

# Notice of meeting and agenda

## Development Management Sub-Committee

**10.00 am Wednesday, 28th February, 2024**

Dean of Guild Court Room - City Chambers

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

### Contacts

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

## 1. Order of business

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### 1.1 Order of Business

- 1.1 Including any notices of motion, hearing requests from ward councillors and any other items of business submitted as urgent for consideration at the meeting.
- 1.2 Any member of the Council can request a Hearing if an item raises a local issue affecting their ward. Members of the Sub-Committee can request a presentation on any items in part 4 or 5 of the agenda. Members must advise Committee Services of their request by no later than **1.00pm on Monday 26<sup>th</sup> February 2024** (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 24 January 2024 – submitted for approval as a correct record 9 - 16

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

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

#### **Pre-Applications**

- 4.1 Report for forthcoming application by Tarmac Ltd. for Proposal of Application Notice at Ravelrig Quarry, Long Dalmahoy Road, Dalmahoy - Southerly extension to Ravelrig Quarry to allow the continued extraction of hard rock, rock processing, and despatch of aggregates. The proposed extension would operate over a period of 24 years with the site being restored thereafter - application no. 24/00332/PAN - report by the Chief Planning Officer 17 - 24

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

- 4.2 Report for forthcoming application by William Sawers, Northcare (Scotland) Ltd. for Proposal of Application Notice at 191 St John's Road, Corstorphine, Edinburgh - Mixed use development comprising care home and associated amenity facilities, ground floor commercial units, parking, open space, landscaping, and ancillary works - application no. 24/00149/PAN - report by the Chief Planning Officer 25 - 32

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

## Applications

- 4.3** 2 Canaan Lane (Car Park 2), Edinburgh - Complete demolition in a conservation area - application no. 23/02585/CON - Report by the Chief Planning Officer 33 - 42
- It is recommended that this application be **GRANTED**.
- 4.4** 1 Lanark Road, Kingsknowe, Edinburgh - To modify clause 3 of the planning obligation relating to site at 1 Lanark Road and planning permission 18/08232/FUL - application no.22/02424/OBL - report by the Chief Planning Officer 43 - 54
- It is recommended that this application be **ACCEPTED** and the agreement being **MODIFIED**.
- 4.5** 237 Morningside Road, Edinburgh, EH10 4QU - Project to construct new hotel accommodation on the site of an existing private car park to expand the existing neighbouring hotel and pub business (scheme 2) - application no.23/00359/FUL - report by the Chief Planning Officer 55 - 76
- It is recommended that this application be **GRANTED**.
- 4.6** Confirmation of Tree Preservation Order No. 208 (Ramsay Lane) - report by the Chief Planning Officer 77 - 90
- It is recommended that the Committee **CONFIRMS** Tree Preservation Order No. 208 (Ramsay Lane).
- 4.7** 4 (1F) Thistle Street North West Lane, Edinburgh, EH2 1EA - Proposed extension and alterations to a vacant art gallery with approved use for short-term residential letting - application no. 23/03094/FUL - report by the Chief Planning Officer 91 - 100
- It is recommended that this application be **REFUSED**.
- 4.8** 3-5 West Tollcross & 9 Thornybauk, Edinburgh, EH3 9BP - Demolition of existing buildings and erection of mixed-use development comprising student accommodation, commercial uses (retail class 1A, cafe class 3 and gym class 11), amenity space, access, cycle parking and landscaping - application no.23/04950/FUL - report by the Chief Planning Officer 101 - 126

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

## **5. Returning Applications**

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

- 5.1** Totley Wells Grange, Westfield, Totley Wells - Change of Use from dwelling to short-term let (Sui Generis) - application no. 23/02467/FULSTL - report by the Chief Planning Officer 127 - 130
- It is recommended that this application be **GRANTED**.

## **6. Applications for Hearing**

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

- 6.1** None.

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

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

- 7.1** 20 Westfield Road (Murrayfield Sports Bar), Edinburgh - Demolition of existing building and erection of a purpose-built student accommodation development (Sui Generis) with associated amenity space, access, cycle parking, and landscaping (as amended) - application no.23/05902/FUL - report by the Chief Planning Officer 131 - 160

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

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

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

**8.1** None.

### **Nick Smith**

Service Director, Legal and Assurance

## **Committee Members**

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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, , email  
taylor.ward@edinburgh.gov.uk / 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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Please note this meeting may be filmed for live and subsequent broadcast via the Council's internet site – at the start of the meeting the Convener will confirm if all or part of the meeting is being filmed.

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.

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

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

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# Minutes

## Development Management Sub-Committee of the Planning Committee

10.00am, Wednesday 24 January 2024

### Present:

Councillors Osler (Convener), (items 4.2, 4.4, 4.5, 5.1, 7.1 and 7.2) Beal (item 5.1), Councillor Bennett (substituting for Councillor Beal for items 4.1-4.5, 7.1 and 7.2), Booth, Cameron (items 4.2, 7.1 and 7.2), Cowdy (substituting for Councillor Jones for item 4.1), Dalgleish, Gardiner (items 4.2-4.5, 5.1, 7.1 and 7.2), Jones (items 4.2-4.5, 5.1, 7.1 and 7.2), Mattos Coelho, Mowat (items 4.2-4.5, 5.1, 7.1 and 7.2), and Parker (substituting for Councillor Staniforth for items 4.1-4.5, 7.1 and 7.2).

### 1. Chair

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In the absence of the Convener, Councillor Dalgliesh was appointed to the Chair for items 4.1 and 4.3.

### 2. Minutes

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#### Decision

- 1) To approve the minute of the Development Management Sub-Committee of the 22 November 2023 as a correct record.
- 2) To approve the minute of the Development Management Sub-Committee of the 6 December 2023 as a correct record.

### 3. General Applications and Miscellaneous Business

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

#### Substitutions:

Councillor Parker for Staniforth (except for item 5.1)

Councillor Bennett for Beal (except for item 5.1)

Councillor Cowdy for Jones (for item 4.1)

### **Requests for a presentation:**

Councillor Osler requested a presentation in respect of item 4.1 – 68 Inverleith Row, Edinburgh – application no. 23/06424/FUL.

Councillor Booth requested a presentation in respect of item 4.3 – Totley Wells Grange, Westfield, Totley Wells – application no. 23/02467/FULSTL.

### **Request for Hearing**

Ward Councillor Mitchell requested a presentation in respect of item 4.1 – 68 Inverleith Row, Edinburgh – application no. 23/06424/FUL.

### **Declaration of Interests**

Councillor Gardiner declared a non-financial interest in item 4.1 - 68 Inverleith Row, Edinburgh - application no.23/06424/FUL - as he attended the Local Review Body which made a decision on this item.

Councillor Jones - declared a non-financial interest in item 4.1 - 68 Inverleith Row, Edinburgh - application no.23/06424/FUL - as he knew the owners of the premises.

Councillor Mowat – declared a non-financial interest in item 4.1 - 68 Inverleith Row, Edinburgh - application no.23/06424/FUL - as she attended the Local Review Body which made a decision on this item.

Councillor Osler – declared a non-financial interest in item 4.1 - 68 Inverleith Row, Edinburgh - application no.23/06424/FUL - as she attended the Local Review Body which made a decision on this item.

Councillor Osler – declared a non-financial interest in item 4.3 - Totley Wells Grange, Westfield, Totley Wells - application no.23/02467/FULSTL as she knew the applicant.

### **Decision**

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

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

## **4. 1 Reghheugh Avenue, Edinburgh**

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Details were provided of proposals for planning permission for the office development (Class 4), provision of a mobility hub, ancillary retail (Class 1) food and drink (Class 3/Sui Generis) and leisure uses (Class 11), landscaping, car parking, access, infrastructure and associated works. (AS AMENDED) at 1 Regheughs Avenue, Edinburgh - application no. 22/05659/FUL.

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

### **Motion**

To **GRANT** planning permission subject to:

- 1) The conditions, reasons, informatives and a legal agreement as set out in section C of the report by the Chief Planning Officer.

- 2) An additional informative that the applicant ensure that any repeat surveys undertaken, including ecological surveys, were carried out in order to comply with relevant best practice in terms of timescales.

- moved by Councillor Osler, seconded by Councillor Cameron.

### **Amendment**

To **REFUSE** planning permission as the proposals were contrary to NPR4 Policies 1 and 13, Local Development Plan Policies Env 12 and Tra 2 and was contrary to Non-Statutory Guidance on parking.

- moved by Councillor Booth, seconded by Councillor Parker.

### **Voting**

For the Motion - 8

For the Amendment - 2

(For the Motion: Councillors Bennett, Dalgleish, Cameron, Cowdy, Gardiner, Mattos Coelho, Mowat, and Osler.)

(For the Amendment: Councillors Booth and Parker.)

### **Decision**

To **GRANT** planning permission subject to:

- 1) The conditions, reasons, informatives and a legal agreement as set out in section C of the report by the Chief Planning Officer.
- 2) An additional informative that the applicant ensure that any repeat surveys undertaken, including ecological surveys, were carried out in order to comply with relevant best practice in terms of timescales.

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

## **5. 16 Sibbald ~Walk, Edinburgh (Land East Of), Edinburgh**

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Details were provided of proposals for planning permission for the erection of mixed-use development comprising student accommodation, affordable housing, and commercial / community use (class 1A and / or Class 3) with associated landscaping, infrastructure and access arrangements (as amended) at 16 Sibbald Walk, Edinburgh (Land East Of) - application no.23/03463/FUL.

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

### **Motion**

To **GRANT** planning permission subject to:

- 1) The conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer.
- 2) An additional informative to investigate whether the pend running under the UK Government Offices from New Street could be adopted by the council, as Roads Authority, to ensure access was maintained.

- moved by Councillor Osler, seconded by Councillor Jones.

## Amendment

To **CONTINUE** consideration of the matter for further information to clarify the adopted status of the pend running under the UK Government Offices from New Street and whether it could be adopted by the Council, as Roads Authority, to ensure access was maintained.

- moved by Councillor Gardiner, seconded by Councillor Booth.

## Voting

For the Motion - 6

For the Amendment - 4

(For the Motion: Councillors Bennett, Cameron, Dalgleish, Jones, Mowat, and Osler.)

(For the Amendment: Councillors Booth, Gardiner, Mattos Coelho and Parker.)

## Decision

To **GRANT** planning permission subject to:

- 1) The conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer.
- 2) An additional informative to investigate whether the pend running under the UK Government Offices from New Street could be adopted by the council, as Roads Authority, to ensure access was maintained.

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

## 6. Totley Wells Grange, Westfield, Totley Wells, Edinburgh

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Details were provided of an application for planning permission for change of use from dwelling to short-term let (Sui Generis) at Totley Wells Grange, Westfield, Totley Wells, Edinburgh - application no.23/02467/FULSTL.

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

## Motion

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

- moved by Councillor Dalgliesh, seconded by Councillor Mowat

## Amendment

To **CONTINUE** consideration of the application for a local economic impact assessment to be taken.

- moved by Councillor Booth, seconded by Councillor Gardiner.

## Voting

For the Motion - 4

For the Amendment - 4

(For the Motion: Councillors Bennett, Dalgleish, Jones and Mowat.)

(For the Amendment: Councillors Booth, Gardiner, Mattos Coelho, and Parker.)

### **Casting Vote**

As there were an equal number of votes and the Chair did not use his casting vote, the decision was taken on the toss of a coin.

### **Decision**

To **CONTINUE** consideration of the application for a local economic impact assessment to be taken.

(References – reports 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="#">68 Inverleith Row, Edinburgh, EH3 5LT</a></b></p>	<p>S42 application for noncompliance with condition No. 1 of planning permission 22/03124/FUL - application no.23/06424/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>Dissent</b></p> <p>Councillor Cowdy requested that his dissent be recorded in respect of the above decision.</p>
<p><b>4.2 – <a href="#">Totley Wells Grange, Westfield, Totley Wells</a></b></p>	<p>Stationing of three shepherd's huts for short-term holiday let use - application no.23/02466/FULSTL</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>4.3 - <a href="#">Totley Wells Grange, Westfield, Totley Wells</a></b></p>	<p>Change of Use from dwelling to short-term let (Sui Generis) - application no.23/02467/FULSTL</p>	<p>To <b>CONTINUE</b> consideration of the application for a local economic impact assessment to be taken.</p> <p>(On a division.)</p>
<p><b>5.1 - <a href="#">22 Inglis Green Road, Edinburgh, EH14 2HZ</a></b></p>	<p>Mixed-use residential and commercial development with associated landscape, parking, and infrastructure (as amended) - application no.22/02233/FUL</p>	<p>1) To <b>GRANT</b> planning permission subject to the conditions, reasons and informatives and a legal agreement as set out in section C of the report by the Chief Planning Officer.</p> <p>2) Officers to inform the Transport and Environment Committee of the decision of the Sub-Committee, so that they could prioritise action.</p>
<p><b>7.1 - <a href="#">1 Regheughs Avenue, Edinburgh, EH12 9RH</a></b></p>	<p>Office development (Class 4), provision of a mobility hub, ancillary retail (Class 1) food and drink (Class 3/Sui Generis) and leisure uses (Class 11), landscaping, car parking,</p>	<p>To <b>GRANT</b> planning permission subject to:</p> <p>1) The conditions, reasons, informatives and a legal agreement as set out in</p>

	<p>access, infrastructure and associated works. (AS AMENDED) - application no. 22/05659/FUL</p>	<p>section C of the report by the Chief Planning Officer.</p> <p>2) An additional informative that the applicant ensure that any repeat surveys undertaken, including ecological surveys, were carried out in order to comply with relevant best practice in terms of timescales.</p> <p>(On a division.)</p>
<p><b><u>7.2 - 16 Sibbald Walk, Edinburgh (land east of)</u></b></p>	<p>Erection of mixed-use development comprising student accommodation, affordable housing, and commercial / community use (class 1A and / or Class 3) with associated landscaping, infrastructure and access arrangements. (as amended) - application no.23/03463/FUL</p>	<p>To <b>GRANT</b> planning permission subject to:</p> <p>1) The conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer.</p> <p>2) An additional informative to investigate whether the pend running under the UK Government Offices from New Street could be adopted by the council, as Roads Authority, to ensure access was maintained.</p> <p>(On a division.)</p>

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## Development Management Sub Committee

**Wednesday 28 February 2024**

**Report for forthcoming application by**

**Tarmac Ltd. for Proposal of Application Notice**

**24/00332/PAN**

**at Ravelrig Quarry, Long Dalmahoy Road, Dalmahoy. Southerly extension to Ravelrig Quarry to allow the continued extraction of hard rock, rock processing and despatch of aggregates. The proposed extension would operate over a period of 24 years with the site being restored thereafter.**

**Item number**

**Report number**

**Wards**

B02 - Pentland Hills

### Summary

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The purpose of this report is to inform the Development Management Sub-Committee of a forthcoming application for planning permission for the southerly extension of the Ravelrig Quarry. The proposal will be in the form of a major detailed planning application.

