that the planting and materials are of an appropriate standard to these landscaped areas. Given the constraints of the site a deviation from LDP policy Hou 3 is justified.

The EDG target is for 50% of a space to achieve two hours or more of sunlight on 21 March. The submission has included a shadow path analysis of the external amenity areas will exceed the BRE overshadowing target criteria on the spring equinox (21 March) attaining at least two hours of direct sunlight.

LDP Policy Des 8 Public Realm and Landscape Design supports development where all external spaces and features, including streets, footpaths, civic spaces, green spaces, boundary treatments and public art have been designed as an integral part of the scheme as a whole. Given the constraints of the site, the proposals provide an appropriate response and continuity throughout the scheme.

## Co-ordinated development

Policy Des 2 (Co-ordinated Development) states that planning permission will be granted for development which will not compromise: a) the effective development of adjacent land; or b) the comprehensive development and regeneration of a wider area as provided for in a master plan, strategy or development brief approved by the Council.

Details shown in the submitted planning application for student accommodation to the adjoining site to the north show that this is not compromised by the proposed townhouses.

## Amenity for Neighbours and Future Occupiers

LDP Policy Des 5 (Amenity) sets out criteria for ensuring future occupants have acceptable levels of amenity in relation to noise, daylight, privacy or immediate outlook. NPF 14 policy 14 (Design, Quality and Place) advises that proposals which are detrimental to the amenity of the surrounding area will not be supported.

Regarding privacy, the guidance states that the pattern of development in an area will help to define appropriate distances between buildings and privacy distances. The proposed layout of the development will result in a distance between the proposed dwellings and existing houses on Eyre Place Lane of between 9.5 and 12.5 metres. The affected windows in terms of privacy would be at first and second floor level. These include Juliette balconies from the proposed development and living areas/bedrooms to the existing townhouses on the west side of the lane. This is a relatively small distance but is typical of mews lane developments in the New Town. The proposals on balance comply with LDP Policy Des 5.

In terms of daylight to neighbours and future occupiers, various sections have been provided to show that the 27% Vertical Sky Component is achieved as the building's height does not rise above the 25-degree line in accordance with the Edinburgh Design Guidance. The existing flats located on Rodney Place are located at an elevated level to the application site and there will be no adverse impacts in terms of daylight and sunlight.

## Transport

NPF4 Policy 13 (sustainable transport) requires proposals to demonstrate that the transport requirements generated have been considered in line with sustainable travel priorities. LDP policy Tra 3 (Private Cycle Parking) and Tra 4 (Design of Off-Street Car and Cycle Parking) ensures that private car parking and cycle parking in new developments complies with and does not exceed the parking levels set out in the Edinburgh Design Guidance with appropriate design and layout.

A total of six car parking spaces are proposed to be located at the rear of the townhouses. Each of these parking spaces are to include EV charging points. Cycle storage provision is to be located within the main rear amenity spaces for each house with a further communal store provided. Cycle parking provision is made for 3 spaces per townhouse (300%). The site is conveniently located for access to local bus services.

The proposals include the formation of a new two metre wide footway to the front of the proposed townhouses. This will increase pedestrian accessibility to the site itself and beyond to 'The Yard' at the end of the street. A stopping up order may be required to facilitate the proposed footway and road layout on site which complies with LDP policy Des 7 (Layout Design).

### Flooding and Water Management

The site falls within an area which according to SEPA maps is at defined potential risk of surface water flooding. A Flood Risk Assessment and a Surface Water Management Plan have been provided alongside the associated checklists and certificates required for this scale of development. Flood Prevention has reviewed the information and has confirmed its acceptability. The proposals also include an element of blue/green roofs which will provide additional surface water runoff capacity.

Scottish Water does not object to the proposals, but has provided advisory notes for the applicant in relation to water and waste water capacity. The proposal complies with NPF policy 22 and LDP policies Env 21 (Flood Protection) and RS 6 (Water Supply and Drainage) which all seek to ensure sustainable water management and flood risk measures are in place for new development.

NPF4 policy 20 states that, where appropriate, new blue and/or green infrastructure will be supported as an integral element of the design. The proposed development consists of blue/green roofs on the proposed flat roofs along with blue terraces, covering an area of approximately 375 sqm of the total roof area. On-site surface water attenuation in the form of blue roof and a combination of green/blue roofs and raingarden areas provide appropriate surface water treatment for the proposed development.

### Archaeology

NPF4 policy 7(o) aims to preserve archaeological remains in situ as a first option and alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be acceptable. It has been identified that this site has potential for unrecorded remains therefore a condition could be attached to ensure a programme of archaeological work is carried out prior to/during development to excavate, record and analysis of any surviving archaeological remains that may occur.

### Waste

LDP Policy Des 5 (Development Design - Amenity) sets out that planning permission will be granted for development where it is demonstrated that (amongst other matters) refuse and recycling facilities have been sensitively integrated into the design. NPF 4 policy 12 (Zero Waste) states that proposals should set out how much waste is expected to be generated and how it will be managed.

There is a single access route to the proposed houses along Eyre Place Lane. This route is of insufficient standard to meet Council's Waste Services guidance in allowing space and turning areas for refuse vehicles. The existing townhouses on Eyre Place Lane are serviced by being presented on Logan Street to the west. As a result, following dialogue with Waste Services, a strategy has been agreed which would require future occupiers of the proposed townhouses to present the relevant bins on Eyre Place.

It is anticipated that this would be in the servicing area of a proposed student housing development which is currently pending. Out with this time, bins will be stored in an external covered store either under or adjacent to each resident's private external terrace area to the rear.

Given that this strategy has been agreed by Waste Services, the proposals comply with Des 5 and NPF 4 policy 12.

### Healthcare

The site is not within a Healthcare Contribution Zone. The site falls within the catchment for existing GP practices and no contribution is required.

### Education

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) and NPF 4 policy 18 (Infrastructure First) advise that proposals will be required to contribute to infrastructure provision including education provision as identified in the plan. Education contributions will be applied in accordance the finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance (2018), supported by the Action Programme updates, including the update in December 2021. The finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance (2018) requires an assessment of the cumulative impact of all new development on education infrastructure having regard to school roll projections and an assumption about potential developments within the area at the time of the assessment. The Education Actions in the Action Programme Update (December 2021) were based on data from the 2020 Housing Land Audit and 2020 School Roll Projections. The costs to deliver the education actions were increased to reflect increases in construction costs based on the Council's experience awarding contracts to extend and build new schools and to reflect the Council's commitment to deliver low energy, high quality, Passivhaus buildings.

To mitigate the cumulative impact of development that would be anticipated if this proposal and other urban area sites progressed, the proposed development is therefore required to make a contribution towards the delivery of an extension to Broughton High School at a rate of £12,942 per house, index linked from Q1 2021.

### Air Quality

An Air Quality Impact Assessment has also been submitted and assessed which concludes that the development will have a negligible impact upon the local air quality during both the construction (road traffic) and operational phase. On this basis future occupiers of the development will not be unduly exposed to harmful levels of air quality. The proposed development is in accordance with NPF4 Policy 23 in terms of protecting people and places from environmental harm.

### Contaminated Land

The site has been developed for commercial and industrial uses for a significant time. These uses have the potential to contaminate the site. Should the application be granted, then a condition could be attached to ensure that the site is made safe for the proposed residential use.



## Conclusion in relation to the Development Plan

On the whole, the proposals are in accordance with the Development Plan associated guidance. The proposals are an acceptable design, scale, height and density are appropriate for the location and there will be an acceptable level of amenity achieved. Access arrangements are acceptable as are the proposed landscaping, surface water, sustainability and waste and recycling arrangements. There are no material considerations which outweigh the proposals accordance with the Development Plan.

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

The following material planning considerations have been identified:

#### 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. Consideration has been given to human rights.

#### Public representations

The application received 75 material objections and 9 material support comments. A summary of the representations is provided below, each of these are addressed in sections A and B above.

#### *material considerations - objections*

- Insufficient access to bus services;
  - Insufficient access to healthcare services
  - Loss of daylight to neighbours;
  - Loss of privacy;
  - Refuse collection not suitable on Eyre Place Lane;
  - Potential to be used as HMO's (a change of use would be required)
  - Inappropriate design and materials;
  - Insufficient provision of outdoor space;
  - Insufficient parking proposed;
  - Increased vehicle trips;
  - Potential to increase flooding;
  - Adverse impact on historic character of the area;
  - Excessive density;
  - Existing pavements insufficient width;
  - Inability to turn vehicles in Eyre Place Lane;
  - Response to site levels required;
  - Sunlight study does not take into account bedrooms to the rear of the existing townhouses on Eyre Place Lane (beyond scope);
  - Inaccuracies in Surface Water Management Plan.

*non - material considerations - objections*

- Students are a transient population;
- Antisocial behaviour from students;
- Land not entirely in ownership of applicant;
- Lack of Equality Impact Assessment by applicant;
- Access for occupiers required during construction period;
- Insufficient PAC/pre application process;
- Should be considered as a single application with neighbouring proposals for student housing;
- Students don't pay council tax;
- No universities nearby;
- Free bus travel for under 22's will adversely impact on existing services;
- Potential to be used as holiday lets;
- Loss of existing community garden;
- Confirmation that neighbour notification has been carried out correctly;
- Drawings submitted not to scale;
- Impact on existing title deeds;
- No gas or oil to be used on site;
- Does not comply with City Plan 2030;
- Site should be used for EV charging;
- Noise impacts during construction period.

*material considerations - Support*

- Appropriate design for the area;
- In keeping with existing townhouses on Eyre Place Lane;
- Brings residential housing to an area where needed;
- Change of use will reduce noise/pollution impact from builders yard;
- Well located site for public transport access;
- Swift bricks should be included as a condition.

*non - material considerations - Support*

- Will be built in accordance with building standards
- Will meet an identified housing need.

**Overall conclusion**

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. 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). A deviation from the LDP in terms of the total site area as open space is justified given the constraints of the site. There are no material considerations that alter this recommendation.

## 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. Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the planning authority. The scheme shall contain details of proposals to deal with contamination to include:
  - i. the nature, extent and type(s) of contamination on the site
  - ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.
  - iii. measures to deal with contamination during construction works
  - iv. condition of the site on completion of decontamination measures.Before any residential] unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority.
3. The noise mitigation measures as specified within ITP Energised noise impact assessment no. 6665 and dated 29/08/23 shall be installed prior to occupation of the development.
4. The electric vehicle charging points as shown on the approved plans should be installed and operational prior to occupation of development.
5. Prior to the commencement of development, a programme of archaeological work (Geoarchaeological sampling and analysis, excavation, analysis & reporting, publication, public engagement) in accordance with the written scheme of investigation should be submitted by the applicant and approved by the Planning Authority
6. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and all planting, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.
7. The approved soft landscaping scheme shall be fully implemented within the first planting season of the completion of the development. All planting carried out on site shall be maintained by the developer to the satisfaction of the Planning Authority for a period of 5 years from the date of planting. Within that period any plants which are dead, damaged, missing, diseased or fail to establish shall be replaced annually with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme, as may be submitted to and approved in writing by the Planning Authority.

8. Prior to the commencement of development, details shall be submitted to show the location of swift bricks/boxes on the proposed building. Thereafter, the building shall be constructed in accordance with these details as approved by the Planning Authority.

### **Reasons**

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to protect the amenity of the occupiers of the development.
3. In order to protect the amenity of the occupiers of the development.
4. In the interests of local air quality.
5. In order to safeguard the interests of archaeological heritage.
6. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
7. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
8. In order to safeguard the interests of nature conservation.

### **Informatives**

It should be noted that:

1. Consent shall not be issued until a suitable legal agreement has been concluded in relation to education as set out below:

The proposed development is required to contribute £90,594 towards the delivery of actions relating to Broughton High School. 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. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

## **Background Reading/External References**

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

**Further Information - Local Development Plan**

**Date Registered: 6 September 2023**

**Drawing Numbers/Scheme**

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

Contact: Rachel Webster, Planning Officer  
E-mail: [rachel.webster@edinburgh.gov.uk](mailto:rachel.webster@edinburgh.gov.uk)

## Appendix 1

### Summary of Consultation Responses

NAME: Scottish Water

COMMENT: No objections - note presence of existing asset on the site.

DATE: 15 September 2023

NAME: Archaeology

COMMENT: No objections subject to conditions.

DATE: 14 September 2023

NAME: Environmental Health

COMMENT: No objection subject to conditions.

DATE: 4 October 2023

NAME: Waste Services

COMMENT: No objections.

DATE: 22 September 2023

NAME: Historic Environment Scotland

COMMENT: No objections.

DATE: 6 October 2023

NAME: Children and Families

COMMENT: No response.

DATE:

NAME: Flooding

COMMENT: No objections subject to conditions.

DATE: 11 October 2023

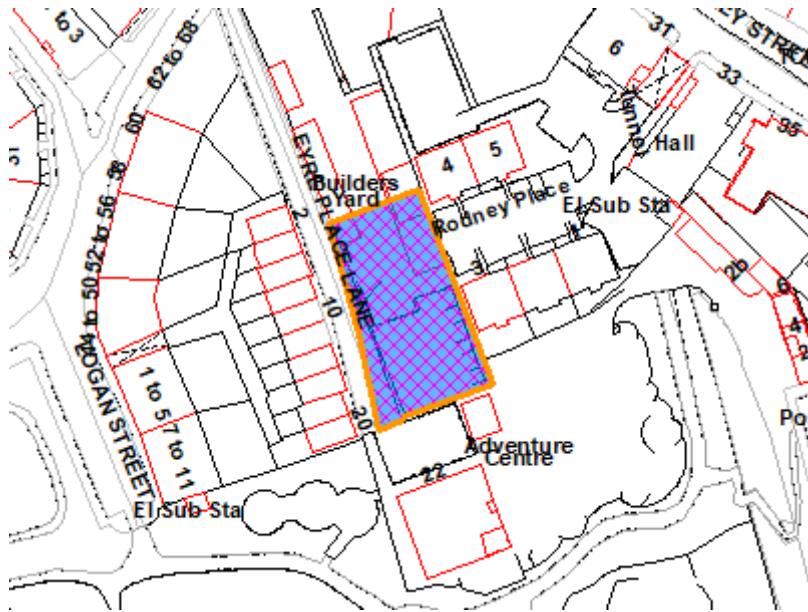
NAME: Transport Planning

COMMENT: No response.

DATE: 23 November 2023

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 6 December 2023**

**Application for Planning Permission  
72 - 74 Eyre Place, Edinburgh, EH3 5EL**

**Proposal: Erection of student accommodation with associated amenity space, access, cycle parking, disabled car parking and landscaping.**

**Item – Committee Decision  
Application Number – 23/04048/FUL  
Ward – B05 - Inverleith**

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

The application is subject to 460 representations objecting to the application. Consequently, under the Council's Scheme of Delegation the application must be determined by the Development Management Sub-Committee as the recommendation is for approval. Due to the community interest in the application a hearing has been proposed by the Chief Planning Officer.

### **Recommendation**

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

### **Summary**

The application for development is acceptable with regard to Sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and mostly complies with relevant policies contained within both NPF 4 and the Edinburgh Local Development Plan. The proposals will deliver a sustainable student 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 makes use of appropriate design and materials. Nonconformities with the relevant non-statutory guidance in relation to sunlight to neighbouring gardens, daylight and use of land for student housing are justified. The proposals, preserve the character and appearance of the conservation area. There are no material considerations which outweigh this conclusion.

## SECTION A – Application Background

### Site Description

The proposal relates to a vacant plot located on the east side of Eyre Place Lane to the south of Eyre Place. The site covers an area of 0.16 hectares and was formerly in use as a builders' merchant/yard (Class 6). The former builders' yard has been sub divided into two for the purposes of redevelopment, and this application relates to the northern section. Buildings and structures relating to this former use have mainly been demolished and consisted of single storey warehouse buildings and stock display areas. A children's activity centre, forming part of King George V Park and known as The Yard, is located to the south of the site.

The site is located outwith, but abutting, the boundary of the New Town Conservation Area which bounds the site to the west side of Eyre Place Lane. The southern section of the builders' yard, outwith the boundary of this application site, forms part of a Historic Garden Designed Landscape - Inventory Site: New Town Gardens and Dean.

### Description of the Proposal

The application proposes the erection of a purpose built student accommodation (PBSA) block. A total of 139 studio units are proposed.

The proposals will include communal internal amenity space for future occupiers of the development. This includes spaces on the ground, first, second and fourth floor with a combined area of 226 square metres with uses such as social lounges, gym, and games rooms.

The new building will be five storeys in height at its frontage with Eyre Place, and this steps down to three storeys along the return when travelling along Eyre Place Lane. The middle part of the building will include a saw-tooth roof which will include solar panels on the south facing elements with other elements featuring a flat roof. Roof terraces will provide additional amenity space for occupiers with an area of 171 sqm. A smaller scale element of the building is proposed on its eastern side which is three storeys with a flat blue/green roof. At ground floor level, this part of the building is separated by a pend from the main block and contains ancillary uses such as plant rooms and bin stores.

Proposed materials include a predominantly sandstone finish to the front elevation facing Eyre Place. As the building steps along Eyre Place Lane and to the side and rear elevations, the proposed block will have a brick finish with areas of gold effect cladding. To the top floor of the block grey standing seam cladding is proposed.

One off street car parking space is proposed which will be restricted for use by blue badge holders. Cycle parking provision will be at a rate of 100% with 139 spaces proposed within an internal, secured access, store in line with the Edinburgh Street Design Guidance. The bike store has allowed for varied types of bike racks to accommodate a range of bikes and locking systems and will comprise of;

- 64 two tier racks (46%);
- 47 vertical racks (34%);
- 28 non standard bike racks (20%) comprising 12 standard Sheffield stands, 8 wide Sheffield stands and 8 bike lockers.

In addition, two areas with a total of 5 Sheffield stands will provide informal and visitor parking for 10 bikes and are located adjacent to the pend and main entrance.

### **Supporting Information**

- Design and Access Statement;
- Planning Statement;
- Flood Risk Assessment and Surface Water Management Plan (SWMP);
- Ground Investigation Report;
- Archaeology Report;;
- Heritage Statement;
- Air Quality Impact Assessment
- Noise Impact Assessment;
- Daylighting Study;
- Transport Statement;
- Sustainability Statement;
- Bat Roost Survey.

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

### **Relevant Site History**

22/03834/FUL

72 - 74 Eyre Place

Edinburgh

EH3 5EL

Erection of student accommodation with associated amenity space, access, cycle parking and landscaping (142 studio flats) (as amended).

Appeal Dismissed

15 February 2023

### **Other Relevant Site History**

An appeal against non-determination of a previous planning application for student housing on this site was dismissed by a Reporter on 14 June 2023 (PPA-230-2408). The Reporter concluded that although the principle of student accommodation on the site was acceptable, the application was refused on the following specific grounds;

- the Reporter was supportive of the height of the proposed development along Eyre Place. The primary concern related to the 5-6 storey return of the building on Eyre Place Lane, where it was considered to not respond to the sense of place;
- insufficient levels of residential amenity to neighbours by loss of sunlight to garden ground;

- the Reporter considered the noise arising from unregulated use of outdoor communal spaces in the late evening to have a potential impact on neighbouring residents;
- the Reporter had concerns with privacy levels at the rear of 76-78 Eyre Place where the distance between 76-78 Eyre Place and the 1st/2nd floor windows of proposed eastern wing of the development was found to be 9-13m.

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

Scottish Water

Environmental Protection

Waste Services

Historic Environment Scotland

Flood Planning

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

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 8 September 2023

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

**Press Publication Date(s):** 15 September 2023

**Site Notices Date(s):** 12 September 2023

**Number of Contributors:** 506

## **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:

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

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

Managing Change: Setting

- Managing Change: Gardens and Designated Landscapes

The proposed development site lies outwith, but directly adjacent to the boundary of the New Town Conservation Area. The conservation area boundary runs along the length of Eyre Place Lane and along the southern boundary of the site adjoining 'The Yard' and extends over King George V Park. As a result of the proximity of the site to the conservation area, any development has the potential to impact on its setting.

The 'New Town Conservation Area Character Appraisal' identifies that there are a number of key areas of setting and edges to the conservation area. The area around the application site is not identified as a key gateway to the conservation area and the proposals will not impact on any significant vistas and views. A Heritage Statement has been submitted with the application which identifies and provides an assessment on the impact of the proposals on nearby heritage assets which lie within 500 metres of the site. The statement identifies that the northern part of the New Town Conservation Area, has a different character to the formal planned areas to the south. As a result, the proposals would have a low adverse impact on the setting of existing built heritage.

The southern end of the existing builders' yard, outwith the boundary of this application site, and subject to a parallel application for residential uses, is designated as part of the Historic Garden Designed Landscape - Inventory Site: New Town Gardens and Dean. The boundary of this designation also runs along Eyre Place Lane itself adjoining the application site. The proposals will involve the redevelopment of an existing vacant brownfield site within an existing urban area. The site is not directly adjacent to any areas which are part of the historically designed public and private open spaces which characterises this designation. Historic Environment Scotland have been consulted and have no concerns in relation to the impact of the proposals on the designed landscape. The proposals will have a neutral impact on the setting of the designed landscape.

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

The proposals are acceptable with regards to Sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the works will preserve the special character and appearance of the conservation area.

### **b) 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 Climate and nature crises policies 1, 2, and 3;
- NPF4 Historic assets and sustainable places policies 7, 9, 12 and 13;
- NPF4 Successful places policies 14, 15, 16, 20 and 22;
- LDP Design Policies Des 1, Des 2, Des 3, Des 4, Des 5, Des 6, Des 7, Des 8, Des 11;
- LDP Housing Policies Hou 1, Hou 8;
- LDP Environment Policies Env 21, Env 22;
- LDP Transport Policies Tra 2, Tra 3, Tra 4;
- LDP Employment Policy Emp 9;
- LDP Resources Policies Rs 1;

The non-statutory Edinburgh Design Guidance and non-statutory Student Housing guidance are material considerations relevant when considering the above policies.

### Principle

Policy NPF4 Policy 16 lends support for development proposals for new homes, that improve affordability and choice, are adaptable to changing and diverse needs which address identified gaps in the provision, and which includes proposals for student housing.

Within the urban area, LDP Policy Hou 1 gives priority to the delivery of housing land supply and the relevant infrastructure on suitable sites in the urban area provided proposals are compatible with other policies in the plan. The proposal for residential student flats at this site complies in principle with the requirements of this policy (subject to other policy considerations). LDP Policy Hou 8 (Student Accommodation) supports the development of purpose-built student accommodation subject to two requirements. Firstly, proposals must be in a suitable location in relation to university and college facilities, and be well connected by means of walking, cycling or public transport. Secondly, it must not lead to an excessive concentration of student accommodation or transient population in the locality to an extent that would adversely affect the area and its established residential amenity or character.

The Council's Non-Statutory Student Housing Guidance re-enforces the requirements of policy Hou 8 and identifies that student accommodation needs should be met in well managed and regulated schemes where possible. The LDP advises that it is preferable in principle that student needs are met as far as possible in purpose-built student schemes. The guidance also refers to there being a greater potential for community imbalance where the student population is dominant, exceeding 50%.

### **Location of Student Housing**

In terms of criterion a) of policy Hou 8, the site is located within easy walking distance of Rodney Street and Dundas Street which provides convenient or direct bus routes towards the education campuses at University of Edinburgh main campus and Kings Buildings, Edinburgh College (Granton and Sighthill) and Edinburgh Napier University. There are also good linkages towards the city centre (and therefore additional educational institutions). The National Cycle Route (NCR 75) enhances active travel connections into the wider cycling network and is accessed close to the application site in King George V Park or on Broughton Road. The site has appropriate access to educational facilities via a range of sustainable transport modes.

Criterion a) within the Student Housing Guidance accepts student housing in locations within or sharing a boundary with a main university or college campus. The application site is not adjacent to a defined university campus as highlighted within the non-statutory guidance on student housing. Criterion b) advises that 'outwith criterion a) student housing will generally be supported on sites with less than 0.25 hectares of developable area'. This site does not share a boundary with a university or college campus and has a site area below the threshold. The proposals therefore comply with the locational aspect of LDP Policy Hou 8 and the supplementary guidance.

### **Concentration of Student Housing**

Criterion b) of policy Hou 8 seeks to limit the concentration of student accommodation where it would have an adverse impact on the maintenance of balanced communities, or to the established character and residential amenity of the locality. The Student Housing Guidance advises that where the student population is dominant, exceeding 50% of the population, there will be a greater potential imbalance within the community.

The student population within the area is based on 2011 census data and the National Records of Scotland's Special Area population Estimates 2018. This data is then adjusted to include consented developments in the area to provide a 2021 figure.

The 2021 figure assumes that all pending and consented applications for Purpose Built Student Accommodation (PBSA) have been granted and are fully occupied. The figure for the datazone is then adjusted to accommodate the application to provide an updated maximum figure for student percentage.

When considering a wider area of a 10 minute walk (approximately 800m) the 2011 census shows an overall student population concentration of 14%. This includes areas within part of the New Town, Stockbridge and Beaverhall. Within this wider area there is only one existing PBSA at Beaverbank with no other sites consented or pending. When reviewing the wider area as a whole, the resultant impact of the proposed development would increase the student population to 17%.

When viewed in isolation the student population within the single datazone of the application was recorded as 11% in the 2011 census. As a result of the application and considering the 2021 population estimate the percentage of students within this datazone would increase to 20%. The proposals will not result in an excessive cumulative impact on the concentration of students in the locality to the degree that would be detrimental to maintenance of a balanced community. Likewise, each of the datazones which adjoin that of the application site around Canonmills have an estimated student population in 2021 of between 8% and 38%. The Student Housing Guidance gives clarity that where the student population is dominant, exceeding 50% of the population, there will be a greater potential imbalance within the community. Given that the datazone of the application site, and those around the site fall well below the 50% criteria, the proposals contribute to a balanced community.

This proportion would not lead to an over-concentrated student population in the area and meets criterion b) of policy Hou 8 and the Student Housing Guidance.

### **Site Area and Mix of Uses**

Criterion c) of the Student Housing Supplementary Guidance advises that 'sites identified as having a high probability of delivering housing within Map 5 taken from the LDP Housing Land Study (June 2014) and sites with greater than 0.25 hectares of developable area must comprise a proportion of housing as part of the proposed development'.

The site is not identified in the LDP for delivering housing and therefore does not contribute towards the housing land supply. The site area as submitted in the application does not exceed the size criterion set out within the Student Housing Guidance and the expectation would be that there is a 50% contribution to housing on the site. However, the guidance also states that to avoid the sub-division of sites the applicant shall be required to demonstrate that the site did not form part of a larger area, within a single control or ownership, on 25th February 2016. Where this is not demonstrated the new build housing requirement, as set out in c), shall apply.

The application site is part of a larger site which was previously occupied by the builders' yard. This site has now been split to include the area under this application, and the land adjoining which has a concurrent planning application for seven mainstream residential townhouses (23/04046/FUL). When the site area of both sites is combined, it has an area of 0.29 hectares, which exceeds maximum site (0.25 hectares) area for solely PBSA uses, albeit parts of the site are not developable due to the existing Scottish Water asset and forming part of the highway.



As the site is only marginally above the site area threshold, it is considered that the current proposals are an appropriate mix of uses for the site. This takes into account the urban design characteristics of the site as a whole, where high density uses would be sought facing Eyre Place, with lower density uses heading south along Eyre Place Lane.

This matter has also been addressed in the Appeal Decision PPA-230-2408 where the Reporter made reference to various appeal decisions which did not comply with this criteria c) of the guidance due to developable area, site and location constraints. The Reporter stated, *"This indicates to me that the characteristics of the site can dictate when it may not be appropriate to rigidly apply this element of the guidance. In these circumstances and taking into account the sewer restriction, the character of the lane and the other uncertainties regarding the size of the 'developable area' I do not consider the failure to meet the measured standard for residential development to impact on the principle of developing the vacant yard for this amount of student accommodation."*

The area contains a mix of uses, and the proposal will not be detrimental to the established character or residential amenity.

### **Mix of Accommodation Type**

The proposal is for solely studio rooms therefore does not meet criteria d) of the Student Housing Guidance which advises that sites should comprise a mix of type of accommodation, including cluster units. The proposals include an open garden with seated areas / planters, internal amenity space, a games room and gym. These internal communal spaces alone occupy an area of 226 square metres. The design therefore provides communal amenity space which is of a proportionate scale and quality to encourage interaction between students.

In the previous appeal decision for student housing at this site, the Reporter noted, *"As the reason for limiting studio apartments is linked to the negative effects of living in isolation and this proposal provides a range of communal spaces I find, in this case, that the number of studio apartments is not a determining factor."*

In this regard, a departure from criteria d) of the guidance is acceptable in this instance.

### **Employment Uses**

LDP Policy Emp 9 (Employment Sites and Premises) supports the redevelopment of premises in the urban area for uses other than business provided that the introduction of non-employment uses will not prejudice or inhibit the activities of any nearby employment use and the proposal will contribute to the comprehensive regeneration and improvement of the wider areas. As the site area falls under one hectare, there is no requirement for replacement business spaces to be provided. Nonetheless there will be a small element of employment uses maintained by way of the running and maintenance of the student housing block.

The surrounding area is mainly residential in character, a children's activity centre is located at the end of Eyre Place Lane with small business uses found on Eyre Place.