In accordance with the provisions of the Town and Country Planning Act (Scotland) Act 1997, as amended, the applicants submitted a Proposal of Application Notice: 24/00332/PAN on 22nd January 2024.

### Links

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**Coalition pledges**

**Council outcomes**

**Single Outcome Agreement**



## **Recommendations**

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

## **Background**

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### **2.1 Site description**

The site is 71.6 hectares in total and is located to the north of the A70. The site is the Ravelrig Quarry and its surrounding grounds. It is largely bordered by open fields and large wooded areas. Beyond this, are residential settlements including Balerno (east) and Kirknewton (west). The area is designated as Countryside in the Local Development Plan.

### **2.2 Site History**

28 October 2010 - Planning permission granted for an extension to the quarry - application reference 08/00140/FUL.

16 January 2024 - Scoping opinion submitted as to the content of the EIA report under Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 - application reference 24/00194/SCO. This scoping opinion is under consideration and relates to this PAN submission.

The site has other planning and enforcement history which can be viewed in full on the Council's online planning and building standards portal.

## **Main report**

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

The forthcoming application will be a full planning application for the southerly extension to allow the continued extraction of hard rock, rock processing and despatch of aggregates. The proposed extension would operate over a period of 24 years with the site being restored thereafter.

### **3.2 Key Issues**

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

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

The site is identified as being within the countryside within the Edinburgh Local Development Plan. The Quarry part of the site is also covered by Policy RS5 Minerals which supports the extraction of minerals. Any application will need to demonstrate the requirement for a countryside location. It is also located within a Local Nature Conservation Site and any impacts upon this designation will need to be fully considered.

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. It should be noted that it is possible the status of City Plan 2030 may change, including the weight attributed to it as it undergoes examination. There is also the potential for City Plan 2030 to be adopted during the eighteen-month period that this Proposal of Application Notice (PAN) is valid or during the determination period after a planning application is submitted. In this event, if adopted both City Plan 2030 and NPF4 will form the adopted development plan against which any planning application will be assessed along with any material considerations.

b) The design, scale and layout are acceptable within the character of the area; and does the proposal comply with relevant design policies of the Local Development Plan and National Planning Framework 4.

The applicant will be required to comply with relevant design policies as well as guidance where applicable e.g. Edinburgh Design Guidance. A design and access statement will be required to support the application as will visual impact information. A number of key viewpoints will require to be identified and assessed.

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

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

d) There are any other environmental factors that require consideration

The applicant will be required to submit sufficient information to demonstrate that the site can be developed without having an unacceptable detrimental impact on the environment. In order to support the application, the following documents are anticipated:

- Pre-Application Consultation report;
- Planning Statement;
- Design and Access Statement;
- Landscape and Visual Impact Assessment;
- Sustainability information;
- Soil Information;
- Transport Information;
- Ecology information;
- Waste management information;
- Flooding risk and drainage information;
- Lighting information;
- Noise/air quality/ amenity information;
- Archaeological / Heritage information
- Site remediation information.

### **3.3 Assessment**

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

### **Financial impact**

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

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

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

### **Equalities impact**

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

### **Sustainability impact**

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

### **Consultation and engagement**

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

Pre-application discussions took place on this application.

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

Following receipt of the proposal of application notice (PAN) the applicant has given details of two public exhibitions: one on Monday 4th March 2024 between 15.00 to 20.00 and Monday 25th March between 15.00 to 20.00 at the Balerno Community Centre, 11 Main Street, Balerno, EH14 7EQ.

The Proposal of Application Notice was sent to ward councillors for the Pentland Hills area including Cllr Graeme Bruce, Cllr Neil Gardiner, Cllr Fiona Glasgow and Cllr Stephen Jenkinson. In addition, it was sent to Joanna Cherry MP for Edinburgh South West, Gordon MacDonald Constituency MSP for Edinburgh Pentlands, Angela Constance Constituency MSP for Almond Valley, the Balerno Community Council and Ratho and District Community Council.

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

## **Background reading / external references**

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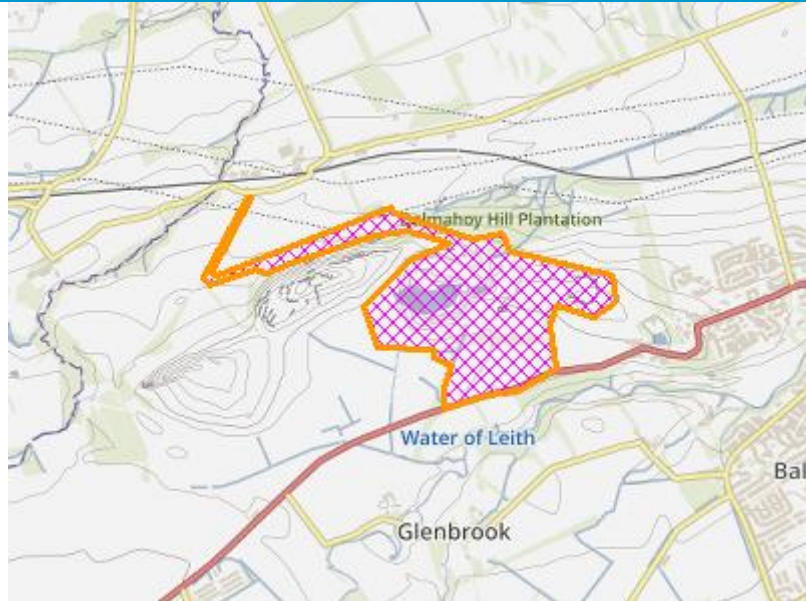
- To view details of the proposal of Application Notice go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)

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

**Contact: Lewis McWilliam, Planning Officer**  
**E-mail: [lewis.mcwilliam@edinburgh.gov.uk](mailto:lewis.mcwilliam@edinburgh.gov.uk) Tel: 0131 469 3988**

## Location Plan

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## Development Management Sub Committee

**Wednesday 28 February 2024**

**Report for forthcoming application by**

**William Sawers, Northcare (Scotland) Ltd. for Proposal of Application Notice**

**24/00149/PAN**

**at 191 St John's Road, Corstorphine, Edinburgh.  
Mixed use development comprising care home and associated amenity facilities, ground floor commercial units, parking, open space, landscaping, and ancillary works.**

**Item number**

**Report number**

**Wards**

B06 - Corstorphine/Murrayfield

### Summary

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The purpose of this report is to inform the Development Management Sub-committee of a forthcoming application for planning permission for a mixed use development comprising care home and associated amenity facilities, ground floor commercial units, parking, open space, landscaping and ancillary works.

In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, as amended, the applicants submitted a Proposal of Application Notice (Ref: 24/00149/PAN) on 12 January 2024.

### Links

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**Coalition pledges**

**Council outcomes**

**Single Outcome Agreement**



## Recommendations

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

## Background

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### 2.1 Site description

The site is located on the south side of St John's Road, east of the junction with Manse Road. It is currently vacant brownfield land, previously occupied by retail units and an associated parking and service yard to the rear. The site was cleared in late 2023 with Conservation Area Consent (Ref: 18/02829/CON). The surrounding area is mixed use with a strong commercial presence on St John's Road and a residential character on Manse Road.

This application site is located within the Corstorphine Conservation Area.

### 2.2 Site History

26.02.2019 Application granted for a 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 (as amended) (Ref: 18/02831/FUL).

26.02.2019 Application granted for complete demolition in a Conservation Area (Ref: 18/02829/CON).

27.05.2022 Non-material variation application varied (Ref: 18/02831/VARY)

06.12.2023 Application refused 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 (Ref: 22/04607/OBL).

Live application: Section 42 application to vary conditions 04, 05, 06, 07 and 09 and to delete condition 08 of Planning Permission 18/02831/FUL (Ref: 23/07342/FUL).

## Main report

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### 3.1 Description of the Proposal

An application for planning permission will be submitted for a mixed use development comprising care home and associated amenity facilities, ground floor commercial units, parking, open space, landscaping and ancillary works.

### 3.2 Key Issues

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

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

The site is within the urban area of the Edinburgh Local Development Plan (LDP) and lies within Corstorphine Town Centre and Corstorphine Conservation Area.

National Planning Framework 4 (NPF4) now forms part of the Development Plan. Policies in relation to Sustainable Places, Liveable Places and Productive 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.

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. It should be noted that it is possible the status of City Plan 2030 may change, including the weight attributed to it as it undergoes examination. There is also the potential for City Plan 2030 to be adopted during the eighteen month period that this Proposal of Application Notice (PAN) is valid or during the determination period after a planning application is submitted. In this event, if adopted, City Plan 2030 and NPF 4 will form the adopted development plan against which any planning application will be assessed along with any material considerations.

**b) The scale, design, layout and materials are sustainable and acceptable within the character of the area**

The proposal will be assessed against relevant design policies in National Planning Framework 4 (NPF4) and the Local Development Plan (LDP) as well as non-statutory guidance where applicable (e.g., Edinburgh Design Guidance). Should the status of City Plan 2030 change, for example it becomes a material planning consideration, its policies would form part of the assessment of the planning application.

The applicant should clearly demonstrate how the proposed design has considered the Council's policies and guidance. A high quality design is expected and should show the suitability of the proposed layout, height, mass and scale of development within its context. Sustainability measures and the proposal's consideration of NPF 4 themes including climate change, and the six qualities of successful places will have to be clearly addressed.

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

**c) The proposal will have an impact on the amenity of neighbours and future occupiers of the development;**

The proposal will be assessed against relevant design policies in the Development Plan (NPF4 and LDP) and Edinburgh Design Guidance.

Supporting information is required to show the development's relationship to the adjacent buildings to ensure that neighbouring amenity is adequately protected.

A Daylighting, Privacy and Sunlight Analysis will be required in support of the planning application and to demonstrate that adequate daylighting will be received by the proposed building. A Noise Impact Assessment is likely to be required.

**d) The proposed access arrangements, connectivity and parking levels are acceptable;**

The proposal shall have regards to the LDP transport policies and NPF 4 policy 13 (Sustainable Transport), as well as the Edinburgh Street Design Guidance and the parking standards in the Edinburgh Design Guidance. The applicant will be required to provide transport information to show the impact on the surrounding road network, demonstrate how the proposal provides for active and public transport travel, and is aligned with the parking standards, including service arrangements, cycle parking and provision for electric vehicles. Full analysis of the connectivity as part of the forthcoming planning application is required. Information on public safety, e.g. safe existing from events onto the road and transport networks will also be required.

**e) The proposal has acceptable impacts on infrastructure;**

The proposal may require infrastructure improvements. Should infrastructure improvements be required to support the proposed development, the application will be required to make appropriate developer contributions in accordance with LDP Policy Del 1 - Developer Contributions and Infrastructure Delivery, NPF 4 policy 18 (Infrastructure First) and LDP Supplementary Guidance on Developer Contributions and Infrastructure Delivery 2018.

**f) There are any other environmental factors that require consideration.**

The applicant will be required to submit sufficient information to demonstrate that the site can be developed without having a detrimental impact on the environment. In order to support the application, the following documents will be required:

- Pre-application Consultation (PAC) report;
- Planning Statement;
- Design and Access Statement;
- Air Quality Impact Assessment;
- Transport Statement;
- Noise Impact Assessment;
- Surface Water Management Plan (SWMP);
- Landscape Plan;
- Sustainability Statement and
- Daylight, Sunlight and Overshadowing Analysis.

The above is not an exhaustive list and other supporting details or assessments may be identified prior to the application being submitted or during the application assessment stage.

The proposed development will require to be screened for an Environmental Impact Assessment.

### **3.3 Assessment**

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

## **Financial impact**

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

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

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

## **Equalities impact**

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

## **Sustainability impact**

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

## **Consultation and engagement**

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

Pre-application discussions took place on this application.

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

The Proposal of Application Notice (PAN) outlined:

Two public events:

- 31 January, between 2-7pm at Corstorphine Community Centre
- 28 February, between 2-7pm at Corstorphine Community Centre.

Newspaper advertisements:

- Edinburgh Evening News, 7 days prior to each consultation event.

Additional consultation methods:

- Consultation website;
- Leaflets around local area 7 days in advance of each consultation event.

A copy of the PAN has also been also sent to:

- Corstorphine Community Council

- Murrayfield Community Council
- Stenhouse, Saughton Mains and Whitson Community Council
- Sighthill, Broomhouse and Parkhead Community Council
- Ratho and District Community Council
- Cramond and Barnton Community Council
- Drum Brae Community Council
- Craigleith/ Blackhall Community Council
- Gorgie/ Dalry Community Council
- Councillor Alan Beal
- Councillor Fiona Bennett
- Councillor Euan Davidson
- Alex Cole-Hamilton MSP.