The proposed residential student use in this location would not inhibit these nearby uses. The proposal complies with Emp 9 and NPF4 policy 15.

### Conservation Area Setting

The impact on the setting of the New Town Conservation Area has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of NPF4 Policy 7 in this regard.

### Climate Mitigation

NPF4 Policy 1 (Tackling the climate and nature crisis) 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 an existing developed site for alternative uses.

NPF4 Policy 2 a) (climate mitigation and adaption) 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 encourages the use of previously developed land over greenfield development. In particular, criterion a) states development proposals that will result in the sustainable reuse of brownfield land will be supported.

Measures are proposed to ensure building fabric performance and overall energy consumption will meet relevant building standards. The energy strategy removes all requirements for fossil fuels and includes air source heat pumps and solar photovoltaic across the fourth floor roof. Sustainable transport is prioritised by the very low car parking levels proposed in the new development.

### Ecology

NPF 4 policy 3 (Biodiversity) states that proposals for local development should include appropriate measures to conserve, restore and enhance biodiversity. The site is existing developed land with little opportunity for habitat. Active bat surveys have been carried out and no evidence of current roosting found on the site. The inclusion of planting to be conditioned as part of a landscape plan will increase the biodiversity value of the site. A condition has also been included to require the inclusion of swift bricks/boxes within the fabric of the houses to provide new habitat.

### Height, scale and massing

NPF4 Policy 14 (Design, quality and place) supports development proposals that are designed to improve the quality of an area and are consistent with the six qualities of successful places. The proposals will provide an attractive built environment, located in an area which has high connectivity to reduce car dependency. The student residential design is a modern design which reflects the range of materials found in the immediate area. The scale and built form of the proposals will contribute to the sense of place. Natural surveillance onto communal areas has been encouraged by design to create safer and more communal shared amenity.

LDP Design Policies Des 1 - Des 8 set a requirement for proposals to be based on an overall design concept which draws on the positive characteristics of the surrounding area with the need for a high quality of design which is appropriate in terms of height, scale and form, layout, and materials.

The spatial character of the area is mixed with neighbouring sites varying between one and five storeys. The application proposes a building which varies between three storeys and five storeys in height. The highest part of the development will front Eyre Place and this will step down in height along Eyre Place Lane from the initial five storey around the return. Central parts of the development feature modulated, saw-tooth roof features and a stepped roof profile complement the topographic profile and visual character of the area, with the set back roof level aiding the protection of daylight levels to neighbouring properties. The applicant has provided detailed sections and elevations to demonstrate that the heights are appropriate in their immediate context, complying with and LDP Policies Des 3 and Des 4.

The proposed heights have been reduced from those seen in the previous application on this site by approximately one storey. The reduced height, particularly on Eyre Place Lane, will assist in creating a transitional sense of place where it steps down to three storeys, reflecting the existing townhouses on the Lane.

LDP policy Des 11 (Tall Buildings) states that development which rises above the prevailing building height will only be granted in specific circumstances. At the front of the building facing Eyre Place, the building height will broadly match the ridge line of the neighbouring tenements to the east. On this basis, the proposed development would not be overly conspicuous in local and city views and complies with LDP policy Des 11.

In terms of immediate outlook, the proposals are within an existing urban area, and although near to an area of open space at King George V Park, there are no significant local views of this space which would be affected by the proposals.

### Design and Materials

LDP Policy Des 1 (Design Quality and Context) states that proposals should be based on an overall design concept that draws on the positive characteristics of the surrounding area. The proposed elevational treatment of the block is relatively uniform, with a principal elevation facing Eyre Place and secondary elevations to the east and west. The development appropriately steps down in scale along Eyre Place Lane to reflect the street hierarchy.

The sawtooth roof form and set back upper floor references the site's industrial heritage which adds interest to longer views. The proposed material palette of natural sandstone to the north facing elevation aids in maintaining the traditional character of materials on Eyre Place. The use of brick and choice of colours references not only the industrial heritage of the site, but also the texture of the neighbouring buildings such as the existing townhouses on Eyre Place Lane which are finished in buff harling and are more contemporary in design.

Community security over adjoining streets and open spaces is promoted through a combination of active frontages at ground floor and natural surveillance at higher levels.

As is typical in PBSA developments, the building will be serviced through a single main entrance with each studio accessed from main corridors.

The design and the proposed materials are suitable for the context and the mix of building forms and elevational treatment provides interest in compliance with LDP policy Des 1.

### Public realm and Landscaping

LDP Policy Des 8 Public Realm and Landscape Design supports development where all external spaces and features, including streets, footpaths, civic spaces, green spaces, boundary treatments and public art have been designed as an integral part of the scheme as a whole. The main landscaped area is proposed along the eastern boundary of the site. The communal garden has been designed for a range of uses including recreation and socialising with areas of seating. Trees and plants are proposed to provide structure to the spaces.

The EDG target is for 50% of a space to achieve two hours or more of sunlight on 21 March. The submission has included a shadow path analysis of the external amenity areas assessed and these will exceed the BRE overshadowing target criteria on the spring equinox (21 March) attaining at least two hours of direct sunlight.

In addition, planters are also proposed at roof terrace level to increase the landscape and amenity value of these areas. There is an appropriate split between intensive and extensive green roofs proposed which will form an important biodiversity element.

### Co-ordinated development

Policy Des 2 (Co-ordinated Development) states that planning permission will be granted for development which will not compromise: a) the effective development of adjacent land; or b) the comprehensive development and regeneration of a wider area as provided for in a master plan, strategy or development brief approved by the Council.

Outline details have been shown how the proposals would have an acceptable impact on potential development sites to the south and east of the proposals and should not unduly constrain neighbouring development sites.

### Amenity for Future Occupiers

LDP Policy Des 5 (Amenity) sets out criteria for ensuring future occupants have acceptable levels of amenity in relation to noise, daylight, privacy or immediate outlook. Regarding privacy, the guidance states that the pattern of development in an area will help to define appropriate distances between buildings and privacy distances. The proposed layout of the development broadly reflects the existing townscape pattern which is a densely populated urban area.

The vast majority of neighbouring properties will not directly face the proposed development and are situated at oblique angles. The three storey element on the eastern side of the site has introduced angled window details to maintain privacy to rear windows on 72 - 78 Eyre Place. A minimum window to window distance of 9 metres is found over Eyre Place Lane which is consistent with other development proposals found on adjacent sites. The application complies with LDP Policy Des 5a).

The daylight to all the habitable rooms in the proposed development have been assessed. The daylight results show that six of the 139 studio rooms tested failed to achieve the guideline No Skyline (NSL) values on a daylight distribution model. An Average Daylight Factor (ADF) model has also been produced and shows that only one of these rooms would fail to meet an ADF of 1.5. This means that one room fails ADF when the studio is assessed as a living room. However, it does meet the criteria if this room was to be assessed as a bedroom which has a lower ADF standard. On this basis, the deviation from guidance is justified.

A Noise Impact Assessment (NIA) has been submitted to assess impact from existing noise sources on habitable windows of the proposed development. Environmental Protection has raised no concerns, and the proposals will not introduce a significant noise generating use. It should be noted that the proposal is for a residential use, albeit limited to student residents. On this basis, it is not considered that the use of future occupiers of the building in their daily lives will create significant levels of noise which would adversely affect neighbouring residents. Concerns have been raised in the representations over noise created by future occupiers using the gardens and roof terraces. There is no evidence to suggest that these noise levels would be any greater than if the proposals were for mainstream residential housing.

Given the urban context of the site, the level of outlook and privacy afforded to future occupiers is acceptable.

### Neighbouring Occupiers

The application site is near several residential properties, with the closest neighbour approximately 3.2 metres from the new build. Representations have been received concerning the development's impact on residential amenity. A Daylight and Sunlight Assessment has been submitted to provide analysis on the impact of the proposed development. Vertical Sky Component (VSC) modelling was used on residential properties directly surrounding the site. The Edinburgh Design Guidance requires this to be more than 27 % or 0.8 of the former value of daylight. The assessment is made on the equinox date in accordance with BRE Guidance.

The analysis found that 94% of the 125 windows assessed on existing neighbouring residential properties accord with VSC criteria. For the windows which do not meet the VSC standard, the EDG recommends the use of the Average Daylight Factor (ADF) assessment as an alternative assessment method and this was applied to these seven rooms which all passed the relevant criteria.

A sunlight study has been included in the application to assess gardens which are located in close proximity to the proposed development and have the potential to be impacted by overshadowing. The study has been carried out on March 21st in accordance with the EDG.

The study shows that the proposals will result in additional overshadowing to the rear of 76/78 Eyre Place and 1-23 Rodney Street. The additional overshadowing will occur throughout the day, but most significantly in later afternoon.

However, the back courts of the above properties contain a mature tree and areas of planting. As a result, the true sunlight levels reaching these gardens will be less than those shown in the study which is based on surrounding buildings only. An indicative study of a notional development within the very front of the development site facing Eyre Place developed at tenement scale as a standalone building was submitted. This has shown that any development of tenemental scale would result in the total loss of sunlight to the neighbouring garden ground in late afternoon.

The existing rear garden of 76/78 Eyre Place and 1-23 Rodney Street, with the application site completely undeveloped, fails to meet the sunlight to garden ground standards of the Edinburgh Design Guidance requiring a minimum of 2 hours sunlight to 50% of the useable area on March 21st. Given that it would be impossible for any development on the site to meet the requirements of the design guidance a deviation is justified.

In terms of privacy, the back courts of tenements are already heavily overlooked by existing and neighbouring properties. The distance between the proposed three storey element of the building, and the edge of the gardens at 72-78 Eyre Place is 6.5 metres. The windows on this section of the student block are located at oblique angles and will not directly face windows of existing properties. On the basis that the proposals represent redevelopment of an existing brownfield site within a high density area the impacts on existing residential occupiers is acceptable. The proposals on balance comply with LDP Policy Des 5.

### Transport

LDP Policies Tra 2 (Private Car Parking) and Tra 3 (Private Cycle Parking) set out the requirement for private car and cycle parking. The Council's Parking Standards for developments are contained in the Edinburgh Design Guidance.

The proposals involve the formation of one accessible car parking space only with no general parking provision. Given that this is a highly accessible location in terms of pedestrian, cycle and public transport access, this strategy meets the relevant parking standards. Reducing the impact of the car helps to create more sustainable, attractive places to live and will help to address congestion, air pollution and noise.

Cycle storage has been provided in accordance with Edinburgh Design Guidance and the Edinburgh Street Design Guidance Factsheet C7 Cycle Parking with 139 secure, covered cycle parking spaces and 10 external cycle spaces. The internal storage will be mainly 64 two tier racks (46%) and 47 vertical bike racks (34%). Sheffield stands and lockers will account for 20% of the total storage which will provide parking for a range of bike types and users. A stopping up order will be required to facilitate the proposed footway and road layout on site.

The application proposes alterations to the pedestrian footways around the site. A new two metre wide footway is to be formed along the eastern side of Eyre Place Lane where there is currently no provision. The existing footway to the front of the development, facing onto Eyre Place is to be widened and incorporated into the front of the building. A new Copenhagen style, continuous footway, crossing is proposed across Eyre Place Lane to ensure that there is pedestrian priority at this junction.

NPF policy 13 (Sustainable Transport) supports development that promotes and facilitates sustainable travel to prioritise walking, wheeling, cycling and public transport for everyday travel. NPF4 Policy 15 (Local Living) supports developments that contribute to local living and the 20-minute neighbourhood. The proposal allows for reduced car dependency and complies with NF4 policies 13 and 15. The proposal complies with LDP policies Tra 2, Tra 3 and Tra 4,

### Flooding

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

The site falls within an area which according to SEPA maps is at defined potential risk of surface water flooding. A Flood Risk Assessment and a Surface Water Management Plan have been provided alongside the associated checklists and certificates required for this scale of development. Flood Prevention has reviewed the information and has confirmed its acceptability. The proposal complies with NPF policy 22 and LDP policies Env 21 (Flood Protection) and RS 6 (Water Supply and Drainage) which all seek to ensure sustainable water management and flood risk measures are in place for new development.

Scottish Water does not object to the proposals, but has provided advisory notes for the applicant in relation to water and wastewater capacity.

NPF4 policy 20 states that, where appropriate, new blue and/or green infrastructure will be supported as an integral element of the design. The proposed development consists of blue/green roofs on the proposed flat roofs along with blue terraces, covering an area of approximately 615 sqm of the total roof area.

### Archaeology

NPF4 policy 7(o) aims to preserve archaeological remains in situ as a first option and alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be acceptable. It has been identified that this site has potential for unrecorded remains therefore a condition could be attached to ensure a programme of archaeological work is carried out prior to/during development to excavate, record and analysis of any surviving archaeological remains that may occur.

### Waste

LDP Policy Des 5 (Development Design - Amenity) sets out that planning permission will be granted for development where it is demonstrated that (amongst other matters) refuse and recycling facilities have been sensitively integrated into the design.

The proposals have been designed in line with the Council's Waste Services guidance. Communal refuse storage is provided within the block with sufficient capacity in accordance with Policy Des 5 and NPF 4 policy 12.

### Healthcare

The site is not within a Healthcare Contribution Zone. No contribution is required at this time.

### Air Quality

LDP policy Env 22 advises that planning permission will only be granted where there will be no significant adverse effects on: air, and soil quality; the quality of the water environment; or on ground stability. An Air Quality Impact Appraisal has been submitted with the application which concludes that the development will have a negligible impact upon the local air quality during both the construction (road traffic) and operational phase.

### Contaminated Land

The site has been developed for commercial and industrial uses for a significant time. These uses have the potential to contaminate the site. Should the application be granted, then a condition could be attached to ensure that the site is made safe for the proposed end use.

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

On the whole, the proposals are in accordance with the Development Plan associated guidance. The proposals are an acceptable design, scale, height and density are appropriate for the location and there will be an acceptable level of amenity achieved. Access arrangements are acceptable as are the proposed landscaping, surface water, sustainability and waste and recycling arrangements. There are no material considerations which outweigh the proposals accordance with the Development Plan.

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

The following material planning considerations have been identified:

#### 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. Consideration has been given to human rights. No significant impacts have been identified through the assessment.