## **Background reading/external references**

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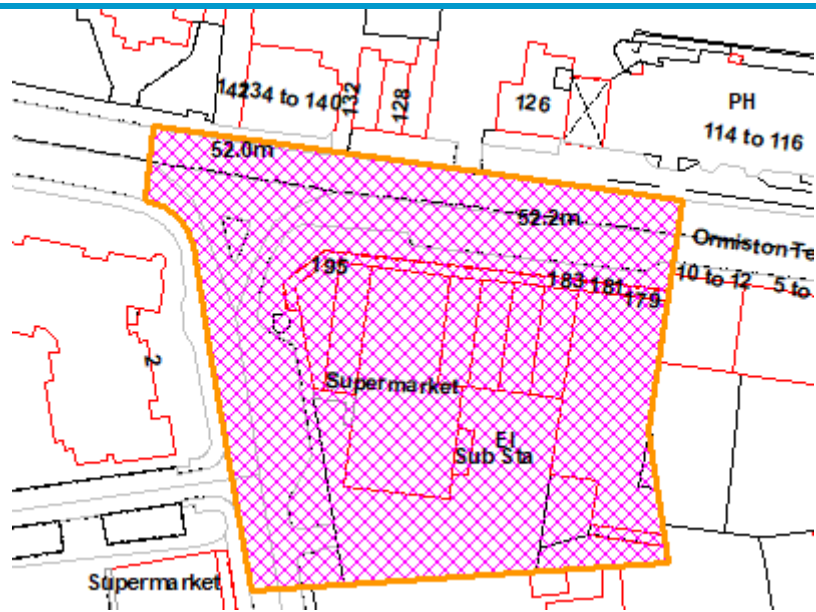
- To view details of the proposal of Application Notice go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)

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

Contact: Nicola Orr, Planning Officer  
E-mail: nicola.orr@edinburgh.gov.uk Tel: 0131 469 3712

## Location Plan

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## Development Management Sub-Committee Report

**Wednesday 28 February 2024**

**Application for Conservation Area Consent  
Car Park 2, 2 Canaan Lane, Edinburgh.**

**Proposal: Complete demolition in a conservation area.**

**Item – Committee Decision  
Application Number – 23/02585/CON  
Ward – B10 - Morningside**

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

The application is referred to the Development Management Sub-Committee as it is associated with the development the subject of conterminous planning application 23/00359/FUL.

### **Recommendation**

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

### **Summary**

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

## **SECTION A – Application Background**

### **Site description**

The site is to the rear of the existing public house, The Canny Man's, fronting Canaan Lane. Directly to the east is the Lane Hotel, which is also in the ownership of the applicant, who owns The Canny Man's public house, The Lane Hotel and 6A Canaan Lane. The site has an area of approximately 220sqmetres. The site is currently used as a private car park with six spaces for visitors to either the neighbouring Canny Man's public house or the Lane Hotel. The site includes a garage building that is used for storage by the pub/hotel; it was built in 1999 and is constructed from rendered concrete block, with a timber truss roof clad in slate.

There is also an enclosed external bin store which fronts Canaan Lane, and an enclosed grassed area. Within the car park is a fenced/walled off storage space for bins and an open area for beer kegs. Behind this is a further single storey building that is an extension to the rear of the former garage.

To the west is the category B listed building The Canny Man's public house, a two storey traditional stone property which fronts Morningside Road. The building was listed on 30th March 1993, LB ref: LB46297. Constructed circa 1890, it is described as a late Victorian public house with fine interior, 2-storey 3-bay square-plan corner block. The east (rear) elevation which faces the application site is described as having single windows and modern fire escape stair; tall wall head stack to right of centre. Detached single storey stable block with two large openings and gabled hayloft door. It has four-pane timber sash and case windows. There is a beer garden to the rear of the public house adjacent to the application site as well as a single storey building (Stables) which is used as function space and storage known as The Stables building.

The Lane Hotel to the east is a traditional two storey stone and slate built property. On the opposite side of the road from the site is a residential two storey property, a recently constructed five storey flatted block and the rear of tenements which front Morningside Road. To the south is a high wall with railings which separates the site from the neighbouring property.

The site is within the Morningside Conservation area.

### **Proposed development**

The proposal is for the demolition of the existing garage and walls within the site.

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

9th February 2023 Planning application submitted for a new hotel to be linked to existing public house and hotel (23/00359/FUL)

History of neighbouring sites:

6a Canaan Lane:

19th April 2023 - Permission refused for short term let (in retrospect) (application ref: 23/05239/CLESTL)

11th October 2023 - Appeal review upheld officers' decision to refuse permission (appeal ref: 23/00130/REVREF)

6C Canaan Lane:

4th December 2020 - Planning permission granted for change of use from office to residential (application ref: 20/04253/FUL)

6th November 2023 - Certificate of Lawfulness submitted for use of property as a short term let undetermined (23/05239/CLESTL)

7 Canaan Lane:

03 August 2017 - Planning permission refused for the erection of new six storey building to replace public toilet comprising 11 flats (as amended) (application reference 17/00184/FUL).

20 November 2017 - Appeal against refusal of 17/00184/FUL dismissed by reporter.

15th November 2018 - Planning permission was granted for a five storey block containing ten flats (application ref: 18/01506/FUL)

9A Canaan Lane:

18th October 2018 Extension and enlargement following part demolition to create a new dwelling granted (application ref: 18/07763/FUL)

22nd October 2018 Certificate of Lawfulness refused (application ref: 18/04539/CLE)

### **Pre-Application process**

There is no pre-application process history.

### **Consultation Engagement**

City Archaeology

Historic Environment Scotland

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

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 27 September 2023

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

**Press Publication Date(s):** 19 January 2024 6 October 2023 23 June 2023

**Site Notices Date(s):** 16 January 2024 3 October 2023 20 June 2023

**Number of Contributors:** 4

## Section B - Assessment

### Determining Issues

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

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

### Assessment

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

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

- Managing Change - Interim guidance on the Designation of Conservation Areas and Conservation Area Consent (2019) outlines criteria to assess the acceptability of the demolition of unlisted buildings within conservation area, including:
  - the importance of the building to the character or appearance of any part of the conservation area, and of proposals for the future of the cleared site.
  - if the building is considered to be of any value, either in itself or as part of a group, a positive attempt should always be made by the planning authority to achieve its retention, restoration and sympathetic conversion to some other compatible use before proposals to demolish are seriously investigated.
  - where demolition may be thought appropriate, for example, if the building is of little townscape value, if its structural condition rules out its retention at reasonable cost, or if its form or location makes its re-use extremely difficult, consent to demolish should be given only where there are acceptable proposals for the new building.

**a) Demolition of building(s) is acceptable?**

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."*

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

NPF 4 policy 7 f) (Historic Assets and Places) states demolition of buildings in a conservation area which make a positive contribution to its character will only be supported in certain circumstances.

Historic Environment Scotland's (HES) Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (April 2019) outlines criteria to assess demolition of unlisted buildings in a conservation area including a buildings' importance to the character or appearance of the conservation area.

The Morningside Conservation Character Appraisal emphasises *'that the architectural character of the conservation area is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas which are in variety of architectural styles are unified by the use of local building materials.'*

The garage/ storage building proposed for demolition was constructed in 1999; walls within the site which are proposed for demolition are non traditional. The structures are not of architectural or historic significance with no particular interior or exterior detailing of interest. These buildings do not make any appreciable contribution to the character or appearance of the conservation area. A heritage statement has been provided which concludes that the structures to be demolished are not of significance.

Historic Environment Scotland have no comments to make on the proposal.

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

**Conclusion in relation to the demolition and replacement**

The demolition of the existing building is therefore acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the interim HES guidance. The proposal complies with NPF4 policy 7.

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

The HES interim guidance and the similar advice in NPF 4 Policy 7 Part g), sets out that consent should generally only be given where there are acceptable proposals for replacement development.

As detailed in the assessment for the parallel planning application (application reference: 23/00359/FUL), the demolition of these structures would enable the development of the site in a coherent and positive way. The proposed demolition will therefore not conflict with NPF 4 policy 7 g) or relevant HES interim guidance. It will have a neutral impact on the character and appearance of the conservation area and is acceptable, subject to planning permission being granted for an acceptable replacement development.

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

**Conclusion in relation to the conservation area**

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

**c) there are any other matters to consider?**

The following matters have been identified for consideration:

Archaeology

The Council's archaeological officer recommends that a programme of archaeological work is carried out during ground-breaking works associated with both demolition and construction in order to fully excavate and record any significant remains that may be disturbed but has not objected to the demolition.

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

Comments have been received from a neighbour, Morningside Community Council and The Architectural Heritage Society of Scotland who object to the proposals.

One letter of support has been received.

A summary of the representations is provided below:

### *material considerations*

- demolition will facilitate development of an unsuitable, oversized hotel;
- proposals do not comply with NPF4 policy 7, LDP policies Env4 and Env9, or the Morningside Conservation Area character appraisal. The replacement building is too large, too high and inappropriate for this location. Materials proposed are not suitable;
- removal of parking will increase road safety concerns;
- traffic is a source of complaint on Canaan Lane;
- deliveries from the road will not prioritise pedestrians and
- where will bins and refuse be stored.

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

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

### **Overall conclusion**

The proposed demolition of the existing garage and walls will preserve the character and appearance of Morningside Conservation Area. Thereby the proposed demolition accords with Section 66 of the Town and Country Planning Listed Buildings and Conservation Areas (Scotland) Act 1997 (The Heritage Act) and Historic Environment Scotland's Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (April 2019).

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

The recommendation is subject to the following;

### **Conditions**

1. No demolition shall start until the applicant has confirmed in writing the start date for the new development by the submission of a Notice of Initiation of Development for planning permission application reference 23/00359/FUL.
2. No development shall take place until the applicant has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Planning Authority, having first been agreed by the City Archaeologist.

### **Reasons**

1. In order to safeguard the character of the conservation area.
2. In order to safeguard the interests of archaeological heritage.

## **Informatives**

It should be noted that:

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

## **Background Reading/External References**

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

**Further Information - Local Development Plan**

**Date Registered: 14 June 2023**

## **Drawing Numbers/Scheme**

1, 2A-4A

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

Contact: Karen Robertson, Senior planning officer  
E-mail: karen.robertson@edinburgh.gov.uk



## Appendix 1

### Summary of Consultation Responses

NAME: City Archaeology

COMMENT: A condition is recommended to ensure that a programme of archaeological works is undertaken during demolition to fully excavate, record and analysis any significant remains that may be affected.

DATE: 4 July 2023

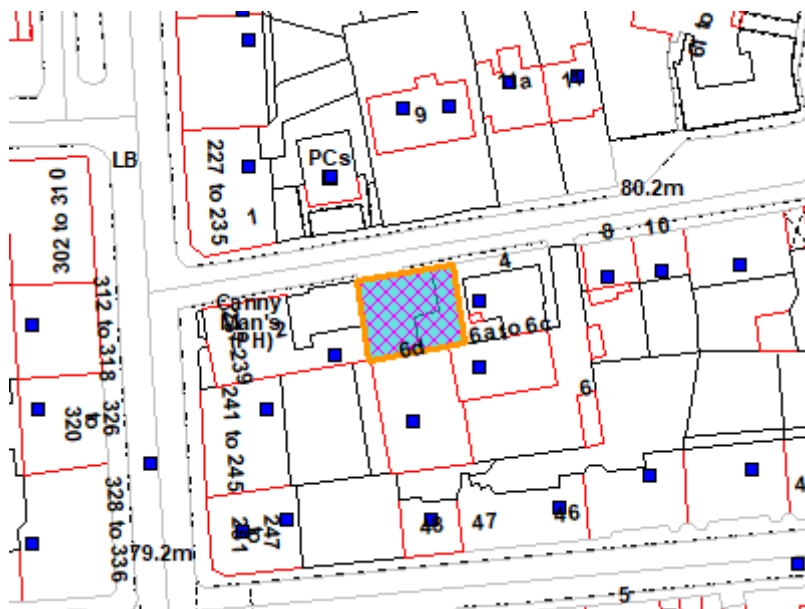
NAME: Historic Environment Scotland

COMMENT: No comments

DATE: 21 February 2024

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 28 February 2024**

**Application for Planning Obligation  
1 Lanark Road, Kingsknowe, Edinburgh**

**Proposal: To modify clause 3 of the planning obligation relating to site at 1 Lanark Road and planning permission 18/08232/FUL.**

**Item – Committee Decision  
Application Number – 22/02424/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 the 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**

Affordable housing is no longer proposed to be provided on site because it is not financially viable, and a commuted sum is considered acceptable. Independent financial advice has been obtained, and the sum of £13,285 per unit (£166,000 in total) complies with LDP Policy Hou 6, NPF 4 Policy 16, Policy 18, 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 0.34 hectares and is located on the corner of Lanark Road and Craiglockhart Avenue.

The site levels slope down from Craiglockhart Avenue to Lanark Road with a difference in levels of approximately three to four metres. The site was previously used for the display and sale of motor vehicles. Access is taken from Lanark Road via two bell-mouth junctions.

The surrounding area is mixed use.

To the south is a two-storey office/telephone exchange building that fronts Craiglockhart Avenue and a vacant site following the demolition of a five-storey vacant office building. Traditional one and two storey buildings are positioned to the west of the site, on the opposite side of Lanark Road and are mainly residential in use. The Union Canal, which is a Scheduled Monument, lies to the north of the site in an elevated position and includes the Prince Charles viaduct at this location.

## **Description of the Proposal**

This application seeks to modify the planning obligation (dated 22 January 2020) regarding on-site affordable housing forming a part of that development, (reference 18/08232/FUL).

That permission was granted for the existing motor dealership and erection of new residential development comprising 50 flats, upgraded vehicular access, new pedestrian access, car and cycle parking and associated soft and hard landscaping.

This application seeks to remove the existing Clause 3 provisions that require the provision of 12 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 calculated in relation to 12.5 units, being 25% of the original 50 units within the development.

The initial modification submission proposes a commuted sum of £45,000 per unit at a total of 12.5 units equating to a total contribution of £562,500. Those values were based on those off-site contributions captured in the legal agreement associated with a neighbouring development at 27 Lanark Road. That off-site affordable housing contribution was required by the Directorate of Planning and Environmental Appeals' Reporter in the determination of that appeal.

Following the outcome of the District Valuer's report this has now been amended to £16,000 per unit, equalling a total of £200,000.

Planning Circular 3 of 2012; 'Planning Obligations and Good Neighbour Agreements' (revised 2020), provides at paragraph 15:

*"The development will therefore not be viable and will not proceed if the Applicant has to provide 12 affordable housing units on site in terms of the Obligation. The Applicant has considered all options for the delivery of affordable housing and concluded that delivery in the form of a commuted sum is the only viable option to enable the development of this redundant brownfield site to proceed."*

The proposed form of replacement clauses, as proposed at this stage of the process, make provision for payment at the conclusion of this amended obligation, but does not place a limit on its use following that payment.

The clauses contained in the original obligation that also provide for financial contributions towards education infrastructure costs (£31,360(indexed from Q4'17)), car club contribution (£7,000(indexed from Q1'20)) and Traffic Regulation Order payment (£2,000), remain unaltered.

It should be noted that those contributions were required to have been paid prior to commencement of the development. The Council received a Notification of Initiation of Development (section 27B) on 9 August 2021. However, the applicant requested those payments should be deferred to a date following the outcome of this modification application.

### **Supporting Information**

- Supporting Statement; and
- Financial Appraisal.

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

### **Relevant Site History**

18/08232/VARY.

1 Lanark Road

Edinburgh

EH14 1TG

Non-Material Variation.

VARIED

29 April 2022

18/08232/FUL

1 Lanark Road

Edinburgh

EH14 1TG

Demolition of existing motor dealership and erection of new residential development comprising 57 flats, upgraded vehicular access, new pedestrian access, car and cycle parking and associated soft and hard landscaping (as amended to 50 flats).

Granted

25 February 2020

### **Other Relevant Site History**

18/02817/FUL

27 Lanark Road

Edinburgh

EH14 1TG

Demolition of existing public house and erection of building comprising residential apartments and associated development (as amended).

Appeal Allowed

16 October 2019

### **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:** 12 May 2022

**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: Quality Homes Policy 16.
- NPF 4 Liveable Places: Infrastructure first Policy 18.

- 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 50 dwellings, with the number of affordable housing units to comprise 12 units: 2 studios, 6 1-bed, 3 2-bed and 1 3-bed apartments. That would equate to 24% provision, 25% equating to 12.5 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 construction cost of each unit on site would exceed £200,000 a figure 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 £13,285 per unit, therefore resulting in a total off-site affordable housing contribution of £166,000 for the 12.5 units (25% of the overall development).

The District Valuer recommends a commuted sum totalling £166,000. 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)) and paid within 6 weeks of this determination, as the development is close to completion 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, the information submitted is acceptable and 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. This test is met.

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.

However, the applicant's offer of £16,000 per unit, providing a total of £200,000, exceeds the level as calculated by the District Valuer. As such, and in accordance with the provisions of Circular 3 of 2012, it cannot be accepted.

This Circular test states that:

**"Paragraph 18.** *Planning obligations should not be used to extract advantages, benefits or payments from landowners or developers which are not directly related to the proposed development. The obligation should demonstrate that this test is met by specifying clearly the purpose for which any contribution is required, including the infrastructure to be provided."*

#### 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 on-site 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 proposal's compliance with the Development Plan.

**Overall conclusion**

Affordable housing is no longer proposed to be provided on site because it is not financially viable, and a commuted sum is considered acceptable. Independent financial advice has been obtained, and the sum of £13,285 per unit (£166,000 in total) complies with LDP Policy Hou 6, NPF 4 Policy 16, Policy 18, 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.

### Conditions

### Reasons

### 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: 6 May 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

## Summary of Consultation Responses

NAME: Housing Management and Development (Affordable Housing)

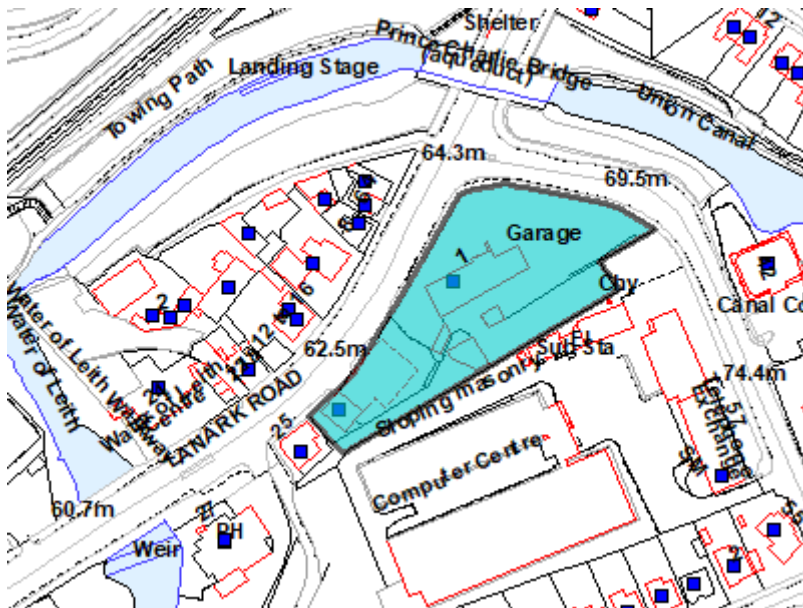
COMMENT: The applicant seeks amendments to the existing Section 75 agreement to reflect that the affordable housing will not be able to be delivered onsite.

- The costs of the development have been independently checked and verified.
- The average construction cost exceeds £200,000 per home.
- The District Valuer calculated a commuted sum based on nationally accepted principles.
- The sales values, checked by the DV, are not sufficient for a viable scheme.
- Their recommendation is a commuted sum of £166,000 in total. The applicant has proposed an increased sum of £200,000 in total or £16,000 per unit for the required number of affordable homes.
- The sum would be secured through a Section 75 legal agreement.

DATE: 24 January 2024

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 28 February 2024**

**Application for Planning Permission  
237 Morningside Road, Edinburgh, EH10 4QU**

**Proposal: Project to construct new hotel accommodation on the site of an existing private car park to expand the existing neighbouring hotel and pub business (scheme 2).**

**Item – Committee Decision  
Application Number – 23/00359/FUL  
Ward – B10 - Morningside**

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

The application is referred to the Development Management Sub-Committee due to the number of letters of representation received which exceeded the scheme of delegation in place at the time of submission.

### **Recommendation**

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

### **Summary**

The development is in accordance with the development plan. This proposal will deliver an extension of an existing use and is acceptable in principle. The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. They would preserve the setting of the nearby listed building and enhance the character and appearance of the conservation area. The proposals will deliver a sustainable and well-designed scheme that will contribute to climate mitigation and adaptation. 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 nearby residents. Flood and drainage proposals are acceptable. Transport generation and parking proposals are acceptable. Other material considerations support the presumption to grant planning permission.

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 and the Guidance on Listed Buildings and Conservation Areas. There are no material considerations that outweigh this conclusion.

## SECTION A – Application Background

### Site description

The site is to the rear of the existing public house, The Canny Man's, fronting Canaan Lane. It has an area of approximately 220 square metres. The site is currently used as a private carpark with six spaces for visitors to either the neighbouring Canny Man's public house or the Lane Hotel, which is to the east of the site. The site includes a garage that is used for storage by the pub/hotel; it was built in 1999 and is constructed from rendered concrete block, with a timber truss roof clad in slate. There is also an enclosed external bin store which fronts Canaan Lane, an open area for beer kegs and an enclosed grassed area.

To the west is The Canny Man's public house, a two storey traditional stone property which fronts Morningside Road and is owned by the applicant. There is a beer garden to the rear adjacent to the application site as well as a single storey building which is used as function space. To the east is The Lane Hotel, a traditional two storey stone and slate-built property, which is also owned by the applicant. To the rear of this building is a courtyard accessed off Canaan Lane, which provides access to residential units and offices. These units are located between the Lane hotel and the tenement buildings along Jordon Lane. Property 6A is in the ownership of the applicant. Property 6D is an office which adjoins the residential properties. The upper flat to the south has a raised roof terrace enclosed by railings which adjoins the southern site boundary. On the opposite side of the road from the site is a residential property, a recently constructed flatted block and the rear of tenements which front Morningside Road.

The site is within the Morningside Conservation area. The public house to the west, The Canny Man's is a category B listed building, listed 30th March 1993, LB ref: LB46297. Constructed circa 1890, it is described as a late Victorian public house with fine interior, 2-storey 3-bay square-plan corner block. The east (rear) elevation which faces the application site is described as having single windows and modern fire escape stair, tall wall head stack to right of centre. Detached single storey stable block to rear of main building with two large openings and gabled hayloft door. It has four-pane timber sash and case windows.

### Proposed development

It is proposed to demolish the existing garage and some of the existing walls within the site. Some regrading/ levelling of land is proposed. A new hotel development of three storeys is proposed with a total of two one-bedroom studios on the ground floor and twelve en-suite bedrooms on the upper floors. The building will have a mansard roof with dormer windows to front and rear. It will be detached with the exception of part of the west elevation being attached to the outbuilding which lies to the rear of the B listed public house.

Each hotel studio flat will have a floor area of 52.1sqms and each have individual entrances from the front. The floor areas of the proposed ensuite bedrooms range from 24.2sqms to 31.2sqms. The proposed building/ uses will operate as an extension of the current public house and existing hotel use.



A blue roof is proposed to the main flat part of the proposed roof, the surface finished with round river washed pebbles. Hard surfaces within the site will be permeable. Air source heat pumps are proposed in the southeast corner of the site to the rear of the building.

A new stone wall is proposed along the front boundary. No vehicular access or car parking is proposed to serve the development. Two additional cycle parking spaces are proposed within a secure storage area in the Stables building at the adjacent site.

Walls are to be clad in Ashlar sandstone on the front and side elevations. Rear elevation to be rendered to match. Precast concrete panels. Windows are to be in aluminium. Roof and dormer windows to be clad in brown pigmented zinc. Railings to some windows in powder coated zinc to match windows.

Scheme 1:

The first scheme included a four-storey building, with stone coloured brick walls. Cycle parking provision was not included.

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

- Conservation Statement.
- Embodied carbon report.
- Planning Statement.
- Preliminary ecological statement.
- Noise Impact Assessment.
- Energy Statement.
- Contamination risk assessment; and
- Drainage strategy and surface water management plan.

### **Relevant Site History**

23/03875/LBC  
237 Morningside Road  
Edinburgh  
EH10 4QU

There will be minor external alterations to the Stables Building, part of the Canny Man's Listing. The east boundary gutter of the Stables will be removed with a flashing and lead valley gutter being proposed to replace it. There are to be no internal changes to the Stables building and its use as storage and function space is to remain the same. Permission is not required.  
6 September 2023

### **Other Relevant Site History**

14th June 2023 - Application submitted for conservation area consent for demolition of the existing building (application ref: 23/02585/CON)

History of neighbouring sites:

6a Canaan Lane:

19th April 2023 - Permission refused for short term let (in retrospect) (application ref: 23/05239/CLESTL)

11th October 2023 - Appeal review upheld officers' decision to refuse permission (appeal ref: 23/00130/REVREF)

6C Canaan Lane:

4th December 2020 - Planning permission granted for change of use from office to residential (application ref: 20/04253/FUL)

6th November 2023 - Certificate of Lawfulness submitted for use of property as a short term let undetermined (23/05239/CLESTL)

7 Canaan Lane:

03 August 2017 - Planning permission refused for the erection of new six storey building to replace public toilet comprising 11 flats (as amended) (application reference 17/00184/FUL).

20 November 2017 - Appeal against refusal of 17/00184/FUL dismissed by reporter.

15th November 2018 - Planning permission was granted for a five-storey block containing ten flats (application ref: 18/01506/FUL)

9A Canaan Lane:

18th October 2018 Extension and enlargement following part demolition to create a new dwelling granted (application ref: 18/07763/FUL)

22nd October 2018 Certificate of Lawfulness refused (application ref: 18/04539/CLE)

### **Pre-Application process**

There is no pre-application process history.

### **Consultation Engagement**

CEC Archaeology

Transport Planning

Flood Planning

Environmental Protection

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

## Publicity and Public Engagement

**Date of Neighbour Notification:** 18 January 2024

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

**Press Publication Date(s):** 19 January 2024 29 September 2023 17 February 2023

**Site Notices Date(s):** 16 January 2024 26 September 2023 14 February 2023

**Number of Contributors:** 114

## 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: 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 proposed development is separated from the main listed building by the existing beer garden to the west. The development lies in close proximity and is partly attached to the existing Stables outbuilding which is included in the listing description of the Canny Man's. The Stables building is set back from the road and is not clearly visible from either direction along Canaan Lane. Works proposed to the Stables building include infill of existing blank window on the east elevation which will be behind the new west facing gable wall, and the removal of a modern brick garden wall to the east of the beer garden boundary. The applicant has submitted supporting information in a Conservation Statement which sets out the impact of the proposal on the Canny Man's public house listed building and its setting. This describes The Stables block itself as having low historic significance; it has been altered and was concealed from street view prior to the buildings listing. It continues that *'the adaptation over time to serve the functions of the public house have eroded the historic legibility of the building which remains ancillary. The building is of no architectural value and remains largely agricultural in appearance. The building is socially and culturally significant in its use as a private dining room to the public house but was not designed as such and is used intermittently. The store and office are not significant spaces.'*

The proposal will be of a lower scale, height and of a smaller massing than the main listed building. Visualisations submitted by the applicant show that the proposals will have no adverse impact on the historic significance of the main listed building. Whilst the proposal will lie in close proximity to The Stables outbuilding, as this is not significant and is ancillary to the main listed building, the development would be acceptable in relation to preserving its historic and architectural interest.

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

The proposal will not detract from the special architectural and historic interest of the nearby listed building nor harm their setting and conforms with section 59 of the Planning (Listed Buildings and Conservation Area) (Scotland) Act 1997.

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 Morningside Conservation Area Character appraisal states: *"The Morningside Conservation Area Character Appraisal emphasises that the architectural character of the conservation area is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas which are in variety of architectural styles are unified by the use of local building materials."*

The area in which the site sits has a dense built form. There is a mix of building styles, heights, and massing in the immediate area, including the recently constructed new flatted block opposite the site, and a mansard roof style building further along Canaan Lane to the east of the site. The position of buildings within the immediate area is mixed; some front the back of the pavement whilst others are set back from the road.

The proposal would be of an acceptable form; introducing a building of an acceptable scale, height and position which would not detract from, and enhancing the character or appearance of the Morningside Conservation Area. The proposed block's siting on the existing car park site would not be significantly different to other development patterns in the surrounding urban block. The height of the building would be slightly higher than the Lane Hotel to the east, but at the depth of building proposed would be acceptable and would fit in with the character of immediate area. The main front elevation would extend slightly further forward than the main front elevation of the adjacent Lane Hotel, however this does not detract from the appearance of the area where there is a mixture of building positions.

The external walls to the front and side of the building are to be finished in Ashlar natural stone to tie in with the predominant building material found in the surrounding area. Zinc cladding is proposed to the top floor level and windows are proposed to be metal framed to allow for a lightweight contemporary appearance. To the rear elevation of the building, it is proposed that the building will be finished in render to match the colour of the stone. Given that there would be no public views of this elevation, and traditionally ashlar sandstone would only be used on prominent elevations, the proposed materials will provide an appropriate design concept which contributes to a sense of place.