## Public representations

Objection 460, Support 45, Neutral 1

A summary of the representations is provided below:

### *material considerations - objections*

- Failure to comply with NPF 4 policies;
- Failure to comply with Local Development Plan policies;
- Failure to comply with non statutory guidance on student housing;
- Failure to comply with Edinburgh Design Guidance;
- Failure to comply with the city mobility plan;
- Cumulative impacts of existing student housing;
- Existing over concentration of student housing nearby;
- Poor location for accessing higher education establishments;
- Inappropriate change to the demographics of the area;
- No on site affordable housing provided;
- No demand for student housing;
- Lack of mainstream housing;
- Lack of cluster flats;
- Loss of business premises site and employment use;
- Excessive density;
- Inappropriate design/scale/mass/height/appearance;
- Adverse impact on skyline;
- Adverse impact on key views;
- Excessively modern use of materials;
- Adverse impact on the character of the New Town Conservation Area;
- Adverse impact on the World Heritage Site;
- Adverse impact on the Historic Garden Designed Landscape;
- Proposed use is not compatible with neighbouring uses;
- Loss of daylight to neighbouring properties including kitchens;
- Loss of sunlight to garden ground/overshadowing;
- Adverse impact on immediate outlook;
- Noise from roof terrace;
- Noise pollution from future occupiers;
- Loss of privacy/overlooking;
- Poor access to public transport nearby;
- Insufficient pick up/drop off provision;
- Area not safe for drivers and pedestrians;
- Adverse impact on traffic congestion;
- Increased pressure on existing heavy traffic;
- Insufficient parking provision for existing residents;
- Insufficient parking provision for future occupiers;
- Lack of disabled parking provision;
- Existing road at Eyre Place is too narrow to accommodate development;
- Proposed raised crossing will create road safety issues;
- Pedestrian safety;
- Insufficient open space provision;
- Lack of public open space in the development;

- Insufficient access to public open space;
- Impact on trees;
- Lack of swift bricks;
- Insufficient sunlight to proposed garden spaces;
- Adverse impact on biodiversity;
- Insufficient provision in local sewage network;
- Flooding issues;
- Insufficient local healthcare provision;
- Adverse impact on the operations of 'The Yard';
- Use as short term lets during holiday periods (change of use would be required);
- Lack of public consultation by Council and developers (carried out in accordance with the relevant acts);
- Failure to comply with Equality Act 2010 (addressed in Section C and IIA);
- Insufficient accessible rooms;
- Insufficient refuse and recycling provision;
- No provision has been made for accessible bikes, cargo bikes or tandem bikes.

#### Non material Objection

- Failure to comply with proposed policies of City Plan 2030;
- Impact on wellbeing of neighbours;
- Edinburgh Planning Guidance: Daylighting, Sunlighting and Privacy - Finalised Version;
- Adverse impact on the strength of the existing community;
- Shuttle buses will be required to access university accommodation;
- Developer is not from local area;
- Future occupiers
- Adverse impact during the construction period in terms of noise and disruption;
- Site not entirely in ownership of the applicant;
- Insufficient detail to show compliance with building standards;
- Insufficient fire evacuation plan;
- Insufficient provision of quiet spaces for future occupiers;
- Insufficient pre application dialogue.

#### Material Support

- Reduced air pollution and noise from existing commercial use;
- Easy access to public transport;
- Creates a sense of place;
- Materials reflect local character;
- Frontage will include high quality public realm;
- Reduced car ownership;
- Lack of student accommodation;
- Appropriate massing for the site;
- Improved footpath along Eyre Place Lane.

## Overall conclusion

The application for development is acceptable with regard to Sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with relevant policies contained within the Edinburgh Local Development Plan. Non conformities with the relevant non-statutory guidance in relation to daylight and use of land for student housing are justified. The proposals, preserve the character and appearance of the conservation area. There are no material considerations which outweigh this conclusion.

## 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. Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the planning authority. The scheme shall contain details of proposals to deal with contamination to include:
  - i. the nature, extent and type(s) of contamination on the site
  - ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.
  - iii. measures to deal with contamination during construction works
  - iv. condition of the site on completion of decontamination measures.Before any student residential unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority.
3. The noise mitigation measures as specified within ITP Energised noise impact assessment no.6665 and dated 29/08/23 shall be installed prior to occupation of the development.
4. No demolition, development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (Geoarchaeological sampling and analysis, excavation, analysis & reporting, publication, public engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
5. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and all planting, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.
6. The approved landscaping scheme shall be fully implemented within six months of the completion of the development.

7. 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.
  8. Prior to the commencement of development, details shall be submitted to show the location of proposed swift bricks/boxes on the proposed building. Thereafter, the building shall be constructed in accordance with these details as approved by the Planning Authority.
- 
1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
  2. In order to protect the amenity of the occupiers of the development.
  3. In order to protect the amenity of the occupiers of the development.
  4. In order to safeguard the interests of archaeological heritage.
  5. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
  6. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
  7. In order to enable the planning authority to consider this/these matter/s in detail.
  8. In order to safeguard the interests of nature conservation

## **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. Prior to occupation of the proposed student housing, the proposed Copenhagen footway crossing over the northern end of Eyre Place Lane should be installed in the interests of pedestrian safety.

## **Background Reading/External References**

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

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

**Date Registered: 6 September 2023**

## **Drawing Numbers/Scheme**

01-20

Scheme 1

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

Contact: Rachel Webster, Planning Officer  
E-mail: [rachel.webster@edinburgh.gov.uk](mailto:rachel.webster@edinburgh.gov.uk)

## Appendix 1

### Summary of Consultation Responses

NAME: Scottish Water

COMMENT: No objection subject to further connection applications

DATE: 27 September 2023

NAME: Environmental Protection

COMMENT: No objection subject to conditions.

DATE: 4 October 2023

NAME: Waste Services

COMMENT: No objection.

DATE: 12 October 2023

NAME: Historic Environment Scotland

COMMENT: No objections.

DATE: 6 October 2023

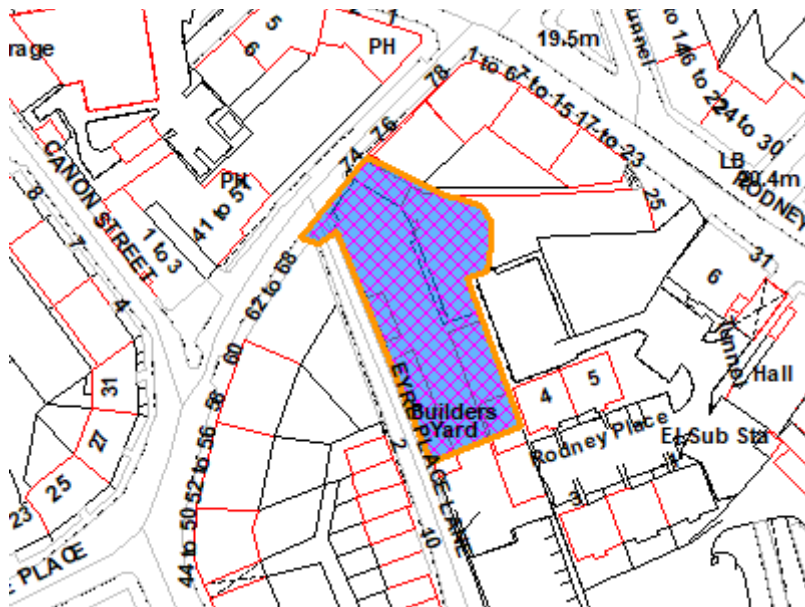
NAME: Flood Planning

COMMENT: No objections.

DATE: 11 October 2023

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

### Location Plan



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## Development Management Sub-Committee

**2.00pm, Wednesday 6 December 2023**

### Protocol Note for Hearing

**Land 80 Metres West and East of Saltire Street, Edinburgh –  
Proposed Phase 4 residential development at Waterfront Avenue with  
associated infrastructure and landscape (scheme 3) – application no.  
22/06290/FUL**

<b>Report number</b>	<b>6.1</b>
<b>Wards</b>	<b>B4 – Forth</b>

#### **Nick Smith**

Service Director – Legal and Assurance

Contacts: Taylor Ward, Committee Services

Email: [taylor.ward@edinburgh.gov.uk](mailto:taylor.ward@edinburgh.gov.uk)

# Summary

## Protocol Note for Hearing

### Summary

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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

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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

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1	<b>Chief Planning Officer</b> - presentation of report	2.00 - 2.20
2	<b>Representors or Consultees</b> Jaime Alberdi	2.30 – 2.35
3	<b>Ward Councillors</b> Councillor Cammy Day (TBC) Councillor Stuart Dobbin (TBC)	2.05 – 2.10 2.15 – 2.20
4	<b>Break</b>	2.30 – 2:35
5	<b>Applicant and Applicant’s Agent</b> Places for People (Neil Ross and Colin Jack) EMA Architects (James Fraser)	2.40 – 2.55
6	<b>Debate and Decision on Application by Sub-Committee</b>	3.00

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 6 December 2023**

**Application for Planning Permission  
land 80 metres west and east of Saltire Street, Edinburgh.**

**Proposal: Proposed Phase 4 residential development at Waterfront Avenue with associated infrastructure and landscape (scheme 3).**

**Item – Committee Hearing  
Application Number – 22/06290/FUL  
Ward – B04 - Forth**

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

NPF4 designates Edinburgh Waterfront as a National Development in which this site sits. It states that this national development supports the regeneration of strategic sites along the Forth Waterfront in Edinburgh and is a strategic asset that contributes to the city's character and sense of place and includes significant opportunities for a wide range of future developments.

The application is referred to the Development Management Sub-Committee as the site is within the National development Area and requires the planning application to be considered by a pre-determination hearing.

### **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 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. There will be no adverse impact on the amenity of existing and future residents. Flood and drainage proposals are acceptable. Transport generation, car and cycle parking proposals are acceptable. Infrastructure requirements can be dealt with via a suitable legal agreement.

Subject to recommended conditions and informatives, the proposal is acceptable and complies with National Planning Framework 4 and the aims of the 2016 Edinburgh Local Development Plan, as well as the Council's non-statutory Edinburgh Design Guidance. The proposals meet the general aims of The Granton Waterfront Development Framework. There are no material considerations that outweigh this conclusion.

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 site is a mainly vacant piece of land on the north side of Waterfront Avenue and south side of West Shore Road with an area of approximately 2.45 hectares. The site includes land relating to both phases three and four of a mainly residential development of four phases. There are existing access roads/ hardstanding areas and car parking to the north east of the site. There is an existing enclosed car parking area which is to the south of the site, accessed from Waterfront Avenue. There are a number of trees both within the site and along the north and west boundaries. The land slopes down to the north where levels drop significantly at the northern edge of the site. There is an existing gabion wall, with a level difference of approximately 2- 2.7m to the north-east of the site.

The application site is the fourth phase of a larger development. There are existing residential properties to the south of the site (phases one and two), with Saltire Square beyond. The first phase comprises four storey apartment blocks and an eleven storey tower building and was completed in 2006. Phase two is a mix of three to four storey townhouses and two seven storey apartment buildings. Upper Strand Walk runs to the east/ south east of the site. This connects pedestrians and cyclists to West Shore Road to the north and to the southwest past the National Museum Collection Facility to West Granton Road. The affordable housing element of phase three (33 homes) has been completed. The remaining area covered by the phase three permission is included in this application alongside phase four.

To the north are existing commercial/ industrial properties, vacant land and heavily treed areas. Directly to the west are heavily treed areas which extend down to parts of West Shore Road. To the south of the site fronting Waterfront Avenue is an area of car parking and a small play area, together with pathways and landscaping.

Beyond the site to the west and separated from the site by a strip of land is Granton Castle Walled Garden, Caroline Park and Royston House. There are a number of listed buildings within this site: Caroline Park House and offices which are category A listed (Listed building reference: LB28040 listed 01/01/2003), boundary walls, walled garden and dovecot which are category B listed (Listed building ref: LB28139 updated 11/01/2016) and gatepiers to West Shore Road which are category B listed (Listed building ref: LB28041 updated 11/01/2016). The site surrounding these buildings is designated as open space in the Local Development Plan.

To the west beyond the site is the Granton Gas Holder, which has permission for its restoration and associated public realm works, is B listed (ref: 45793, listed 10 November 1998). Further to the east along Waterfront Avenue is the former Madelvic works, office production block and generating block. These are category B listed (ref: LB45654, listed 16th September 1998).

## **Proposal**

The application is for 211 homes, including 53 affordable homes. The housing is arranged across seven blocks and comprises a mix of one, two and three bedroom homes with a mix of apartments and colonies. The ground levels within the site will be altered to accommodate the development as well as cap parts of the site.

Block A is six storey, comprising forty five units, 28 of which are affordable;  
Block B is six storey, comprising eleven units which are affordable;  
Block C comprise nine three storey colonies; these provide two bedroomed ground floor units and an upper floor unit with three bedrooms over two floors accessed by an external stair;  
Block D are four and five storey with 45 units, fourteen of which are affordable;  
Block E is five storey with 19 flats;  
Block F is four and five storey with 42 flats, and  
And block G is five storey with forty flats. This block will have a landscaped deck.

25% of the residential units will be affordable. The accommodation comprises 4 x one bedroomed units, 149 x two bedroomed units and 58 three bedroomed units.

Materials proposed to the housing are buff multi facing brick, grey multi facing brick feature panels, grey concrete roof tiles (to colonies), dark grey double glazed windows (material to be confirmed), dark grey common entrance door sets, and dark grey painted metalwork Juliet railings. PV panels are proposed to the front roof of block C.

Flats will have shared gardens with hedging used for boundary treatments. Private gardens are provided for 31 flats. Hedging will be used to define the boundaries of gardens to the rear of flats, some front gardens, and at the existing site entrance point on Waterfront Avenue. To the rear of private gardens and between each, 1.8m timber fencing will be used.

The western boundary proposes landscaped open space which will incorporate swales. New supplementary tree planting is also proposed within the council owned tree belt to the west of the application site. A SUDS feature is proposed to the north of the site in between blocks F and G. A new crib wall is proposed along the northern site boundary. Areas for natural play are proposed within the site.

Vehicular access will be direct from the northern end of Saltire Street and Waterfront Avenue at the southwest corner of the site. The main access route from Waterfront Avenue will provide an adoptable turning-head to the north. Four hundred and ninety cycle spaces will be provided and 53 car parking spaces, 12 EV charging spaces and 6 disabled spaces.

### *Scheme 1*

The first scheme proposed 220 residential units of between three and six stories in height. Seventy two car parking spaces were proposed, including six disabled parking spaces and twelve with EV charging. A proposed cycle route along the western boundary of the site was included. Cycle storage was in external stores. Solar panels and gas boilers were proposed. Materials included metal cladding to the upper levels of the proposed flatted blocks.

### *Scheme 2*

Revised drawings were submitted which comprised 220 units, including 44 affordable. Fifty car parking spaces were proposed including six disabled parking spaces and twelve with EV charging points. Block A was increased from 6 to 7 storeys in height, Block D / E was reduced from 6 to 4 storeys in height, Block G was increased from 6 to 7 storeys in height, Block E was reduced in length to the eastern boundary and Block F was reduced in length to the western boundary.

### **Supporting Information**

The applicant has submitted the following supporting information in relation to the application. These can be viewed on the Planning and Building Standards online portal:

- Planning Statement;
- Design and Access Statement;
- Statement of Community Benefit;
- Daylighting report;
- Townscape assessment;
- Noise Impact Assessment;
- Site investigation report;
- Arboricultural assessment;
- Archaeological written scheme of investigation;
- Pre application consultation report;
- Air Quality report;
- Preliminary ecological assessment;
- Sustainability form and
- Transport assessment.

### **Relevant Site History**

17/02477/FUL  
Land 80 Metres West and East Of  
Saltire Street  
Edinburgh

Proposed residential development and associated infrastructure (as amended).  
Granted  
14 March 2019

17/02477/VARY  
Land 80 Metres West and East Of  
Saltire Street  
Edinburgh

Non Material Variation to application 17/02477/VARY for: (1) Increase in length of 0.7m at Block A towards Tower. (2) Changes to Block A fenestration on gable elevations. (3) Changes to distribution of cladding materials at Block A. (4) Alteration of heights on profile of parapet Block A. (5) Addition of steel balustrade on external steps to plant room. (6) Articulated brick wall added to at recessed entrance on elevation 1 and metal cladding added to entrance on elevation 2. (7) Change to design of deck access balustrade. (8) Addition of infrastructure to allow for 4 no. Electric vehicle charging spaces.

VARIED  
30 December 2019

19/03245/FUL  
Land 80 Metres West and East Of  
Saltire Street  
Edinburgh

Application under Section 42 of the Planning Act for the removal of condition 2 of planning consent ref; 17/02477/FUL (noise protection measures) from the approved decision notice.

Granted  
26 August 2020

15/02726/PAN  
Land 80 Metres West and East Of  
Saltire Street  
Edinburgh

Housing application for phased development of around 300 new units.  
Approved  
18 June 2015

### **Other Relevant Site History**

24th April 2002 - Outline planning permission granted for a mixed use development on land between West Granton Road and West Shore Road/ West Harbour Road, east of Caroline Park Avenue and on land to the north west of the junction between Caroline Park Avenue and West Granton Road (Application ref: 01/02109/OUT)

14th April 2004 - Approval of reserved matters obtained for residential and commercial development comprising 130 flatted units, associated roads and temporary car parking on land at Waterfront Avenue. This relates to phase 1 of the overall development (application reference: 03/03665/REM)

24th March 2004 - Approval of reserved matters for a residential and commercial development in relation to height, massing, number, and parking (application reference: 03/04608/REM)

30th March 2017 - planning permission granted for 100 residential units, comprising three to four storey townhouses and two seven storey apartment buildings at land 40 metres west of 14 Kingsburgh Crescent. This relates to phase 2 of the overall development. (application reference: 16/00155/FUL).

Other planning history:

Granton Waterfront Development Framework approved February 2020.

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

Environmental Protection

Flood Planning

Communities and Families

CEC Economic development

City Archaeology

Historic Environment Scotland

Transport Planning

CEC Flood Prevention

Police Scotland

Health and Safety Executive

CEC Waste Services

SEPA

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

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 29 August 2023

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

**Press Publication Date(s):** 1 September 2023 17 March 2023 13 January 2023

**Site Notices Date(s):** 29 August 2023 14 March 2023 10 January 2023



## Section B - Assessment

### Determining Issues

Due to the proposals relating to a listed building(s), this report will first consider the proposals in terms of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development harming the listed building or its setting?
- 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) The proposals harm the listed building and its setting?

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."

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

- Managing Change in the Historic Environment: Setting

Historic Environment Scotland's Guidance Note on Managing Change in the Historic Environment: Setting states that setting can be important to the way in which historic structures or places are understood, appreciated, and experienced. It can often be integral to a historic asset's cultural significance. Setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Both tangible and less tangible elements can be important in understanding the setting. Less tangible elements may include function, sensory perceptions or the historical, artistic, literary and scenic associations of places or landscapes.

The development could impact on the setting of a number of listed buildings within close proximity to the site. These include the Granton Gasholder, Caroline Park House and Gardens, gatepiers to West Shore Road, and the Madelvic Car factory further east along Waterfront Avenue.

The applicant has provided a number of viewpoints from the surrounding area which demonstrates that the impact of the proposals on the setting of listed buildings would be acceptable.

Viewpoints indicate that when viewing the proposal along Waterfront Avenue in a west direction, elements of the Granton Gasholder can still be viewed. The setting of Madelvic House and the gatepiers to West Shore Road would not be affected to any adverse degree.

Close to the west of the site, Caroline Park House is one of Edinburgh's more significant houses of the late seventeenth century. Historic Environment Scotland (HES) consider that the immediate setting of the house to the north, east and south is largely confined to garden ground. Boundaries are largely defined by trees, which has been reinforced more recently to the south and includes modern gatepiers. The walled garden sits to the northwest. HES confirm they have no issue with impacts from the public viewpoints demonstrated in the submitted Townscape Assessment (and visualisation). They state that their key interest is if there are any impacts on the listed house from within the garden grounds and consider that the house's southern (entrance) elevation is architecturally the more significant frontage. They state that the viewpoint provided from within the house grounds 'indicates that the development would have some visibility during winter months through the trees. An existing new residential building can also be seen in this view. While the proposed development would have further visual impacts, from the visualisation provided the impacts on the house and its setting are likely to be more minor in nature.' Overall, HES are satisfied that this evidence helps to support the conclusion of the Townscape Assessment that development would not have an 'overbearing or intrusive effect.' Also, the proposals include additional tree planting to the western edge of the application site to further soften this edge and provide additional screening.

HES raise no objection to the proposal and are satisfied that there would be no adverse impact on the setting of the southern front elevation of the category A listed house.

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

The proposal will not detract from the special architectural and historic interest of the nearby listed buildings nor harm their setting and conforms with section 59 of the Planning (Listed Buildings and Conservation Area) (Scotland) Act 1997.

### **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.

NPF4 defines Edinburgh Waterfront as a National Development. This National Development supports the regeneration of strategic sites along the Forth Waterfront in Edinburgh. 'The waterfront is a strategic asset that contributes to the city's character and sense of place and includes significant opportunities for a wide range of future developments. Development will include high quality mixed use proposals that optimise the use of the strategic asset for residential, community, commercial and industrial purposes, including support for off-shore energy related to port uses. Further cruise activity should take into account the need to manage impacts on transport infrastructure.'

The relevant policies to be considered are:

NPF4 climate and nature crisis policies 1, 2 and 3  
NPF4 policy 4 natural places  
NPF4 forestry, woodland and trees policy 6  
NPF4 historic assets and places policy 7  
NPF4 brownfield, vacant and derelict land policy 9  
NPF4 zero waste policy 12  
NPF4 sustainable transport policy 13  
NPF4 design, quality and place policy 14  
NPF4 local living and 20 minute neighbourhoods policy 15  
NPF4 quality homes policy 16  
NPF4 infrastructure first policy 18  
NPF4 heating and cooling policy 19  
NPF4 blue and green infrastructure policy 20  
NPF4 flood risk policy 22 and  
NPF4 health and safety policy 23.

LDP Environment policy Env 12, Env 21, Env 22  
LDP Delivering the strategy policy Del 1 and Del 3  
LDP Housing and Community Facilities policy Hou 1, Hou 2, Hou 3, Hou 4, Hou 6, Hou 10  
LDP Design policy Des1, 2, 3, 4, 5, 7, 8, and 11  
LDP Transport policy Tra 2, Tra 3, Tra 4, and Tra 8.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF4 policy 7. The Edinburgh Urban Design Guidance, the LDP Action Programme 2023 and the finalised 'Developer contributions and infrastructure delivery supplementary guidance' August 2018 are material considerations when considering delivery, housing and transport policies.

The approved Granton Waterfront Development Framework (February 2020) is also a material planning consideration in the determination of this planning application.

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

The proposal lies within the urban area in the adopted Local Development Plan (LDP). The site lies within Edinburgh Waterfront: Central Development Area (EW 2b) for a housing led mixed use development. LDP policy Del 3 (Edinburgh Waterfront) states that planning permission will be granted for development which will contribute towards the creation of new urban quarters at Leith Waterfront and Granton Waterfront. LDP 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.

The Granton Waterfront Development Framework locates this site within the area of The Link (sub area 'Places for People'); cultural landscape and making space reconnecting neighbourhoods. Mixed use developments incorporating residential flatted development are included in the proposed topography. The general guidance is to link existing routes and sites to maximise connections and views to the city and waterfront and infilling gap sites, highlighting existing assets and creating new active street frontages. The site is shown for housing within the Framework.

The proposed residential use is in accordance with LDP policies Hou 1 and Del 3, and meets the aims in terms of use of the GWDF. The proposed development of the site for residential purposes complements the existing residential development in the area. In addition, the original outline planning permission in principle for a mixed use development, including residential, for the wider area and included this site. Previous detailed planning permissions for residential development have been granted at the site. A residential use has been accepted at the site.

NPF4 policy 9 (Brownfield, vacant and derelict land) states that development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings will be supported. The proposed development achieves this by redevelopment of a well-connected urban brownfield site. The policy also sets out that in determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account. This is discussed in more detail below.

The proposal complies with the NPF 4 policy objectives to support sustainable re-use of brownfield, vacant and derelict land. The principle of the proposed development is in line with LDP objectives and is supported by the Granton Waterfront Development Framework. In principle, the proposal is acceptable.

## **Impact on setting of nearby listed buildings, and archaeological remains**

NPF4 policy 7 (Historic Assets and Places) aims to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places. Under part 7c it states that 'Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.'

The non statutory 'Listed buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF4 policy 7. In addition, the Granton Development Framework requires that 'new development should ensure that existing heritage features are linked and integrated into the wider network of open spaces and new routes. The streetscape should establish views to and protect the setting of existing assets.'

In terms of archaeology, the site lies along the edge of a former raised beach, within the limits of the early 18th century designed landscape associated with Caroline Park House and to the east of the site of the medieval Granton Castle, an area of archaeological potential. NPF4 policy 7o states that 'Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impact.'

City Archaeology have no objections to the application subject to a condition that a suitable programme of archaeological works is undertaken prior to development to record and fully excavate any significant archaeological deposits that may survive.

The historic assets within the area have been assessed against the relevant legislation, guidance and NPF4 policies. As set out in section a) above, the proposed development would not have any adverse impact on the setting of nearby listed buildings. The proposals comply with NPF4 policy 7c and 7o and the Guidance on Listed Buildings and Conservation Areas.

### Design, Scale and Layout

NPF4 policies in relation to Sustainable Places and Liveable Places, including those in relation to 20-minute neighbourhoods, climate change and biodiversity, blue and green infrastructure, and sustainable transport, will be important cross-cutting policy considerations. The proposed development is within an established mainly residential area of the city and is within reasonable walking distance of facilities such as shops and public transport.

Policies 14, 15 and 16 of NPF4 support development that delivers quality places, spaces and environments that can further contribute to achieving 20-minute neighbourhood principles. The delivery of good quality homes in the right location is supported.

LDP Policies Des 1 - Des 4, and Des 7-8 set a requirement for proposals to be based on an overall design concept which draws on the positive characteristics of the surrounding area with the need for a high quality of design which is appropriate in terms of height, scale and form, layout, and materials. The design of any future application will be considered against these policies.

The LDP sets out, amongst other matters, that development at Edinburgh Waterfront should create distinctive, high density urban quarters.

The design will contribute to a pleasant and distinctive place to live in terms of respecting local and wider building heights, forms and materials, and creating visual interest with the proposed materials and detailing, and the creation of green outdoor amenity space.

The proposal demonstrates a variety of the NPF 4 six qualities for successful places which are outlined in policy 14. The policy seeks to encourage and promote well designed development through a design led approach to development. This is supported through the policies in the Local Development Plan. The policy aims to ensure that development proposals will be designed to improve the quality of an area regardless of scale. The site is within an urban area and is located close to existing local amenities. The proposal would contribute to local placemaking by increasing the density of development on the site and providing new homes within an attractive landscaped setting on a vacant brownfield site. The area is experiencing an ongoing increase in the density of development in the local area, which aims to meet the design principles set out within the Granton Waterfront Development Framework.

NPF4 Policy 15 requires development to contribute to local living including, where relevant, 20 minute neighbourhoods. There are a number of facilities available for use by future occupiers within the local area. These include existing public parks such as Forth Quarter Park and Granton Crescent Park, Granton Primary School, the local medical centre, shops and supermarkets. There are regular bus services on Waterfront Avenue which will also enable access into the city centre and to surrounding attractions which lie within a 20-minutes of the site.

NPF4 policy 16 sets out a number of criteria for new housing developments; these include providing a Statement of Community Benefit and improving affordability and choice by being adaptable to changing and diverse needs. A Statement of Community Benefit is included with the application. This sets out a number of benefits to the area including provision of active frontages creating a safer environment, creation of employment opportunities, opportunities for work experience/ talks to schools and gardening club, affordable housing provision and creating an improved attractive environment. The proposal meets the aim of NPF4 policy 16.

LDP Policy Hou 2 (Housing Mix) emphasises the importance of providing a wide range of house sizes and types on development sites. The proposals provide a good mix of accommodation of different sizes in compliance with this policy. A range of one, two and three bedroom units are proposed. Fifty eight (27%) contain three bedrooms, which exceeds the requirements of the Edinburgh Design Guidance.

The Edinburgh Design Guidance includes recommended internal floor areas for flat sizes. All the units meet or exceed the space standards set out in the Guidance (EDG). The flat types and mix of sizes of the affordable flats is proportionate to that of the private flats.

The Edinburgh Design Guidance states that single aspect dwellings should not make up more than 50% of the overall dwelling numbers. The proposed development satisfies this aspect of the Guidance.

The proposals include a landscaped edge to the west boundary with additional planting with buildings set back into the site; this respects the setting of the nearby A listed Caroline Park House and demonstrates compliance with LDP policy 3 (Development Design - incorporating and enhancing existing and potential features).

Policy Des 2 (Co-ordinated Development) states that planning permission will be granted for development which will not compromise: a) the effective development of adjacent land; or b) the comprehensive development and regeneration of a wider area as provided for in a master plan, strategy or development brief approved by the Council. The Edinburgh Design Guidance confirms that the pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances. In assessing this, the Council will look at each case individually and assess the practicalities of achieving privacy against the need for development. The proposal will not prejudice development of adjoining sites; to the west the building blocks are off set some distance from the boundary and are separated from Caroline Park House by a landscaped woodland belt. The proposals will coordinate with existing residential development to the east. The land to the north drops down steeply and is allocated as open space within the LDP. Block G lies relatively close to the north east site boundary but will not prejudice future development at adjacent sites. See further details on this in relation to privacy distances. The proposal complies with LDP policy Des 2.