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

The proposal is acceptable in relation to its impact on the character and appearance of the Morningside Conservation Area. It conforms with Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (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. The relevant policies to be considered are:

- NPF4 Climate and nature crisis policies 1, 2 and 3
  - 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 Blue and green infrastructure policy 20
  - NPF4 Flood risk policy 22
  - NPF4 Health and safety policy 23
  - NPF4 Community wealth building policy 25
  - NPF4 City, town, local and commercial centres policy 27
  - NPF4 Tourism policy 30.
- 
- LDP Environment policy Env 21 and Env 22
  - LDP Employment and Economic Development policy Emp 10
  - LDP Design policy Des1, 2, 3, 4, 5, and 7
  - LDP Inappropriate uses in residential areas policy Hou 7
  - LDP Transport policy Tra 2, Tra 3, and Tra 4.

The non-statutory 'Listed Buildings and Conservation Area' guidance and the Edinburgh Urban Design Guidance are relevant material considerations.

#### Principle of development

The site is within the urban area in the Edinburgh Local Development Plan. It lies just outside the boundary of the Morningside/ Bruntsfield Town Centre. LDP policy Emp 10 (Hotel development) permits hotel development in locations within the urban area with good public transport access to the city centre. The proposal has good access to a number of buses on Morningside Road which provide links to and from the city centre. The proposal complies with LDP policy Emp 10.

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. The applicant has confirmed that the existing public house and hotel are integral to each other, with the pub providing the dining accommodation for the hotel as well as other ancillary functions. It has also been confirmed that the proposal is an extension of the current hotel use. It complies with policy NPF4 policy 30 as it will introduce further accommodation to an existing tourism related business which will benefit the local community. NPF 4 policy 25 (community wealth building) states that development proposals which contribute to local or regional community wealth building strategies and are consistent with local economic priorities will be supported. The proposal would expand an existing local business and increase spending within the local community. The proposal complies with NPF 4 policy 25.

NPF 4 policy 27 (City, town, local and commercial centres) support proposals which enhance and improve the vitality and viability of city, town, and local centres, including proposals that increase the mix of uses. The site is just outside the Morningside/ Bruntsfield town centre and will provide an additional accommodation facility and use which complements and enhances the vitality and viability of this centre; it will enable more visitors to stay within the city. The proposal accords with NPF 4 policy 27.

In principle the proposal is acceptable and meets the general aims of tourist related development in NPF4 and LDP policies.

#### Impact on setting of nearby listed buildings

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.

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 the Guidance on Listed Buildings and Conservation Areas.

## Conservation Area

NPF4 policy 7d) to g) are relevant in relation to development within a conservation area. Part d) sets out that development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Part e) states that 'Development proposals in conservation areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting, including structures, boundary walls, railings, trees and hedges, are retained.' Part f) sets out that the demolition of buildings in a conservation area which make a positive contribution to its character will only be supported where it has been demonstrated certain criteria have been met; and part g) states that 'where demolition within a conservation area is to be followed by redevelopment, consent to demolish will only be supported when an acceptable design, layout and materials are being used for the replacement development.'

The existing garage building on the site is of a traditional design and materials, but is a relatively small ancillary building, constructed in 1999, which does not contribute significantly to the character of the area. Its proposed demolition is considered under concurrent application 23/02585/CON. Canaan Lane has a varied character in its architecture with a mixture of villas, tenements, terraces etc. As outlined above, the design and scale of the proposals are in keeping with other developments along this part of the conservation area, which are of a lower and more domestic scale than the higher tenemental buildings along Morningside Road. The applicant has demonstrated that there is no adverse impact on the character or appearance of the conservation area as a result of the development; the appearance of the conservation area would be preserved.

The proposals are in accordance with NPF 4 policy 7 parts d) to g).

## Archaeology

In relation to archaeology, NPF4 policy 7o) states that non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. CEC City Archaeology state that the application site lies on the edge of bank overlooking the course of the former Egypt Burn located to the South. Given the site's location and lack of significant historic development on the site indicated by 19th century maps, these proposals are regarded as having a potential, though low, archaeological impact. Construction works may disturb important remains associated with the suburb's development during the 18th and early 19th centuries and potential earlier remains. It is therefore recommended that a condition is added to any consent for a programme of archaeological works to be undertaken prior to and during development to fully excavate, record and analysis any significant remains that may be affected.

The proposal complies with NPF4 Policy 7-part o).



## Climate change and 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 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. The proposal is in accordance with this policy.

NPF4 Policy 2 a) (climate mitigation and adaptation) 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 site is well located with respect to local services, businesses and transport links. It will be constructed from sustainable construction materials to ensure building fabric performance, will include a blue roof, and incorporate air source heat pumps for water and space heating. Sustainable transport is prioritised by accessibility to the wider city for people visiting the site and by the provision of cycle storage. 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) sets out that development proposals should seek to reduce, reuse, or recycle materials in line with the waste hierarchy. The application states that materials in the existing building are unlikely to be suitable for the proposed development. An embodied carbon report has been submitted with the application. This sets out that the retention of the existing building would potentially save some embodied carbon, but more significant savings would be made with the new proposed building which has a low operational energy and carbon consumption.

The applicant has advised that although the re-use of the existing building materials within the proposed new development is not appropriate, alternative uses should be sought for them, and the proposal will make effective reuse of a brownfield site and would be built using appropriate materials with a fabric first approach to insulation targets.

The proposals are therefore acceptable and meet the aims of NPF 4 policies 1, 2 ,9 and 12 in relation to climate change and mitigation.

## Ecology

NPF4 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. A Bat Preliminary Roost Assessment was carried out at the site. The findings were that the garage building and immediately surrounding habitats are of negligible suitability for roosting bats. No bats or their characteristic droppings, or any other signs of bats were found internally. The exterior of the building offered negligible opportunities for roosting, ingress, or egress by bats. The assessment concludes that a contribution to securing positive effects for biodiversity, and for enhancing the current ecological value of the development site should be provided.

A condition is recommended to require the inclusion of swift bricks and bat boxes within the new development to provide new habitat in accordance with NPF4 policy 3.

## Height, scale, massing, design

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 proposal ties in appropriately to the existing hotel building to the east and would form a new gable boundary to the existing beer garden to the west. The proposal would be in accordance with LDP policy Des 2 and would not compromise the development of adjacent sites.

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. NPF4 policy 15 (Local living and 20-minute neighbourhoods) seeks development to contribute to local living. 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. LDP policy Des 7 (layout design) sets out design principles for new development.

The proposed building is higher than the existing Lane Hotel, however, this would not be detrimental to the overall character of the street scene. There are a mix of building heights in the immediate area; the height of the proposed building will fit in well with the heights of buildings within its immediate context. It is set down below the maximum height of the listed Canny Man's public house. The applicant has provided detailed sections and elevations to demonstrate that the heights are appropriate in their immediate context, complying with LDP Policies Des 3 and Des 4. The scale of the building is appropriate; it relates well to the scale and massing of other developments within close proximity to the site.

The spatial character of the area is mixed with tenement scale flats, lower scale traditional dwellings properties and some commercial properties. The proposal will reflect the existing character and respects the street hierarchy by being of a more domestic scale than the traditional tenements along Morningside Road. The proposed building is stepped further forward slightly than the building line established by the Lane Hotel, allowing for some garden space to the front of the site. This is appropriate in this context; nearby buildings are positioned hard on the front boundary whilst others are set back from the street frontage.

The design is a modern interpretation of a three-storey mews design. The scale and built form of the proposals will contribute to the sense of place. It creates a contemporary addition, filling a gap site and providing an attractive frontage to Canaan Lane. The architectural style fits in with the street scene and existing developments in the locality reinforcing its identity. The proposed elevational treatment is relatively uniform, with a principal elevation facing Canaan Lane. Roof dormers break up the elevational form and provide interest. The proposed material palette is acceptable and is appropriate within the location; it will not detract from the character of the wider area. The design and the proposed materials are suitable for the context in compliance with LDP policy Des 1.

The proposal will incorporate a low stone wall and railings to the front boundary of the site which reflects and continues the existing boundary treatment to the front of the adjacent Lane hotel. This, together with a small area for planting, creates an attractive frontage to the development in accordance with LDP policy Des 3.

The applicant has confirmed that refuse collection for the development will be an expansion to the existing business and bins will be located in a newly designated area of the Canny Man's beer garden. The applicant has also confirmed that one of the ground floor units will be designed to be fully accessible. The other ground floor unit will have level access.

Overall, the proposal meets the aims of NPF4 policy 14 as it will improve the quality of the area and the aims of NPF4 policy 15 as it will make provision for new tourist related accommodation which is located close to existing facilities including access to good public transport and the Morningside Town Centre.

The proposal complies with the design policies of NPF4 and the LDP.

The proposals meet the requirements of the Edinburgh Design Guidance (EDG) as the proposed development will have a positive impact on its surroundings through height and form, scale and proportions, site layouts and materials utilised.

### Amenity for Neighbours

LDP Policy Des 5 (Amenity) sets out criteria to ensure the amenity of neighbouring developments is not adversely affected. 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. NPF 4 policy 23 (Health and safety), requires air quality and noise to be considered, and LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), seeks to protect residential amenity. LDP policy Env 22 (Pollution and Air, Water and Soil Quality) requires development to have no significant adverse effects for health, the environment and amenity.

The property is located within a predominantly residential mixed-use area, close to the edge of the Morningside/ Bruntsfield town centre. There are residential properties in close proximity to the site, including a recently constructed residential block on the opposite side of Canaan Lane.

Supporting information provided with the application advises that the proposals will focus on providing sleeping accommodation with limited additional facilities (e.g. kitchen/cooking/bar operations are not included on any plans except for the two ground floor units). 24-hour daytime and nighttime management presence will be available. The applicant has also confirmed that patrons will eat within the adjacent public bar; no cooking ventilation is required to remove cooking odours within the hotel building.

The main noise issues associated with the premises will be externally as guests enter and leave the premises, and potential noise from the two rear facing garden terraces for use by the ground floor occupants. The applicant has advised that they will aim to manage the area for noise. The proposal is unlikely to cause significantly more noise than the existing use of the site and the adjacent beer garden etc. Due to the mixed nature of the surrounding premises, Environmental Protection does not expect the application premises' operations to adversely impact upon residential amenity any more than the existing and surrounding premises do at present.

A Noise Impact Assessment (NIA) has been provided with the application which considers noise from the proposed air source heat pumps. The NIA recommends a number of mitigation options available to ensure that noise does not impact upon residential amenity, and these include the installation of bolt on attenuators to the air source heat pumps to bring noise levels to an acceptable level. Environmental Protection have confirmed that this mitigation is acceptable.

Environmental Protection have recommended that Planning secure a condition to ensure that both operations remain tied in one ownership to enable operations of the application site and existing uses within the ownership of the applicant to be managed and controlled. A condition is recommended to that effect.

Environmental Protection raise no objections subject to conditions relating to land contamination, noise protection and operation of the hotel.

In relation to privacy, the development proposes bedroom windows at first and second floor to the rear elevation which would overlook the raised roof terrace directly to the south of the property. These windows would be less than three metres from the rear site boundary. The effected upper terrace area has an asphalt finish and a soil vent pipe and flue penetrating its surface, as well as two rooflights. It does not appear to be used for amenity or leisure purposes but is understood to have been used as a drying area in the past. In addition, the Lane Hotel already has windows which are in close proximity directly facing windows facing the adjacent residential property to the south. Given this, and that the site is within a dense environment, with tenement properties already demonstrating some overlooking, the impact on privacy on neighbouring property will not be significant. Window positions to the rear of the building are so that there is no direct window to window overlooking.

The applicant has submitted supporting information in relation to daylighting. In relation to neighbouring property, a daylighting assessment has been carried out to 6B and 7 Canaan Lane, and The Lane Hotel using the Vertical Sky Component (VSC) method and the Average Daylight Factor (ADF). A bedroom at the recently completed tenement block at 7 Canaan Lane and kitchen windows at 6B Canaan Lane failed the VSC assessment, and in accordance with the Edinburgh Design Guidance (EDG), the ADF assessment was then carried out. This showed both bedrooms and kitchens of nearby property passing the ADF assessment in compliance with the EDG.

The level of daylight reaching the rear of the Lane Hotel would be affected below first floor level. However, the assessment demonstrates that, although the resulting ADF of 0.72% is below the recommended ADF of 1% for bedrooms, the existing situation only allows for an ADF of 0.96%. The Lane Hotel is not in a residential use and the results of the ADF indicate that there would be minimal loss of daylighting to ground floor bedrooms over the existing situation.

In conclusion, in terms of daylighting to existing homes, the proposals are acceptable.

In terms of impact of sunlight to existing properties, Edinburgh Design Guidance states that new buildings should be laid out so that reasonable levels of sunlight are maintained to existing gardens and spaces. The applicant has demonstrated that the level of sunlight to the upper terrace directly to the rear of the site would be acceptable; it lies to the south of the site. The proposal would be acceptable and comply with the Guidance in this regard.

The applicant has provided supporting information in relation to site contamination and remediation; Environmental Protection recommend a condition to ensure the site will be made safe for the proposed end use. A condition is recommended to that effect.

The proposal will have an acceptable impact on the amenity of nearby residents. The proposal complies with LDP policy Des 5 and LDP policy Hou 7.

### Flooding and drainage

NPF4 policies 20 (Blue and green infrastructure) and 22 (Flood risk and water management), and LDP policy Env 21 (Flood protection) are relevant.

The applicant has submitted a Drainage Strategy and Surface Water Management Plan in support of the application. The SEPA flood maps (both current and future) confirm that the site is not at risk from surface, fluvial or coastal flooding. CEC Flood Planning raise no objection to the proposals on flood risk grounds. In terms of flood risk the proposals are acceptable and meet the aims of NPF4 policy 22 and LDP policy Env 21.

In relation to surface water drainage, the SUDS measures proposed for the development are a permeable blue roof and permeable pavement areas. As well as these measure, the plans show the replacement of the adjacent beer garden surface material with permeable material to provide improved sustainable drainage for the whole site. The proposals in relation to drainage are acceptable and meet the aims of NPF4 policy 20.

The proposals are acceptable in relation to flooding and drainage.

## Transport

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, cycle, and motorbike parking requirements for new development.

The proposal will result in the loss of six existing car parking spaces at the site. No car parking spaces are proposed within the application site. However, the site is located close to good public transport links with several bus services available on Morningside Road.