LDP Policy Des 7 (Layout design) sets out a number of design principles for new developments. The proposal follows the illustrative layout contained within the GWDF with primary block structures fronting Waterfront Avenue. In accordance with Des 7 the proposals present a comprehensive and integrated approach to the layout of buildings, streets, footpaths, cycle paths, public and private open spaces, services and SUDS features. The proposal forms a strong street frontage onto Waterfront Avenue. Pedestrian and cycle connections are direct and are overlooked and enable connections to existing routes to the local area. The proposals make provision for a secondary frontage onto the new internal streets to the west and north of the site. The location of the blocks ensures that spaces will be overlooked. A number of ground floor flats have front door access, which will aid in providing activity to the streets. Car parking has been kept to a minimum and is provided on-street within landscaped areas meaning it does not dominate the proposals. The proposal complies with LDP policy Des 7.

LDP Policy Des 8 (public realm and landscape design) supports development where all external spaces and features have been designed as an integral part of the scheme as a whole. The landscape design enables separation from the listed building to the west and makes provision for additional tree planting along the western part of the site. SUDS feature enhances the open space area to the north of the site, and SUDS features are integrated into the overall landscape design to the benefit of occupiers of the site and biodiversity interests. Areas for natural play are provided within the site. The proposals comply with LDP policy Des 8.

LDP Policy Hou 4 (Housing Density) 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 GWDF states that the proposed density and massing of development should ensure Granton has an urban feel, pleasant streets, well-lit back courts and people centred spaces. The density of the proposal is 86 dwellings per hectare. This is an appropriate density for The Link area and the density and massing will create an attractive urban feel.

LDP policy Des 4 (Development design- impact on setting) sets out that proposals should demonstrate that they will have a positive impact on their surroundings, including the character of the wider townscape and landscape and impact on existing views. The Edinburgh Design Guidance (EDG) seeks to ensure that new developments will have a positive impact on their surroundings through height and form, scale and proportions, site layouts and materials utilised. The proposal follows the illustrative layout contained within the GWDF. The Framework sets out that heights covering the site are to be developed with project partners but indicatively 3-5 (domestic height) storey blocks (4-storey average) with some 6 storey at key locations.

The proposed heights ranging from three storey colonies to six storey flatted blocks. The proposed six storey blocks A and B front Waterfront Avenue at the entrance to the site, providing a strong street frontage and in this location are acceptable. The proposed development fits in with the heights of the overall character of the area; the six storey block at the site entrance provides a strong visual marker at a key location. The majority of the other blocks are four and five storey, with the exception of the three storey townhouses; the lower elements are located further into the site away from Waterfront Avenue. The applicant has demonstrated through visualisations and townscape analysis that the impact on the surroundings is positive in terms of height.

The GWDF sets out that a palette of robust, natural materials, which are appropriate for the waterfront conditions, should be developed. The material palette should provide coherency across character areas but allow for variety to be incorporated in terms of colour, tone, texture and mixed materials. The elevational design is contemporary with simple use of differing coloured brick. Balconies provide interest. The choice of external materials and detailed architectural features of the buildings are appropriate to the site's townscape and reflect the character and qualities of the surrounding area. The proposal meets the requirements of LDP policy Des 4, NPF4 policy 14 and the aims of the Granton Waterfront Development Framework. Subject to a condition which requires details to be submitted and agreed, materials are acceptable.

LDP Policy Des 5 (Development Design - Amenity) sets out that planning permission will be granted for development where it is demonstrated that refuse and recycling facilities have been sensitively integrated into the design. There have been ongoing discussions between Waste Services and the applicant. A Waste Management Strategy has been agreed for the site.

- Overall, the design, scale and layout are acceptable. The proposals are of a good quality, distinctive and appropriate design contributing to a sense of place in accordance with LDP policy Des 1. The design and layout of the proposals comply with the Policy Des 2 (Co-ordinated Development), Policy Des 7 (Layout Design) and meet the development principles set out in the LDP for the site. The height and materials proposed are acceptable for the locality in line with Policy



Des 4 (Development Design - Impact on Setting). The proposals comply with NPF4 policy 14 (Design, Quality and Place), NPF4 policy 15 (Local living and 20 minute neighbourhood), and meet design principles set out in NPF4. The proposal also generally accord with the aims of the Granton Waterfront Development Framework. The proposals contribute to the sustainable regeneration of the Granton Waterfront area. They are consistent with the six qualities of place set out in NPF4 bringing an area of derelict brownfield land back into a productive use, with enhancements to create an attractive landscaped setting.

### 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 previously developed 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 (brownfield derelict and vacant land) intends to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land. The site is well located with respect to local services, businesses and transport links. It will be constructed from sustainable construction materials, and it is proposed to be connected to a district heating system. The site is not at risk of flooding, and it will result in the efficient use of a brownfield site. The proposed development accords with Policy NPF4 policy 2.

NPF4 policy 12 (zero waste) The proposal complies with this policy as it will make effective reuse of a brownfield site and be built using appropriate materials. The applicant has confirmed that it is proposal will have full district heating throughout connecting to the Phase 2 district heating system, and a fabric first approach to insulation targets. Provision is to be made for electric car charging for all properties. In relation to NPF4 policy 12, the proposals are acceptable.

NPF4 policy 14b) Supports the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions. the connection to the existing district heating network and the fabric first approach to the external envelope, and incorporation of PV panels on block C contribute to sustainability requirements.

Policy 19f (Heating and cooling) supports development proposals for buildings that will be occupied by people which are designed to promote sustainable temperature management, for example natural or passive solutions. The proposal will be constructed to the most recent building regulations including requirements in terms of energy and insulation. The applicant has undertaken the required Part A of the Council's S1 Sustainability Assessment, and this complies with the essential requirements, subject to confirmation of the proposed window/ door materials.

In terms of climate change, mitigation and adaptation, the proposals are acceptable.

## Biodiversity and trees

NPF4 policy 3 (Biodiversity) seeks proposals for new development to include appropriate measures to conserve, restore and enhance biodiversity in accordance with national and local guidance.

NPF4 policy 4 (Natural places) sets out that development which results in an unacceptable impact on the environment will not be supported. The ecological appraisal found that there will not be adverse effects on protected species with appropriate mitigation.

There is a mixture of self-seeded trees and shrubs on the site. The site is not subject to an ecological designation. There are two international sites, the Firth of Forth SPA, and the Outer Firth of Forth and St Andrews Bay Complex SPA within 2.5km of the Site. The SSSI Site 'Firth of Firth' lies approximately 60m away from site. The application is accompanied by a Preliminary Ecological Appraisal and Arboricultural Impact Assessment (AIA). The assessment found that the proposals will not have a damaging effect on the Firth of Forth SPA which is located further north of the site in accordance with LDP Policy Env 13 (Sites of International Importance) and it will not have an adverse impact on the protected species in accordance with LDP Policy Env 16 (Species Protection).

The habitats on site were found to be quite limited. Most of the area has been disturbed over the years and is on made soil and vegetation growth is therefore patchy. The ground flora was not considered particularly diverse, with areas of nettle and bare ground and few woodland species. Possible badger burrows are all currently derelict and look to have been unused for several years. The proposal will improve biodiversity at the site by introducing green spaces, hedge and shrub planting, tree planting, and SuDS (including rain gardens). This will enhance habitat and biodiversity opportunities, with pollinator rich grass edges, flowering meadow planting and shrub planting, providing a natural habitat for existing and new wildlife species. A mix of native trees will be introduced including orchard/fruit trees and multi-stemmed species, and a variety of hedge, shrub and perennial planting is proposed to provide structure to the public and private realms and to provide green infrastructure and shelter for wildlife.

The proposed development will enhance the biodiversity qualities of the site through proposed landscaping, including tree planting, communal green space and the introduction of open spaces to the north of the site. It will provide biodiversity measures such as swales, SUDS basins and rain gardens to encourage native species. A condition is proposed to include bat, bird and swift boxes within the site. The proposal meets the requirement of NPF4 policies 3 and 4.

In terms of biodiversity the proposal is acceptable.

NPF4 policy 6 (Forestry, woodland and trees) states that development proposals that enhance, expand and improve woodland and tree cover will be supported and LDP policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact on a tree protected by a tree preservation order or on any other tree worthy of retention.

There are a number of trees which are located both in and around the site. These are not covered by a Tree Preservation Order (TPO) and the site is not within a conservation area. A tree survey, tree retention and protection plan and tree removal plan have been submitted with the application. The survey indicates a total 234 individual trees, and six groups of trees (G1-G6) were surveyed and mapped; these include a large number of trees outwith the site on land to the west between the site and the grounds of Caroline Park House. The survey found there are large groups of self-seeded mixed deciduous trees; these form patches of different age groups throughout the western aspect of the site, constituting a mixed woodland. To the northern aspect of the site, self-seeded groups form patches surrounding the site. Overall, the trees are considered to be of low category, no high arboricultural value, although they are considered to contribute to the landscape.

The majority of trees on site will require removal to facilitate the proposed development. The revised proposals include some planting to the west/ north of the site to provide a soft landscaped entrance and setting. The new tree planting throughout the site will compensate for loss of existing trees and create an attractive landscaped setting for the proposed new development. A condition for a full landscape plan is proposed to finalise full details of proposed planting within the site.

The tree survey highlighted trees within the woodland belt to the west of the site to be in poor condition; additional planting is recommended to enhance screening. This land is outwith the ownership and control of the applicant; it is not within the red line of the application site boundary and a condition or legal agreement to ensure planting by the applicant within this area is not appropriate. An informative is recommended for discussions between the landowner (CEC) and the applicant to liaise about potential additional planting.

In summary, the proposals would create an attractive landscaped environment as well as increasing biodiversity. This complies with NPF4 policy 6 (Forestry, woodland and trees).

The proposals are acceptable in relation to tree loss and proposed new planting.

The development will therefore support and encourage local biodiversity and will have no adverse impact on protected species or significant trees, in accordance with NPF4 Policy 3, NPF4 policy 6 and LDP Policies Env 12 and Env 16.

### Flood risk and drainage

NPF4 policy 22 and LDP policy Env 21 relate to flood risk and water management. The SEPA online flood maps indicate that the site will not be subject to pluvial, surface water or coastal flooding. The proposal will comply with policy 22c as it has been demonstrated that it will not increase the risk of surface water flooding to others, or itself be at risk. SEPA and CEC Flood Planning have no objections to the proposed development in relation to potential flood risk.

Policy Env 21 of the LDP seeks to ensure that development does not result in an increased flood risk for sites or surrounding areas. Blue/green infrastructure proposals form part of the landscape and drainage strategy for the site. This includes a combination of rain gardens, swales and a detention basin to the north which provide treatment of surface water as well as enhancing amenity and biodiversity adding to the quality of green spaces within the site. The operation and maintenance of the SUDs features will be the responsibility of the operator, a condition is recommended to ensure their ongoing maintenance.

No green or blue roofs are proposed; however, the proposed SUDs measures are acceptable and meet the aims of NPF4 policy 22 and LDP policy Env 21.

### Amenity and Health

LDP policy Hou 3 (Private Greenspace in Housing Development) states that planning permission will be granted for development that makes adequate provision for green space to meet the needs of future residents. The policy requires 10m<sup>2</sup> per flat (excluding private gardens) of open space provision with a minimum of 20% of the site area being useable greenspace. The overall open space for the site (excluding private gardens) equates to approximately 30% of the overall site area which exceeds the minimum requirement.

As per the Edinburgh Design Guidance, the majority of ground floor flats are generally provided with private gardens of a minimum depth of 3m; some are just below this standard. However, there is available good access to shared amenity space within the site, these ground floor properties also have private rear or side gardens which range from 3m to 4m in depth; these private gardens are defined by low level brick walling and hedging, accessed via french doors from within each property which would provide an acceptable level of amenity in accordance with the Guidance.

There is an existing small childrens play park in front of the site along Waterfront Avenue and areas of natural play are provided within the site for use by future residents. In terms of LDP policy Hou 3 the proposals are acceptable.

LDP policy Des 5 states that planning permission will be granted for development where the amenity of neighbouring developments is not adversely affected. Part a) requires proposals to ensure the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

A Daylighting, Sunlight Report has been submitted with the application.

### Sunlight to amenity spaces

The report concludes that on March 21st, 96% of the proposed amenity areas situated within the development site will receive at least 2 hours of sunlight for each individual proposed amenity space and over their total combined area. The impact of the proposal on sunlight to amenity of existing homes is that the levels received to these spaces are similar as the existing situation for all the periods on the 21st of March.

### Daylight to existing homes

Impact on daylight to existing neighbouring homes was assessed using the Vertical Sky component (VSC) and Average Daylight factor (ADF). The assessment tests if the VSC results are greater than 27% or not less than 0.8 times the value of the existing situation. The VSC assessment showed any impact to the neighbouring properties with regards to daylight. When compared to the existing situation of the 48 points tested, 77% (37 points) have a proposed VSC value greater than 27% or not less than 0.8 times their former value compared to the existing situation. Ten of the eleven remaining points tested have a VSC value between 15 and 27%. Windows effected were some positioned in properties along Saltire Street on the western corners of the existing block which face the site. Where the VSC criteria are not met, the Edinburgh Design Guidance (EDG) stipulates that the internal daylight assessment should be conducted using the Average Daylight Factor (ADF) internal daylight assessment. This additional assessment was carried out for the neighbouring properties and all ten points tested satisfy the minimum recommendations noted within the Edinburgh Design Guidance. The results of the report note that all spaces exceeded the minimum recommendations for daylight.

In terms of daylighting to existing homes, the proposals are acceptable.

### Daylight assessment for future homes

The proposal was considered in terms of daylighting for future homes using the No Skyline Assessment. The results show that the majority of apartments tested within the development will have good levels of daylight throughout the apartments. The No Skyline shows that the light will penetrate to good depths within each apartment and the internal daylight tests demonstrate that the majority of rooms tested achieve above the recommended daylight levels.

### Privacy

Some windows in the proposed block to the north west of the site are positioned close to the site boundary; approximately 4.5 metres at the closest point. However, the adjacent land is designated as greenspace in the LDP and is heavily planted with a woodland belt. There would be no adverse impact on neighbouring property in terms of privacy in this location. Proposed block G to the north east would be approximately 6.5 metres to the application site boundary. This is currently undeveloped land with some tree coverage. The location of Block G is as per the previous consent for the site (17/02477/FUL) and is 6.4m from the site boundary. In addition, new residential development in the adjacent site to the north would, if following the block form structure contained within the Framework be at an acceptable distance in terms of privacy.

Distances between window openings of existing and the proposed new blocks are acceptable.

In terms of privacy, the proposals are acceptable.

## Air quality and noise

An Air quality Impact Assessment (AQIA) was included in the application submission. The greatest increase in scheme road traffic is predicted on Waterfront Broadway to the north of West Granton Road. The AQIA concludes that the predicted change in NO<sub>2</sub>, PM<sub>2.5</sub> and PM<sub>10</sub> as a consequence of the proposed development is of negligible significance at all sensitive receptors considered in the study area. Environmental Protection consider that the provision of 12 EV charging points is not deemed adequate in terms of air quality, and they seek a car free development.

The site has good access to public transport, cycling and walking links, the level of car parking with 53 spaces for 211 residential units is not considered to create an adverse decrease in air quality in the local area. In addition, a good level of cycle parking is proposed.

The application is supported with information relating to air quality which meet the requirements of LDP policy Env 22 and NPF4 policy 23.

There is a concrete batching plant to the north of the site which has potential to create dust to future residents. The existing tree coverage to the north of the site provides some mitigation from this when in leaf, but less so in Winter. The site is suitable in principle for residential development, there are other residential developments in close proximity to the site, and the area is part of wider proposals to develop the Granton Waterfront area including more residential uses. In terms of potential dust, the proposal is acceptable.

The application includes a Noise Impact Assessment (NIA) in support of the proposals which recommends glazing and ventilation requirements to ensure that elevated traffic noise levels in the area are suitably mitigated and acceptable internal noise levels will be achieved. It considers potential noise from existing industrial/ commercial uses mainly to the north of the site including a bus tour operator, which uses the site directly north of the proposed development (adjacent to Forest Craft) to park their fleet.

The NIA advises that daytime industrial activities are predicted to potentially exceed BS 8233:2014 internal daytime criterion in the nearest proposed dwellings by a marginal 1 dB with windows partially open for ventilation. The report goes on to advise that an internal noise level of LAeq 36 dB to be a negligible exceedance and thereby provide an acceptable residential amenity. Environmental Protection raise concerns about potential noise from these activities. However, the site is acceptable for residential use in principle and is part of wider proposals to regenerate this area. It is recommended that a condition is applied to mitigate against any potential noise issues.

In terms of noise and air quality, the proposals are acceptable and potential noise can be dealt with by condition.

## Contaminated land

The Land Risk Contamination Assessment accompanying the application has been reviewed by Environmental Protection. They state that the risk assessment will be required to inform an options appraisal for likely remediation where this would be necessary for the suitability/safety of the proposal.

They advise that a planning condition be added to require a satisfactory standard of completion of the land contamination risk assessment followed by a remediation strategy to address unacceptable risks. A condition is proposed to this effect.

### Transport issues:

NPF4 Policy 13 aims to encourage sustainable travel and LDP Policies Tra 2 - Tra 4 sets out the requirements for private car and cycle parking. The Edinburgh Design Guidance (EDG) sets out the maximum number of car parking spaces for new development and sets out the cycle and motorbike parking requirements.

The proposed development includes twelve electric vehicle charging points. There will be links to existing active travel links including the cycle pedestrian route along Waterfront Avenue, and the 'Diagonal' to the south east. The proposal also includes a potential future pedestrian/ cycle link to connect to the proposed active travel route to the north of the site. There are bus stops in close vicinity to the site, and the future tram stop is proposed at Saltire Square.

Temporary car parking on land at Waterfront Avenue (application reference: 03/03665/REM) was approved as part of phase 1 of the overall development. The application for phase 3 (17/02477/FUL) set out that private parking provision for the entire development site (phases 1-4) has to be taken into consideration. A shortfall of parking was provided in Phase 1 and the demand for parking from this phase is currently provided in a temporary compound within this site for Phase 4. When phase 4 is to be developed this site will no longer be available to provide parking for Phase 1. Phase 3 was designed to provide a proportion of the replacement parking for Phase 1 and the remainder of the replacement parking will be provided in Phase 4. In summary, the proposal for 126 car parking spaces under the application for phase 3 (17/02477/FUL) provided 89 spaces for phase 3, and 37 spaces to be decanted from the temporary car park on the site of phase 4 to serve the shortfall in phase 1. A Transport Assessment has been submitted with the application. It finds that the impact of the development in relation to transport issues is acceptable. The proposal would not increase reliance on the private car; a limited number of private car parking spaces are proposed. The site makes provision for use of more active travel uses, including being close to bus routes in and out of the city centre, increased use of cycles, and the future tram route and stop will be close to the site on Waterfront Avenue.

In terms of proposed cycle parking, the amount of parking is acceptable. Of the 490 cycle spaces to be provided, 166 are Sheffield stands (34%), 224 are two-tier (44%) and 100 are non-standard (20%).

Transport raise no objections to the application subject to conditions and informatives.

The proposal complies with NPF4 Policy 13 and LDP policies Tra 2, Tra 3 and Tra 4.

### Infrastructure

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) requires that development proposals contribute towards infrastructure provision where relevant and necessary to mitigate any negative additional impact of development. The finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance August 2018 sets out the Council's approach for contributions.

NPF4 policy 18 (Infrastructure first) sets out that development proposals which provide (or contribute to) infrastructure in line with that identified as necessary in LDPs and their delivery programmes will be supported.

The planning approval 17/02477/FUL, of which part of the site forms part of this current planning application required a total financial contribution of £406,257.00. However, it was argued based on viability grounds, that an overall total contribution of £76,496 at Q4 2017 values would be secured by s75 legal agreement resulting in an infrastructure funding gap of £329,761. Under the 2017 planning application approval, 33 of the 89 units have been completed; the current planning application would therefore result in a reduction in the number of units for the remainder/ undeveloped part of the 2017 site, from 56 to 40. The contributions required under this current application are set out below:

### **Affordable Housing:**

LDP Policy Hou 6 (Affordable Housing) 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. 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.

This development is the fourth phase of a development which has progressed over recent years. The total number of homes built in phases one to three is 265. The total affordable housing provided for phases one to three meets the 25% requirement overall.

The 211 homes to be delivered under this planning application would require an affordable housing element of 53. The proposed development meets this requirement, providing 53 homes with 70% social and 30% mid market rent. It therefore complies with LDP policy Hou 6. This can be secured by s75 legal agreement.

### **Education:**

The site is within Sub area CB-1 of the 'Craigroyston/ Broughton Education contribution zone'. Communities and Families have advised that the education infrastructure actions identified in the 2018 Supplementary Guidance are not appropriate to mitigate the cumulative impact of development that would be anticipated if this proposal progressed. A 21-class primary school with a 192 nursery will be required to support the latest housing output assumptions for Granton Waterfront. Additional classes at the catchment denominational primary school and additional secondary school places at the catchment denominational and non-denominational secondary schools will also be required.

In November 2022, the Finance and Resources Committee (Sustainable Capital Budget Strategy 2022-33) accepted the recommendation that the Council can no longer underwrite capital projects for education infrastructure to support LDP learning estate projects. It is therefore necessary the Council secures the full contributions



required from housing developments to deliver new education infrastructure. The Finance and Resource Committee accepted an increase of 30% for construction project costs as a reasonable uplift on costs. The costs to deliver education infrastructure have been increased accordingly which has also increased the contributions sought from developers.

The levels of contribution for this contribution zone as outlined in the finalised Supplementary Guidance was £3,555 (infrastructure and land) per flat, based on an estimated number of 207 flats with more than one bedroom, and this would result in a total financial contribution of £735,885. The cumulative impact of this development has not been previously assessed and the finalised Supplementary Guidance states a cumulative assessment will be carried out having regard to school roll projections and an assumption about potential developments within the area at the time of the assessment and if appropriate revised actions will be applied. Should development arise as anticipated then any shortfall in providing for pupils would have to be addressed by the Council as contributions cannot be sought from development that has already occurred. If development does not arise in the way anticipated, Section 75 agreements make provision for this and in any case the developer can apply to have the planning obligation modified if a case arises.

It is recommended that developer contributions for educational infrastructure should be sought on the basis of the consultation response from Communities and Families which are as follows:

For Primary school infrastructure new 21-class primary school one PS Class (St David's RC PS) and two PS Classes (Holy Cross RC PS) require £7,588 per flat. Secondary infrastructure requires additional secondary school places (Broughton/ Craigroyston High Schools and St Augustine's/ St Thomas of Aquin's RC High Schools) require a contribution of £4,914 per flat. This results in a total of £12,502 per flat for primary and secondary school infrastructure. A land infrastructure requirement of £30 per flat is required for the new primary school site, resulting in a requirement of £6,210.

The total requirement for education contributions is £2,594,124.

#### **Healthcare:**

The site is within the Granton Waterfront Contribution Zone in the Finalised Supplementary Guidance. This identifies a cost of £945 per dwelling towards a new practice.

#### **Transport:**

LDP policy Tra 8 (Transport infrastructure) states that development proposals relating to major housing or other development sites, and which would generate a significant amount of traffic, shall demonstrate through an appropriate transport assessment and proposed mitigation, and how this relates to the provision of transport infrastructure. The approach to the delivery of the required transport infrastructure is set out in Policy Del 1 (Developer Contributions and Infrastructure Delivery), which states that further detail will be provided by Supplementary Guidance which will be prepared.

The principle of securing appropriate contributions towards the improvement of transport infrastructure is consistent with Local Development Plan policy where necessary and relevant.

LDP transport action TR-NWLOC-6 extends from the north boundary of the site. It has a total base capital cost of £91,875 and potentially links the site to the surrounding area. It is also within the Granton Waterfront Development Framework as a proposed secondary active travel route. Financial contributions should be sort for provision of this route (part A) of £22,050.

There is an optional payment towards the car club.

Subject to the above matters being secured through a s75 legal agreement the proposals are acceptable in relation to Policies Del 1 (Developer Contributions and Infrastructure Delivery) and Hou 6 (Affordable Housing).

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

Overall, the proposal complies with the Development Plan and is acceptable in principle. The proposal will preserve the setting and historic interest of nearby listed buildings. The proposals are acceptable in principle and are of an acceptable design. They do not result in an unacceptable impact to neighbouring amenity, are acceptable in relation to drainage and flooding, biodiversity, impact on trees, archaeology and do not raise concerns regarding transport matters. The proposals therefore comply with the overall objectives of the Development Plan.

The proposals will reflect the overall aims of the Granton Waterfront Development Framework.

### **c) 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:

### *material considerations*

#### Scheme 1:

Twenty seven objections, three general comments and one letter in support received.

#### Scheme 2:

Sixteen objections received and two general comments.

#### Scheme 3:

Fourteen objections received.

### *Material considerations*

#### Objection comments:

- Inadequate information submitted. Contrary to circular 3/2013. Cross sections are needed which show the development in relation to neighbouring buildings/ land. Existing site levels and proposed floor levels needed. These have been provided;
- Greater mix of housing needed;
- Density too high and over development;
- Does not comply with Granton Framework;
- Buildings proposed too close to existing;
- Height of blocks will impact on skyline; should be no more than 4 stories;
- Adverse impact on wildlife and nature, biodiversity including deer;
- Loss of Privacy; balconies should be removed;
- Loss of Sunlight;
- Loss of Daylight;
- Insufficient waste storage in the area;
- Roads are dangerous/ heavy traffic/congestion. Car parked along pavement etc;
- Concern about emergency vehicle access, turning etc;
- Need a cafe or small shop;
- Damage to/ lack of infrastructure and community. Will there be more parks? Green spaces? Schools?;
- Too many apartments. Development needs more mixed housing with less storeys/ height. More townhouses etc;
- Insufficient parking; the site currently has about 100 car parking spaces; this loss will worsen parking in the area;
- More parking with electric charging. Underground parking should be incorporated;
- Plans have changed from public consultation significantly;
- Loss of trees; insufficient tree planting;
- Proposed pathways should be rationalised;
- Does not fit in with character;
- Light pollution;
- More cycle parking needed;
- Bin store directly opposite our property. Smell, visual etc;

- Traffic noise increase;
- Limited access to public transport;
- No lifts in social housing blocks;
- Loss of green space;
- New play area is needed in the area;
- Security concerns/ crime. Fence removed;
- Developer should pay financial contribution to existing residents in area;
- Existing playpark needs updating;
- More Car club spaces needed;
- Not enough services for 20 minute neighbourhood;
- Lack of GP surgeries; and
- NPF4 - insufficient details on solar panels, heat and electricity.

Support comments:

Comments are made in relation to more information being needed on cycle parking, solar panels, heating proposals etc. Cyclists should be given priority.

General comments:

- Blocks sunlight;
- Cycle stores on perimeter open to theft;
- Existing landscaping and trees along Upper Strand Walk should be kept;
- More information needed on cycle parking, solar panels, heating etc.;
- Junction at Waterfront Avenue crosses cycle route. This should be cycle/ pedestrian priority. Raised table etc and signage should be installed;
- Loss of existing car park. Increase in parking need/ insufficient parking;
- Access to cycle store should be achieved without having to dismount bike.
- Standard of recent built housing in area is poor.

*non-material considerations*

- Noise from construction work and dust. Adverse impact on health;
- Views blocked;
- Problems with vermin and
- Devaluation of property.

These points have been assessed in section b) of this report.

### **Airport safety**

Edinburgh Airport Safeguarding requires a condition for submission of and implementation of a Bird Safety management Plan on roof details and PV installation to protect the safety interests of operations at Edinburgh Airport.

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

There are no equalities or human rights issues and the material considerations do not raise any matters which would result in recommending the application for refusal. Therefore, the application should be granted.

## Overall conclusion

Overall, the development is in accordance with the development plan. The proposals will deliver a sustainable and well-designed 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. There will be no adverse impact on the amenity of existing and future residents. Flood and drainage proposals are acceptable. Transport generation, car and cycle parking proposals are acceptable. Infrastructure requirements can be dealt with via a suitable legal agreement.

Subject to recommended conditions and informatives, the proposal is acceptable and complies with National Planning Framework 4 and the aims of the 2016 Edinburgh Local Development Plan, as well as the Council's non-statutory Edinburgh Design Guidance. The proposals meet the general aims of The Granton Waterfront Development Framework. There are no material considerations that outweigh this conclusion.

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.

The Council has an interest in the land to which this planning application relates; the proposal is not a significant departure from the Development Plan and referral to Scottish Ministers is therefore not required.

## 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. No development shall take place until the applicant has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Planning Authority, having first been agreed by the City Archaeologist.
  4. 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. Proposed window and door material should be timber or other sustainable material as agreed with the Planning Authority.
  5. Prior to commencement of works, a tree protection plan shall be provided and agreed in writing by the Planning Authority. Trees to be retained on the site shall be protected during the construction period by the erection of fencing, in accordance with BS 5837:2012 " Trees in relation to design, demolition and construction."
  6. Development shall not commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Planning Authority. The submitted plan shall include details of:
    - management of any flat/shallow pitched/green roofs on buildings or solar panel structures within the development site which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with Advice Note 3 'Wildlife Hazards.' The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the building. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Planning Authority.
  7. A fully detailed landscape plan, including details of tree planting to west of the site, all hard and soft surface and boundary treatments and all planting, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site. Details of number, type and position of bird and bat boxes shall be included.
  8. The approved landscaping scheme shall be fully implemented within six months of the completion of the development.
  9. A Landscape and Habitat Management Plan, including details of a maintenance plan for the proposed blue/ green infrastructure shall be submitted for the approval of the Head of Planning prior to occupation of the first building. The details of the maintenance plan shall include the funding arrangements for long-term delivery and upkeep of green/blue infrastructure, and the party or parties responsible for these.