In addition, the applicant states that there are four parking spaces available in the courtyard of 6 Canaan Lane behind the development site and that there are 20 spaces of on street metered parking within 200m of the site.

Cycle parking provision has not been proposed within the application site boundary; however, the applicant has clarified that two additional secure, under cover bicycle parking is to be provided in the existing Stables building, directly adjacent to the site.

Transport Planning raise no objections to the proposal and consider zero parking at the site to be acceptable. They request the provision of two cycle parking spaces to serve the development. As the Stables is within the ownership/ control of the applicant, a condition is recommended to ensure the implementation of the proposed cycle parking.

The proposal complies with NPF4 Policy 13 and LDP Policies Tra 2, 3 and 4.

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

### **d) 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. The applicant has confirmed that the two ground floor units will be accessible for disabled users. Due regard has been given to section 149 of the Equalities Act 2010.

Consideration has been given to human rights. Comments have been received in relation to privacy, home and family life and peaceful enjoyment of their possessions in relation to human rights. The assessment in section b) above considers the potential impacts on privacy and amenity to neighbouring property. No impacts have been identified through the assessment.

### Public representations

For scheme one, a total of 32 objections were received including ones from The Architectural Heritage Society of Scotland and Morningside Community Council. A total of 27 letters of support was received.

For scheme two, thirteen letters of objection were received including one from The Architectural Heritage Society of Scotland and 59 letters of support, including one from Morningside Community Council.

A summary of the representations is provided below:

#### *material considerations*

#### Objections:

- Traffic and congestion will increase.
- Road and pedestrian safety concerns; especially for school children.
- Loss of parking; the existing car park is well used; insufficient parking provided.
- Does not comply with Edinburgh Design Guidance or the Morningside Conservation Area Character Appraisal.
- Does not respect character of conservation area or listed buildings.
- Materials not appropriate in conservation area.
- More information is needed in relation to buildings height in its context.
- Land ownership certificate errors and insufficient neighbour notification.
- Lack of information/ drawings scale, form not appropriate.
- Bin storage area removed/ new position impact/ impact on public realm?
- Building is too tall/ excessive height, too large, mass and profile is too big, overbearing, crammed in and too close to pavement, adverse impact on street scene.
- Style is inappropriate, not distinctive and area is already too built up.
- Footpaths should be provided either side.
- Loss of sunlight and daylight.
- Overshadowing.
- Loss of privacy.
- Increase in noise, including from air source heat pumps and disturbance/ adverse impact on residential amenity.
- No more short term let accommodation; it damages local community.
- Needs a European Protected Species survey for bats.
- Human rights implications; privacy, home and family life and peaceful enjoyment of their possessions.
- Blue roof would need to be built deeper and building would be higher impacting on daylight.
- Building is not sustainable.
- No lift; poor accessibility.

- Does not meet 6 qualities of successful places.
- Application should be refused or withdrawn.
- Application for Conservation Area consent should be submitted.
- Quality of lower accommodation compromised due to high rear boundary wall.
- Pollution increase.
- No assessment in relation to NPF4; proposal fails to comply with NPF4. Proposals fails to comply with LDP policies Des1, Des5, Env4, Env8 and Env9. It does not comply with NPF4 policies 1, 3, 7, 14, and 30; and
- Flood and drainage issues.

Support:

- Positive for the local economy.
- Will enhance the area and keep it lively.
- Will reflect the new development opposite.
- Existing family run business is very successful and a great addition.
- May relieve pressure for short terms let accommodation in the area.
- Helps tourism.
- Will fit in well into the environment and replace an unattractive car park.
- Proportions and materials fit in.
- Will bring employment.
- Car park is underused.
- There is demand for quality accommodation.
- Complementary and more modern design.
- Revised scheme addresses our concerns.
- Will add to the community; and
- Complies with the LDP.

These are addressed in section a) above.

*Non-material considerations*

- Views will be blocked.

**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. This proposal will deliver an extension of an existing use and is acceptable in principle. The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. They would preserve the setting of the nearby listed building and enhance the character and appearance of the conservation area. The proposals will deliver a sustainable and well-designed scheme that will contribute to climate mitigation and adaptation. 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 nearby residents. Flood and drainage proposals are acceptable. Transport generation and parking proposals are acceptable. Other material considerations support the presumption to grant planning permission.

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 and the Guidance on Listed Buildings and Conservation Areas. There are no material considerations that 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.
  - 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. The noise mitigation measures for the proposed air source heat pumps as shown on drawing AL(P)05 rev B should be installed and operational prior to occupation of the development hereby approved, unless otherwise agreed with the Planning Authority.
5. The hotel accommodation hereby approved shall operate as an extension to the existing Canny Man's public house and should not be separated into different uses or operations unless agreed in writing by the Planning Authority.
6. 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.
7. Prior to occupation of the building hereby approved bat and swift boxes shall be installed at the site to the satisfaction of the Planning Authority.
8. The applicant is required to provide two cycle parking spaces in a secure and under cover location. A plan showing the location of these spaces shall be submitted for approval to the Planning Authority, and subsequently implemented.

### **Reasons**

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure the most efficient and effective rehabilitation of the site.
3. In order to safeguard the interests of archaeological heritage.
4. In order to safeguard the amenity of neighbouring residents and other occupiers.
5. To ensure the development hereby approved can operate without detriment to the amenity of the area.
6. In order to enable the planning authority to consider this/these matter/s in detail.
7. In the interest of improving biodiversity at the site.
8. In order to ensure that the level of off-street parking is adequate.

### **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 construction, the applicant should confirm that Scottish Water accept the proposed surface water discharge rate to the combined network.
4. The existing vehicular access should be reinstated as footway as indicated on drawing AL(P)05 rev B.
5. 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: 9 February 2023**

### **Drawing Numbers/Scheme**

1, 2a-5a,6c,7a-14a,15, 16a-17a,18,19

Scheme 2

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

Contact: Karen Robertson, Senior planning officer  
E-mail: karen.robertson@edinburgh.gov.uk

## Appendix 1

### Summary of Consultation Responses

NAME: CEC Archaeology

COMMENT: No objection subject to a condition for an archaeological survey and evaluation.

DATE: 21 February 2023

NAME: Transport Planning

COMMENT: No objections subject to conditions.

DATE: 29 June 2023

NAME: Flood Planning

COMMENT: No objections. The scheme can proceed to determination.

DATE: 15 November 2023

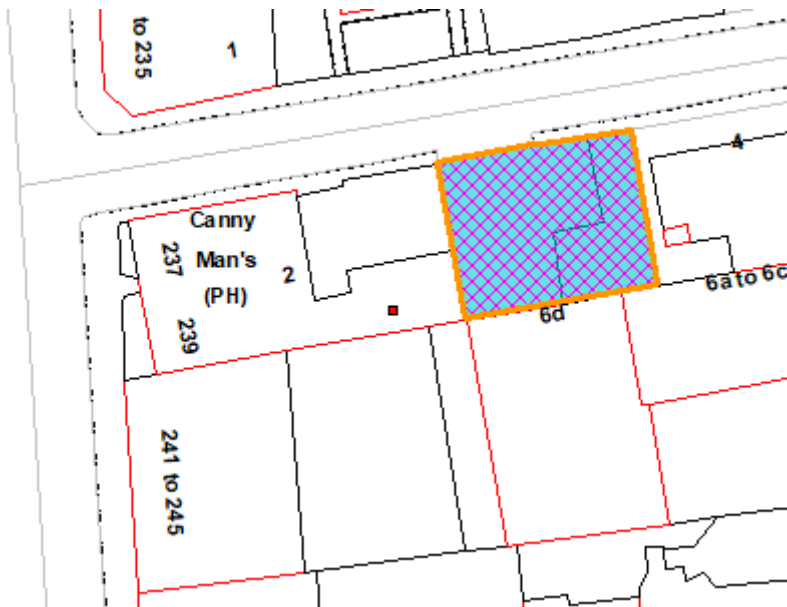
NAME: Environmental Protection

COMMENT: No objections subject to conditions relating to operation of use/ building, noise control and site investigation.

DATE: 6 December 2023

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

### Location Plan



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## Development Management Sub Committee

28 February 2024

### Confirmation of Tree Preservation Order No. 208 (Ramsay Lane)

Item number

Report number

Wards

11 – City Centre

#### Summary

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Tree Preservation Order No. 208 (Ramsay Lane) was made on 6 September 2023 to protect a gean tree in the interests of amenity. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 6 March 2024 to ensure it provides permanent tree protection.

It is recommended that Committee confirms Tree Preservation Order No. 208 (Ramsay Lane).

#### Links

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

# Report

## Confirmation of Tree Preservation Order No. 208 (Ramsay Lane)

### Recommendations

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1.1 It is recommended that Committee confirms the Order.

### Background

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#### 2.1 Site description

The site is an enclosed gated private garden of the University of Edinburgh New College School of Divinity in the Old Town Conservation Area opposite Ramsay Gardens. It is south of the Patrick Geddes Hall. There is no public access although it is visible to the public. The Order applies to a single tree, a gean, or Wild Cherry (*Prunus avium*) which is near the eastern wall of the garden.

Photographs of the tree are provided in Appendix 3.

#### 2.2 Site History

In July 2023, the planning authority received a Conservation Area Tree Works Notice 23/03290/TCO for the removal of a tree. The Notice was supported by the opinion of the agent. The tree officer wrote by email to the agent expressing concern about the proposed removal of the tree, advising they consider that there are alternative approaches to managing the tree to prevent its removal. Photographic imagery or other evidence which would demonstrate that the roots have been compromised was requested.

The recommendation was made by the tree officer to make a TPO. This was served on 6 September 2023.

### Main report

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#### 3.1 Description of the Proposal

#### 3.1 Description of the Proposal

Conservation Area Tree Works Notice was submitted in July 2023 to remove the gear tree because “*roots appear to have been cut and compacted during recent building works*”. The Planning Authority take the position that this reason does not warrant the removal of the tree. The agent was asked by the tree officer to provide evidence of alleged damage. Additional imagery was submitted which showed compaction but not proof of damage to root system to the point of needing the removal of the tree. The agent was advised that if the ground is compacted, remedial decompaction and amelioration of the affected ground should be the first option.

A desk study looking over the past decade indicated that canopy cover in this part of the historic city has been depleted with the loss of a significant tree to the right (facing in from road). A site visit was conducted on 4 August 2023 and the tree viewed from through the gate. The tree appeared in reasonable sound health with a moderate-high amenity value. There was evidence of landscape construction works being carried out in the garden and of ground disturbance with some compaction around the tree.

The recommendation was to make a TPO to protect the tree.

The Order was served 6 September 2023.

### **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 proposal complies 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

Although the tree is situated in an enclosed private garden it is important in its context within the Old Town Conservation Area. It can be seen through the gate and its crown is prominent contributing to the streetscape of the neighbourhood along the Ramsay Lane and Ramsay Gardens. The tree appears in reasonably good sound condition with potentially many years of expected lifespan. The making of the Order was therefore expedient as it allows the planning authority to prevent the loss of the tree, and if the tree does need to be removed in future, it allows the planning authority to ensure that a replacement tree of suitable stature is planted.

The tree does not have any direct cultural or historic interest.

b) Development Plan

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.

In view of the amenity provided by the trees, the requirement to apply a Tree Preservation Order complies with the development plan.

c) Equalities and Human Rights

The proposals raise no equalities or human rights concerns.

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

d) Representations

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

No representations or objections were received.

Conclusion

The tree has public amenity value and makes a contribution to the character and appearance of the conservation area. The tree owners via their agent expressed their intention to remove the tree. The Order prevents the loss of this tree and allows the planning authority to control future tree works and ensure they are arboriculturally sensitive and balanced.



TPO 208 was made under delegated powers to protect the tree from removal unless with the consent of the Planning Authority.

It is recommended that the Tree Preservation Order be confirmed in order to provide permanent protection.

The Tree Preservation Order Schedule and map are enclosed at Appendices 1 and 2 and photographs of the trees at Appendix 3.

## **Financial impact**

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

Costs are accommodated through existing budgets.

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

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

## **Equalities impact**

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

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

## **Sustainability impact**

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

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

## **Consultation and engagement**

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

Not applicable.

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

The Order was advertised in the local press the Scotsman on 6 September 2023 and displayed at Edinburgh Central Library, 7-9 George IV Bridge, Edinburgh, EH1 1EG in accordance with regulatory requirements. A copy was also available to view on the Council's website.

## **Background reading/external references**

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- [Planning guidelines](#)
- [Edinburgh Local Development Plan](#)
- [National Planning Framework 4](#)

**David Givan**

**Chief Planning Officer  
PLACE  
City of Edinburgh Council**

Contact: Ruthe Davies  
E-mail: [ruthe.davies@edinburgh.gov.uk](mailto:ruthe.davies@edinburgh.gov.uk)

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# Appendices

## APPENDIX 1 Tree Preservation Order First Schedule

### SCHEDULE 1

Trees specified individually (marked in green on the map)		
<u>No on map</u>	<u>Description</u>	<u>Situation</u>
T1	Gean	On the land at RAMSAY LANE, EDINBURGH and being part of the subjects more particularly described in the disposition in favour of the University Court of the University of Edinburgh recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 11 August 1975.

Trees Specified by Reference to an Area (with a continuous black line on the map)		
<u>No on map</u>	<u>Description</u>	<u>Situation</u>
none		

Groups of Trees (within a broken black line on the map)		
<u>No on Map</u>	<u>Description</u>	<u>Situation</u>
none		

Woodlands (within a continuous red line on the map)		
<u>No on Map</u>	<u>Description</u>	<u>Situation</u>
none		

# APPENDIX 2 Tree Preservation Order Map



**APPENDIX 3  
Photographs**

**Figure 1      The gean or wild cherry as seen looking up Ramsay Lane**



**Figure 2      The Gean as seen from Ramsay Gardens**



**Figure 3** The image supplied by the agent showing ground disturbance and compaction



Figure 4 The gean looking up Ramsay Lane dated 12 August 2023





**Figure 5** The tree as seen from steps at Ramsay Gardens



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## Development Management Sub-Committee Report

**Wednesday 28 February 2024**

### **Application for Planning Permission**

**1F 4 Thistle Street North West Lane, Edinburgh, EH2 1EA**

**Proposal: Proposed extension and alterations to a vacant art gallery with approved use for short-term residential letting.**

### **Item – Committee Decision**

**Application Number – 23/03094/FUL**

**Ward – B11 - City Centre**

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

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

### **Recommendation**

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

### **Summary**

The proposal is contrary to NPF4 and the LDP and is unacceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal does not have special regard to the desirability of preserving the host property or the setting of the nearby listed buildings and would adversely impact on their special architectural and historic merits. The proposals would not preserve the character and appearance of the conservation area. It would not have an unacceptable impact on amenity. There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site is a two-storey mews property, located within one of the mews lanes situated off Thistle Street. The building is flat roofed, with a pronounced cupola.

The area is characterised by mews properties, along with four storey tenemental buildings. There are a considerable number of listed buildings within the immediate vicinity and the wider area.

This property is a Statutory B Listed Building (1970) and is located in the New Town Conservation Area.

### **Description of the Proposal**

The application proposes the installation of a large dormer window (Zinc finished) to the flat roof. The dormer would be box shaped to the front, with a slope in the roof from front to rear.

### **Relevant Site History**

22/04924/FUL

1F 4 Thistle Street North West Lane

Edinburgh

EH2 1EA

Alterations and change use from a vacant art gallery to short-term residential letting with main door access (as amended).

Granted

11 May 2023

22/04925/LBC

1F 4 Thistle Street North West Lane

Edinburgh

EH2 1EA

Alteration and change use from a vacant art gallery to short-term residential letting with main door access (as amended).

Granted

30 January 2023

23/03095/LBC

1F 4 Thistle Street North West Lane

Edinburgh

EH2 1EA

Proposed extension and alteration to a vacant art gallery with approved use for short-term letting.

Refused

11 October 2023

### **Other Relevant Site History**

The proposed dormer was removed as part of the earlier approved 2022 applications (22/04924/FUL 22/04925/LBC) due to its detrimental impact on the listed building(s) and the character and appearance of the application site and the conservation area.

### **Pre-Application process**

There is no pre-application process history.

### **Consultation Engagement**

HES

Archaeology

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

## Publicity and Public Engagement

**Date of Neighbour Notification:** 25 August 2023

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

**Press Publication Date(s):** 1 September 2023

**Site Notices Date(s):** 29 August 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 - Conservation Areas
- Managing Change -Setting
- Managing Change - Windows.
- Managing Change - Extensions

The listing for the property refers to the building as a '2-storey, 7 bay range to lane with top-lit studio at first floor.' There is no reference to the interiors of the building.

The applicant's planning statement confirms that where internal original features exist, these are to be retained, and where currently boxed in or hidden, these are to be exposed and repaired.

The mezzanine floor and staircase are acceptable in principle and will not harm the internal character of the listed building.

With regard to the proposed roof extension, Historic Environment Scotland's Guidance on Extensions specifically covers alterations to roofs.

The guidance sets out a number of criteria which planning authorities should consider when assessing these types of applications. This includes special interest, visibility, and height.

This group of listed buildings form part of the character of the rear lane and make a positive contribution in this context. With the lane and its buildings open to public views, the proposed roof extension would be highly visible, particularly from views along the lane looking east.

Although the height of the proposed roof extension would be comparable to the existing cupola, the scale and massing of the extension would be considerably greater than that feature, which is a modest element and is set back from the street elevation. The formation of the dormer would create an over-dominant and unsympathetic feature, which would detract from the simple, uniform architecture of the existing building.

HES guidance also notes that, the presence of a neighbouring high building should not be taken as a reason for an inappropriate roof extension to a historic building. In this instance, the example cited at the western end of the lane, does not set a precedent for a similarly scaled intervention.

The replacement of the cupola with the dormer window would significantly and adversely change the character of the property and would fail to preserve or enhance the special architectural character of the listed building.

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

The proposal will have a detrimental impact on the setting of the adjacent listed buildings and would be unacceptable with regards 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.**

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.

The proposal would have a detrimental impact on the character and appearance of this part of the conservation area by virtue of it representing an incongruous introduction to the roofscape. When viewed from the public realm, the proposal would create an unacceptable juxtaposition with the existing building and its neighbours and would disrupt the uniformity of the roofline of the mews-style buildings, to the detriment of the roofscape.

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

The proposal does not have regard to the desirability of preserving or enhancing the character or appearance of the conservation area. The proposal is unacceptable with regards 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:

- LDP Design Policies Des 1 and Des 12.
- NPF4 Policies 1, 7, 14 and 16.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF 4 Policy 7.

### Principle, Scale, Form and Design

The proposal would be unacceptable in that the introduction of a dormer window in this location and of this size and scale would not be subordinate or subservient in its relationship to the host property. By virtue of this, it would also have a detrimental impact on the character and appearance of the application site and the surrounding conservation area. The roofscape of the mews buildings on this section of Thistle Street North West Lane are relatively unaltered and the introduction of the dormer

window would significantly damage this characteristic. The proposal would represent an incongruous feature that would create a disruptive visual feature when viewed from the public realm.

This is contrary to NPF4 Policy 14 and LDP Policies Des 1 and Des 12.

The proposal would have a neutral impact in terms of NPF4 Policy 1.

### Historic Assets

The proposal would represent an incongruous addition that would have an unacceptable impact on the architectural integrity of the host property and the architectural merits of the adjacent listed buildings. As set out above, the proposal would create a discordant and unsympathetic feature within the context of the plain roofscape of the building and its neighbours.

It would have a detrimental impact on the character and appearance of the conservation area.

This would be contrary to NPF4 Policy 7.

### Amenity

The proposal was assessed in terms of amenity and would be acceptable in this regard.

This complies with NPF4 Policy 16 and LDP Policy Des 12 in terms of amenity.

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

The proposal is contrary to NPF4 Policies 7 and 14 and LDP Policies Des 1 and Des 12

### **d) 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

One comment was received (Objection) and a petition with 27 signatures was received in support of the application.

#### *material considerations - Objections*

Character and appearance; this is addressed in sections a), b) and c).

#### *material considerations - Support*

Character and appearance; this is addressed in sections a), b) and c).

### **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 is contrary to NPF4 and the LDP and is unacceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal does not have special regard to the desirability of preserving the host property or the setting of the nearby listed buildings and would adversely impact on their special architectural and historic merits. The proposals would not preserve the character and appearance of the conservation area. It would not have an unacceptable impact on amenity. There are no material considerations that outweigh this conclusion.

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

The recommendation is subject to the following.

### **Conditions**

### **Reasons**

#### **Reason for Refusal: -**

1. The proposal will have a detrimental impact on the setting of the adjacent listed buildings and would be unacceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
2. The proposal does not have regard to the desirability of preserving or enhancing the character or appearance of the conservation area. The proposal is unacceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

3. The proposal is contrary to the Local Development Plan Policy Des 1 in respect of Design Quality and Context, as it would have an adverse impact on the character and appearance of the application site and the surrounding area.
4. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it would have a detrimental impact on the character and architectural integrity of the building.
5. The proposal is contrary to NPF 4 Policy 7, as it would have a detrimental impact on the character and appearance of the conservation area and the architectural integrity of the application site and adjacent listed buildings.
6. The proposal is contrary to NPF 4 Policy 14, as it would have a detrimental impact on the character and appearance of the application site and the surrounding area.

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

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

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

**Date Registered: 21 August 2023**

### **Drawing Numbers/Scheme**

01-03

Scheme 1

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

Contact: Conor MacGreevy, Planning Officer  
E-mail: conor.macgreevy@edinburgh.gov.uk

## Appendix 1

### Summary of Consultation Responses

NAME: HES

COMMENT: No objections.

DATE:

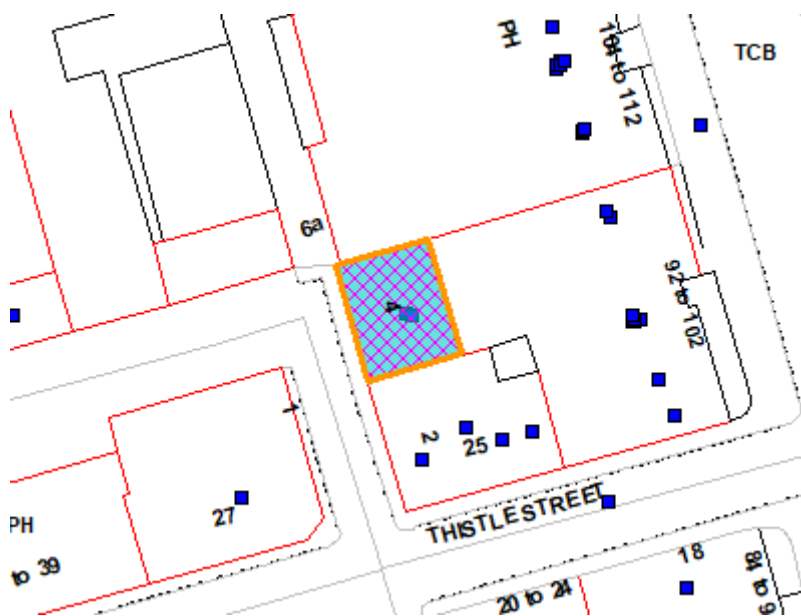
NAME: Archaeology

COMMENT: No objections.

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 28 February 2024**

### **Application for Planning Permission**

**3-5 West Tollcross & 9 Thornybauk, Edinburgh, EH3 9BP.**

**Proposal: Demolition of existing buildings and erection of mixed-use development comprising student accommodation, commercial uses (retail class 1A, cafe class 3 and gym class 11), amenity space, access, cycle parking and landscaping.**

### **Item – Other Item at Committee**

**Application Number – 23/04950/FUL**

**Ward – B11 - City Centre**

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

The application has been referred to the Development Management Sub-Committee because it has received forty-two objections, and the application is being recommended for grant. 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 proposal is acceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as it will not harm the setting of the neighbouring listed buildings.

Overall, the proposal is in accordance with the Edinburgh Local Development Plan and NPF4. The uses are compatible with the mixed use character of the surrounding city centre area and the student use will not have an adverse impact in terms of a balanced community. The proposal is of an appropriate design and scale and will comprehensively regenerate the site. It will be sustainable incorporating clean energy features and cycle parking and is situated in a sustainable and accessible location near public transport. The proposal will contribute to local living and 20-minute neighbourhoods and supplement the vitality and viability of the adjacent Tollcross Town Centre.

There will not be an unreasonable loss of neighbouring residential amenity and future occupiers will have a satisfactory living environment, with the use of conditions. Issues arising from flooding and archaeology can be mitigated with the use of conditions. There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site is on the corner of West Tollcross, Thornybauk and Lochrin Terrace, just behind the buildings fronting Home Street. It is 1527 square metres in area. Buildings on the site are a former night club on the south side of West Tollcross which is two storeys stepping up to four storeys and is a stone building with pitched roofs and continues through to Lochrin Place where it is single storey stone building with a flat roof; and a single storey white rendered mainly double pitched roof used as a Tae Kwon Do Academy fronting Thornybauk. There is an area of land on the north west of the site at West Tollcross, which was formerly public toilets (now demolished) that now has three shipping containers in a row (end-on) on it and another storage facility behind a high timber fence and gate. On the corner of Thornybauk and Lochrin Terrace there is a tarmacked triangular area of open space with a tree at each corner, which also forms part of the application site.

West Tollcross consists of historic stone buildings of four storeys on both sides of the street at its eastern/Lothian Road end. The western part of the street is more open with the fire station being two storeys high and the adjacent sports club (Tae Kwon Do academy) being single storey. There is also an expanse of public realm and road/pavement area to the west. To the south the stone terrace of tenements on Lochrin Place are four and five storeys high.

There are several listed buildings in the street and immediate surrounding area. On the north corner of West Tollcross and Lothian Road there is Methodist Central Hall, which is a category B listed building (Ref: LB30326; date of listing 7 December 1995). To the south east of the application site 1-3 Lochrin Terrace is a category B listed building which returns into 26 and 28 Home Street (LB47783; date of listing 1 February 2000). Tollcross Primary School to the west of the site is a category B listed building (ref: LB30253; date of listing 5 March 1991).

The street and surrounding area contain a mix of uses including a school, a fire station, shops, night club and residential. Lothian Road, a main thoroughfare, is to the east and is on a high frequency bus route. West Tollcross provides a link for traffic and pedestrians between Lothian Road and Fountainbridge.

### **Description of the Proposal**

The proposal is for the demolition of existing buildings and a mixed-use development of student accommodation and two commercial units, amenity space, access, cycle parking and landscaping. A new substation is also proposed.

The student accommodation proposed is 145 rooms including 50 cluster bedrooms and 95 studio apartments, including eight accessible studios. Social amenity space for the students will be provided on the ground floor of both proposed buildings.

Two commercial units are proposed: one for a retail Class 1A or a cafe Class 3 fronting West Tollcross and one for retail (Class 1A), or a cafe (Class 3) or a gym (Class 11) fronting Thornybauk. The proposed gym will provide a venue for the existing Tae Kwon Do Academy.

Two buildings are proposed: one on the north of the site facing onto West Tollcross and returning round the corner into Thornybauk and one on Lochrin Terrace returning into Thornybauk and set back from Thornybauk. A courtyard area will be provided between the two buildings and be open towards Thornybauk.

Materials will be buff brick, grey mortar, bronze effect cladding, precast concrete panels, aluminium door and window frames in grey and bronze colours, glazing including opaque and spandrel, aluminium louvres/spandrels, and entrance canopy in bronze.

There will be solar panels on the roof and areas of green roof of sedum. Plant will also be positioned on the roof.

Cycle parking on a ratio of 1:1 will provide 149 spaces including 33 spaces for non-standard bicycles and will be integrated into the ground floor of the southern building.

Storage for refuse and recycling bins are shown to be on the ground floor of both buildings. The bin store for the southern building will face onto Lochrin Terrace and the bin store for the northern building will be just off Thornybauk behind the commercial unit. The new substation will also be located on the ground floor of the southern building, facing onto Lochrin Terrace.

### **Supporting Information**

- Air Quality Impact Assessment
- Archaeology Desk Based Assessment
- Bat Roost Survey
- Design Statement
- Geo-environment Assessment
- Sustainability Statement
- Transport Statement
- Daylight and Sunlight Analysis
- Drainage Strategy Report
- Flood Risk Assessment
- Noise Impact Assessment
- Planning Statement
- Townscape and Heritage Assessment

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

### **Relevant Site History**

22/01705/FUL  
5 West Tollcross  
Edinburgh

Mixed used development with ground floor restaurant (Class 3) and take-away (Sui Generis) and 3x apartments on upper floors.