10. No development shall take place until a scheme for protecting the residential development hereby approved from noise from traffic has been submitted to and approved in writing by the Planning Authority.
11. Prior to commencement of development full details of the proposed cycle/ pedestrian link to the north of the site to provide a connection to Edinburgh LDP action TR-SA-NWLOC-6, shall be submitted to and approved by the Head of Planning. The approved details shall be implemented prior to occupation of the buildings and retained at all times unless agreed in writing by the Head of Planning.

## **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 retain and/or protect important elements of the existing character and amenity of the site.
4. In order to enable the planning authority to consider this/these matter/s in detail.
5. To safeguard the health and condition of trees
6. It is necessary to manage the development in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Edinburgh Airport.
7. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
8. In order to ensure that the approved landscaping works are properly established on site.
9. To enable the Head of planning to consider these matters and detail and ensure their long term maintenance.
10. In order to protect the amenity of the occupiers of the development.
11. To ensure the link to the active travel route is implemented as approved.

## **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 70% social and 30% 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 £22,050 towards the provision of Edinburgh Local Plan Action Programme TR-SA-NWLOC-6 Path A.

Education: The sum of £2,587,914 (index linked based on an increase in the BCIS Forecast All-in Tender Price Index from Q4 2022 to the date of payment); and £6,210 for land (not indexed) (£ per unit - flats with two or more bedrooms only) towards education infrastructure for Sub-Area CB-1 of the Craigroyston/Broughton Education Contribution Zone.

Healthcare: The site is within the Granton Waterfront Contribution Zone in the Finalised Supplementary Guidance. This identifies a cost of £945 per dwelling towards a new practice.

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. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
4.
  1. The applicant should consider the provision of 2 car club vehicles in the area. Contributions would be required;
  2. All accesses must be open for use by the public in terms of the statutory definition of 'road' and require to be the subject of applications for road construction consent. The extent of adoptable roads, including footways, footpaths, accesses, cycle tracks, verges and service strips to be agreed. For the avoidance of doubt, the layout and adoptable areas shown on the submitted adoption plan are not agreed at this stage as a number of design matters require amendment (see Note below);
  3. The applicant should note that doors must not open outwards on to footways or carriageways;
  4. The applicant should note that the Council will not accept maintenance responsibility for underground water storage / attenuation;
  5. A Quality Audit, as set out in Designing Streets, to be submitted prior to the grant of Road Construction Consent;
  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;

7. The applicant should note that new road names may be required for the development and this should be discussed with the Council's Street Naming and Numbering Team at an early opportunity;

8. Any parking spaces adjacent to the carriageway will normally be expected to form part of any road construction consent. The applicant must be informed that any such proposed parking spaces cannot be allocated to individual properties, nor can they be the subject of sale or rent. The spaces will form part of the road and as such will be available to all road users. Private enforcement is illegal and only the Council as roads authority has the legal right to control on-street spaces, whether the road has been adopted or not. The developer is expected to make this clear to prospective residents as part of any sale of land or property.

5. The applicant is advised to undertake discussions with the landowner of the woodland belt directly to the west of the site with the aim of carrying out potential tree work and planting.

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

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

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

**Date Registered: 4 January 2023**

### **Drawing Numbers/Scheme**

1,2,3D,4B,5E,6B,7D,8-9C,10C,11E,12C,13D-15D,16C,17B-18B,19A,20C,21A,22A,25C,27B-30B,31A-33A,34B,37B-38B,39-42,44B,45-51

Scheme 3

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

Contact: Karen Robertson, Senior planning officer  
E-mail: karen.robertson@edinburgh.gov.uk

## Summary of Consultation Responses

NAME: Environmental Protection

COMMENT: Environmental Protection does not support the application. There is the potential for air quality impacts linked to the development and noise and dust both have the potential to impact upon the development.

Should Planning choose to support the application then it is recommended that conditions be applied to address contaminated land, inclusion of traffic noise mitigation measures and electric vehicle charging points.

DATE: 11 July 2023

NAME: Flood Planning

COMMENT: No objection; the proposal can proceed to determination.

DATE: 13 September 2023

NAME: Communities and Families

COMMENT: No objection subject to a legal agreement to secure costs for educational infrastructure.

DATE: 15 November 2023

NAME: CEC Economic development

COMMENT: It is estimated that the proposed development would support a net increase of approximately 32 FTE jobs and £0.815 million of GVA per annum (2020 prices).

DATE: 14 March 2023

NAME: City Archaeology

COMMENT: It is recommended therefore that a suitable programme of archaeological works is undertaken prior to development to record and fully excavate any significant archaeological deposits that may survive.

DATE: 13 March 2023

NAME: Historic Environment Scotland

COMMENT: No objections are raised. We recommend further information is provided on the likely impacts of development within the grounds of Caroline Park to enable a full assessment.

DATE:

NAME: Transport Planning

COMMENT: No objections subject to conditions and informatives.

DATE: 20 November 2023

NAME: CEC Flood Prevention

COMMENT: The proposals are acceptable and can proceed to determination.

DATE: 13 September 2023

NAME: Police Scotland

COMMENT: We welcome discussions in relation to secured by design.

DATE: 28 March 2023

NAME: Health and Safety Executive  
COMMENT: No objections  
DATE: 8 September 2023

NAME: CEC Waste Services  
COMMENT: A waste strategy has been agreed at this stage.  
DATE: 11 October 2023

NAME: SEPA  
COMMENT: No objection on flood risk grounds.  
DATE: 21 September 2023

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

## Location Plan



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## Development Management Sub Committee

6 December 2023

### Tree Preservation Order No. 206 (Western Harbour)

Item number

Report number

Wards

13 - Leith

#### Summary

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Tree Preservation Order No. 206 (Western Harbour) was made on 13 June 2023 to protect woodland areas in the interests of amenity. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 13 December 2023 to ensure it provides permanent tree protection.

Further analysis and consideration of the confirmation of the TPO has brought to the fore the allocation of the site for housing development. When considered in the context of Section 165 of the Act the exposure to a claim for compensation on the loss of housing land value is considered to be a significant risk to the confirmation of the TPO.

It is recommended that Committee do not confirm Tree Preservation Order No. 206 (Western Harbour).

# Report

## Tree Preservation Order No. 206 (Western Harbour)

### Recommendations

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1.1 It is recommended that Committee do not confirm the Order.

### Background

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#### 2.1 Site description

The site is comprised of four plots of land on the Western Harbour totalling around seven acres in size. The site is located to the north of Western Harbour View. As part of a previous development in the area roads have been formed which create the individual areas. The area is characterised by self-seeded trees and some self-formed ponds.

The plots have been left without management for a number of years. They are enclosed by a chain link fence and do not have public access except for the footpaths that pass between them. In the years that the land has been unmanaged it has grown into a young woodland with areas of wetland and a range of birds including some rare bird species. The areas are valued as an urban greenspace by many city residents, some of whom have formed a campaign group to protect the greenspaces from development.

#### 2.2 Site History

The sites are allocated in the adopted Edinburgh Local Development Plan (2016) under site EW 1a Leith Western Harbour for Housing-led Mixed-Use Development. The site forms part of a wider strategic housing allocation to deliver in the region of 3000 new homes.

The Proposed City Plan 2030 continues the allocation of the site for housing led, mixed-use development under Place Policy 4 Edinburgh Waterfront as site EW 1a. The capacity of the wider area is identified is 2,091 residential units.

Outline planning permission was granted in 2002 for a mixed-use development of the wider area (01/03229/OUT). In 2007 detailed planning permission was granted for three of the four plots covered by TPO 206 (07/00007/REM) including a total of 258 housing units. This permission was then amended by 13/00498/FUL. The permission was not implemented and has now lapsed.

In October 2023 a Proposal of Application Notice was submitted for a residential development and associated works on plot W1, the north-west plot. The application was approved subject to additional community consultation (23/06110/PAN).

## **Main report**

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

These four plots are development land, and it is expected that applications will be made for residential development in the future. While the land is allocated for housing it is appropriate to consider the protection of the green infrastructure. There is no designation available at this time which can directly protect the ponds or the wildlife, and a Tree Preservation Order could allow the Planning Authority to protect the natural assets on site.

### **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) the proposals relationship with the development plan;
- c) equality and human rights issues have been addressed and
- d) any representations received indicates the Order should be confirmed, confirmed with modifications or abandoned.

a) Amenity, Expediency and Cultural or Historic Interest

The trees are all quite young and do not have significant individual merit, however collectively they have a high landscape impact, forming the structure of a natural greenspace with strong visual amenity as well as what appears to be a high ecological value (it has not been possible to undertake any ecological surveys). The site is valued greatly for its amenity by the local community.

The trees are not considered to have cultural or historic interest.

b) Development Plan

The compliance with the Development Plan is not a consideration in the determination on whether to confirm a Tree Preservation Order. However, in this instance it is important to consider the development provisions for this housing allocated site. Both the Local Development Plan and the emerging strategy within Cityplan 2030 allocated the entire site area of the proposed TPO for a housing led development. A Proposal of Application Notice has recently been submitted to progress housing development on part of the site.

Any proposals that come forward would need to comply with the provisions set out within the Local Development Plan including policies on tree retention and biodiversity.

The adopted local development plan indicates the use of the wider site of Leith Waterfront incorporating Wester Harbour for approximately 4,000 residential units and the proposed City Plan for 2,091 residential units, the reduced figure representing the remaining site capacity. However, both plans set out principles for the development of the site to include the provision of open space.

NPF4 requires strong weighting to be given to the climate and nature crises (policy 1), habitat for biodiversity (policy 3), and retention of woodland (policy 6).

The supporting text of Policy Env 12 (Trees) of the Edinburgh Local Development Plan states that where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders.

Section 165 of the Town and Country Planning (Scotland) Act 1997 states that compensation is liable in respect of any loss or damage incurred in consequence of the refusal of an application where there is a requirement for permission under the order.

Without prejudice to the decision on any future planning application the confirmation of the Tree Preservation Order would expose the Council to the requirements of Section 165 of the Act.



### 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.

66 representations were received – 65 comments of support and one objection.

The comments of support included the following themes:

- The visual amenity, and landscape value of the woodlands, in particular with reference to its wildness and natural beauty, in contrast to other greenspaces which are more formal and designed,
- The contribution of the woodlands to wildlife and biodiversity,
- The benefits of the woodlands for the health and wellbeing of residents and visitors,
- The value of the greenspace in the context of the Newhaven/Leith area having limited greenspace and woodland,
- The value of the greenspace as part of the blue/green network,
- The ecosystem benefits of trees including climate change resilience, carbon capture and flood defence,
- The educational value of the sites especially for children and the local school,
- The value of the woodland as an enhancement of a tourist area.

The objection comment raises the following matters:

- The TPO might impede development. The site is allocated for development, permission has been granted previously, and development of the site is important for Edinburgh's housing targets. The TPO could compromise the site's potential for development.
- Rather than protecting the existing trees, it would be better to design in and plant new ones as part of future development.

- The trees are self-seeded and poor quality.
- The trees are shallow rooted. A tree assessment report has been provided which states that the topsoil layer on the site is very thin and lies on top of stones and rubble, therefore, the trees have a shallow rooting area and will be prone to uprooting in wind.

The planning authority has considered these issues. The TPO is not intended to prevent development on site but to ensure that the green assets are properly considered as part of the planning process. Retention of existing, established trees is generally preferable to removal and replanting.

It is acknowledged that the trees are not individually of high merit. However, this does not undermine the value as a collective young woodland. That they are self-seeded does not reduce their value.

It is evident that, due to the site's recent history, it has a stony subsoil base with a thin topsoil layer. The tree species growing are early successional species which are able to grow well in these poor conditions. It is evident from the successful growth of the trees that the stony layer has good water and oxygen availability and is penetrable by roots. It is very common in urban areas for trees to have very poor and limited rooting areas and yet many trees have long lives.

### Conclusion

A balance must be made between the protection of the young urban woodland and the development potential of the site which is supported by the development plan. The retention of the young woodland cannot be considered in isolation.

TPO 206 was made under delegated powers to protect the woodlands from removal unless with the consent of the Planning Authority in order to allow further consideration of the importance of the area.

The further analysis and consideration of the confirmation of the TPO has brought to the fore the allocation of the site for housing development. When considered in the context of Section 165 of the Act the exposure to a claim for compensation on the loss of housing land value is considered to be a significant risk to the confirmation of the TPO.

It is recommended that the Tree Preservation Order is not confirmed at this stage.

**David Givan**

**Chief Planning Officer  
PLACE  
City of Edinburgh Council**



# Appendices

## APPENDIX 1 Tree Preservation Order First Schedule

<b>Trees specified individually (marked in green on the map)</b>		
<b><u>No on map</u></b>	<b><u>Description</u></b>	<b><u>Situation</u></b>
	None	

<b>Trees Specified by Reference to an Area (with a continuous black line on the map)</b>		
<b><u>No on map</u></b>	<b><u>Description</u></b>	<b><u>Situation</u></b>
	None	

<b>Groups of Trees (within a broken black line on the map)</b>		
<b><u>No on Map</u></b>	<b><u>Description</u></b>	<b><u>Situation</u></b>
	None	

<b>Woodlands (within a continuous red line on the map)</b>		
<b><u>No on Map</u></b>	<b><u>Description</u></b>	<b><u>Situation</u></b>
W1	Woodland formed of mixed species	On the land at: 1) WESTERN HARBOUR, NEWHAVEN and being part of the Titles currently registered in the Land Register of Scotland with Title Number MID100315; 2) WESTERN HARBOUR, NEWHAVEN and being part of the Titles currently

		<p>registered in the Land Register of Scotland with Title Number MID113122;</p> <p>3) WESTERN HARBOUR, NEWHAVEN and being part of the Titles currently registered in the Land Register of Scotland with Title Number MID197982.</p>
W2	Woodland formed of mixed species	On the land at WESTERN HARBOUR, NEWHAVEN and being part of the Titles currently registered in the Land Register of Scotland with Title Number MID71955.
W3	Woodland formed of mixed species	On the land at WESTERN HARBOUR, NEWHAVEN and being part of the Titles currently registered in the Land Register of Scotland with Title Number MID71955.
W4	Woodland formed of mixed species	On the land at WESTERN HARBOUR, NEWHAVEN and being part of the Titles currently registered in the Land Register of Scotland with Title Number MID71655

# APPENDIX 2

## Tree Preservation Order Map





**APPENDIX 3  
Photographs**



Fig. 1: W1



Fig. 2: W2





Fig. 3: W3