Refused

3 October 2022

### **Other Relevant Site History**

None.

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

Archaeologist

Roads Authority (Transport)

Flood Planning

Environmental Protection

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

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 17 October 2023

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

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

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

**Number of Contributors:** 70

## **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 or its setting?**

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

- Managing Change in the Historic Environment: Setting

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.

The application is near to neighbouring listed buildings and its existing condition is currently not contributing positively to the setting of the listed buildings. Change has previously taken place in the western part of West Tollcross in relation to developments and changes to the street layout, e.g. where Lochrin Terrace, Thornybauk and Ponton Street come together at West Tollcross.

Modern development is now found in the area, e.g. Tollcross Fire Station and residential development further west. As such, the setting of the neighbouring listed buildings has been slightly altered due to such developments and the proposal would have a neutral effect on the setting of the listed buildings.

The setting of neighbouring listed buildings will not be harmed by the proposal.

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

The proposal does not harm the setting of the listed buildings and is, therefore, acceptable with regard to Sections 59 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:

- NPF 4 Sustainable Places policies 1, 2, 3, 6, 7, 9, 11, 13, 16
- NPF 4 Liveable Places policies 14, 15, 16, 18, 22
- NPF 4 Productive Places policies 27, 28
  
- LDP Design policies Des 1, Des 2, Des 4, Des 5, Des 7, Des 8, Des 11
- LDP Environment policies Env 12, Env 20, Env 21
- LDP Housing policies Hou 1, Hou 7, Hou 8
- LDP Transport policies Tra 2, Tra 3, Tra 4,
- LDP Shopping and Leisure policies Ret 6, Ret 7, Ret 11
- LDP Developer Contributions policies Del 1, Del 2

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

### Principle of Development - proposed use

#### **West Tollcross Development Brief**

The principle of the site being a development site has been established in the Local Development Plan and in the West Tollcross Development Brief. The Brief aims to provide a framework to regenerate the West Tollcross area and it identifies four zones as "development opportunities". The urban block which the site sits within is designated as Zone 2. It is acknowledged that through site assembly and major redevelopment, Zone 2 could make a significant contribution to the regeneration of the area.

#### **Student Housing**

Policy NPF4 Policy 16 (Quality Homes) intent is to encourage, promote and facilitate 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. This includes student housing, as per Part c) of Policy 16 of NPF4. The Council has not to date carried out an assessment of the need and demand for student accommodation.

The latest Housing Need and Demand Assessment (July 2022) identifies that the demand for student housing is particularly intense in the City of Edinburgh. It is accepted that there is likely to be a general need for accommodation for students.

LDP Policy Hou 1 (Housing Development) 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). Part d) of the policy relates to "other suitable sites in the urban area" which is applicable for the proposal. The application site is not identified as a housing site in the LDP 2016, and there is no obligation for housing to be considered as a use on windfall sites over other potential land uses. The principle of student housing as a land use on the site is, therefore, considered to be appropriate in the context of LDP Policy Hou 1, provided that other relevant policy criteria in the LDP can be met.

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 LDP Policy Hou 8, the site is located within walking distance of the University of Edinburgh and Edinburgh College of Art. It is also within easy walking distance of Lothian Road which provides bus routes to education campuses at Napier University and Heriot Watt University. The site can offer easy access to educational establishments via sustainable travel modes.

Criterion a) within the non-statutory 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 stated in the Student Housing Guidance. Criterion b) advises that outwith criterion a) student housing will generally be supported on sites with less than 0.25 developable area. The application site has a site area of 0.1527ha which is below the developable area threshold set out in the Guidance.

In terms of LDP Policy Hou 8 criterion a) and b) the proposal complies with these criteria relating to location.

## *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 non-statutory 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 datazones are tightly drawn and, as such, it is normal procedure to use the datazones that fall within an 800m radius, an approximate 10-minute walk from the application site. This method considers a wider catchment and provides a more accurate representation of the local population.

Within the 800m area, the 2011 census shows an overall population of 17,308 and a student population of 6,436.

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. Using 2020 population estimates as a base and taking account of student accommodation developments since 2011, along with the proposed 145 units in this planning application, there is an estimated student population within the 800m area equal to 41% of the population. Within the tightly drawn individual data zone of the development the estimated student population would be 43%. The estimate of student concentration in the area should be considered a maximum as it does not allow for any displacement which may have occurred of students who may have been living in dwellings but have moved to student accommodation which has been built in that period.

When considering a wider area of a 10-minute walk (approximately 800m) the 2011 census shows an overall student population concentration of 43%. This includes other areas in Tollcross and Meadows and Southside.

The non-statutory Student Housing Guidance, February 2016 acknowledges that the concentration of students can undermine the social and physical fabric which defines a community and place. Where the student population is dominant, exceeding 50% of the population, there will be a greater potential imbalance within the community. In considering any potential imbalance it is necessary to consider the character of the area and the existing level of students within it. Without the proposal the estimated student concentration in the 800m area is 40.8%. The proposal would result in an estimated increase in concentration to 41.3%. The proposal alone therefore results in a small increase in the potential student concentration in the 800 m area however the overall concentration must also be considered as even small cumulative increases may have an impact depending on the character of the area and its existing uses. The surrounding area is varied with a mix of uses including residential and commercial uses.

The student concentration level and mixed character of the area indicate that it would be unlikely that the addition 145 student bedspaces would cause imbalance in the community that would be detrimental to maintenance of balanced communities or to the established character and residential amenity of the locality.

When viewed in isolation the student population within the single datazone of the application was recorded as 39% 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 43%. The proposals will increase the concentration by 4% and 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.

Given that the datazone of the application site falls below the 50% criteria, the proposal would contribute to a balanced community. This proportion would not lead to an over-concentrated student population in the area and, thus, meets criterion b) of policy Hou 8.

#### *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 does not exceed the size criterion set out in the non statutory Student Housing Guidance and, as such, there is no requirement to provide mainstream housing on the site.

Two commercial spaces for shops or cafes will contribute to the mix of uses in the area. Commercial uses at ground floor is a characteristic of the area and the proposed commercial uses will contribute to the sense of place. Ground floor space for a gym in the Thornybauk facing unit will enable the existing gym use to be retained on the site and continue to providing a local facility for health and wellbeing.

#### *Mix of Accommodation Type*

Student Housing Guidance requires that student accommodation should comprise a mix of type of accommodation, including cluster units. The proposal provides 65% of units as studios and the remainder within cluster flats. Eight of the studio units are accessible. Therefore, the range of units would be acceptable.

#### **Retail/Commercial/Leisure Uses**

LDP policy Del 2 (City Centre) states that development which lies within the City Centre area as shown on the proposals map will be permitted which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city. The site is identified on the LDP 2016 proposals map as part of CC3 Fountainbridge, although it is not identified for a particular use in Table, and Development Principles are set out which allows for a mixed use development including a local centre, residential, office, small business units, retail, leisure community and tourist facilities.

It does not exclude student accommodation. The character of the surrounding area is varied with a mix of uses including a school, a fire station, shops and residential. The use as student accommodation would be appropriate in this context.

The proposed commercial units would contribute to the role of the city centre and its vitality being in an accessible location. Student accommodation will contribute to the mixed use of the area and an increased population will help the viability of the area. The proposal complies with LDP policy Del 2.

NPF4 Policy 28 (Retail) intent is to encourage, promote and facilitate retail investment to the most sustainable locations that are most accessible by a range of sustainable transport modes. It supports proposals for small scale neighbourhood retail development if (i) it contributes to local living, including where relevant 20-minute neighbourhoods and/or (ii) can be demonstrated to contribute to the health and wellbeing of the local community. The retail, leisure and commercial units will be in a highly accessible location within a densely populated area and part of the City Centre. As such, these proposed uses will contribute to local living and 20-minute neighbourhoods, which is also the intent of NPF4 Policy 15. Offering a gym/leisure facility and possibly a cafe will provide places which can aid health and wellbeing. Retaining the existing sports gym Tae Kwon Do Academy will enable the health benefits of such a facility to be retained locally. The proposal is consistent with NPF 4 Policy 28.

NPF4 Policy 27 (City, town, local and commercial centres) intent is to encourage, promote and facilitate development in our city and town centres, recognising they are a national asset. This will be achieved by applying the Town Centre First approach to help centres adapt positively to long-term economic, environmental, and societal changes, and by encouraging town centre living. The proposed commercial uses are just outside Tollcross Town Centre and, as such, require to be considered under LDP Policy Ret 6 as narrated below. The proposal will encourage town centre living by providing student residential use on the site.

LDP Policy Ret 6 (Out-of-Centre Development) states that in an out-of-centre location retail development will be supported where it meets criteria relating to: a) a quantitative or qualitative deficiency; b) sites within or on edge of an identified centre; c) impact on vitality and viability of the existing centre; and d) accessibility of the site. The proposed retail/commercial units are outwith Tollcross Town Centre identified on the LDP 2016 proposals map. One of the units adjoins the town centre boundary. Paragraph 244 of the LDP 2016 supports proposals for retail development in or adjacent to town centres.

Supporting text in the LDP states that, "There are benefits in providing small scale, convenience stores (up to 250 square metres gross floorspace) in locations easily accessible on foot or by cycle." The proposed sizes of the retail/commercial spaces will be 92 square metres and 169 square metres which would complement the role of Tollcross Town Centre and, therefore, would not need to comply with criterion b). The proposal will meet the need of an expanding population given the proposal and recent developments. Therefore, complying with criterion a). The proposed retail/commercial units are small scale and, thus, will not adversely affect the vitality and viability of the existing centre/Tollcross Town Centre. This complies with criterion c). As the site is easily accessible by a choice of transport modes, it complies with criterion d).

LDP Policy Ret 7 (Entertainment and Leisure Developments) supports leisure facilities in the city centre. The proposed development can be integrated into its surroundings offering an attractive frontage that can safeguard existing character and, therefore, complies with criterion a). The proposed Class 11 use is already established on site and, thus, it is not expected that re-providing the use in the proposed new building will result in a significant increase in noise, disturbance and on-street activity at unsocial hours. Therefore, the proposed use complies with criterion b). As the site is easily accessible by public transport, foot and cycle, it complies with criterion c).

LDP policy Ret 11 (Food and Drink Establishments) aims to protect residential amenity and to prevent concentrations of such uses. LDP policy Ret 11 (Food and Drink Establishments) states that the change of use of a shop unit or other premises to a licensed or unlicensed restaurant, café, pub or shop selling hot food for consumption off the premises (hot food take-away) will not be permitted: a) if likely to lead to an unacceptable increase in noise, disturbance, on-street activity or anti-social behaviour to the detriment of living conditions for nearby residents; or b) in an area where there is considered to be an excessive concentration of such uses to the detriment of living conditions for nearby residents.

Much of the noise and disturbance on the street historically has been linked to the night club, although there are other noise sources in the area. The addition of possibly two cafes near Tollcross Town Centre would not be expected to increase noise and disturbance, particularly at night. An additional two shop or cafe units would also not be expected to result in an increase in noise and disturbance on the street and the intention is for one of the units to be occupied by the existing Taekwondo Academy on Thornybauk.

The Guidance for Businesses states that, "The provision of food and drink establishments in areas where people live is a recognisable component of urban living. However, such uses can cause a number of problems for local residents. Particular care will be taken to prevent an excessive concentration of hot food shops, pubs and bars in areas of mixed but essentially residential character." The Guidance identifies sensitive areas for such proposed development including Tollcross. The application site is just outwith the sensitive boundary area, and the proposed commercial uses in the form of retail, cafes or a gym are not expected to result in an unreasonable or detrimental impact on neighbouring residential amenity. Although there is a concentration of hot food takeaways in the surrounding area, the proposal will not contribute to furthering this concentration nor increase issues such as noise and disturbance. Any proposal for hot food takeaway would require a separate planning application. A condition is recommended restricting the use in the commercial units in order to protect residential amenity.

There are no policies in the LDP regarding the loss of entertainment venues.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents will not be permitted. As narrated above, the proposed uses are not expected to contribute to a significant or unacceptable increase in noise or disturbance on street, with the use of the recommended condition restricting the use of the commercial units. Anti-social behaviour such as noise disturbance can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

The proposed mixed uses are acceptable. The proposal complies with NPF4 Policies 16, 27 and 28 and LDP Policies Hou 1, Hou 8, Del 2, Ret 6, Ret 7, Ret 11 and Hou 7.

### Climate Change and 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. The new buildings will be constructed to be more energy efficient and insulated than the existing buildings and building fabric performance and overall energy consumption will meet relevant building standards. Solar panels and ASHPs are proposed and the new substation is intended to help assist with a renewable energy strategy.

### *Air Quality*

An Air Quality Impact Assessment has been provided. Renewable and sustainable energy technology will be used. Provision of cycle parking, zero car parking and being near public transport, walking and cycling routes, will contribute to a sustainable development. Therefore, the proposal will not result in an adverse impact on air quality and will contribute to mitigating climate change.

### *Flood Planning*

NPF4 Policy 22 (Flood Risk and Water Management) intent is to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.

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

Flood Planning has advised that the application can proceed to determination. It recommends a condition requiring that prior to construction approval is required from Scottish Water that they will accept surface water discharge into the combined sewer. This condition is necessary to ensure that the site will not be at risk from flooding and that it will not result in a risk of flooding for neighbouring properties. Additional information provided addressed Flood Planning's concern regarding flood-free access/egress.

### *Biodiversity*

NPF 4 policy 3 (Biodiversity) states that proposals for local development should include appropriate measures to conserve, restore and enhance biodiversity.



There is little biodiversity on the current site, although there are trees in the area of the mostly hardstanding open space. Biodiversity enhancements will be provided through the use of sedum roof areas, new tree planting and landscaping. An informative is recommended regarding the installation of swift bricks.

### *Brownfield Land and Demolition*

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. NPF4 Policy 9 also stated in part d) that, "demolition will be regarded as the least preferred option."

The proposal will reuse brownfield land and is located in a sustainable location where there are existing local facilities within walking distance. As such, it will contribute to compact growth and local living. The proposal will enable a comprehensive redevelopment of the site in line with the West Tollcross Development Brief and will use the land more efficiently. One of the buildings is currently empty/closed. In these circumstances, the demolition of the existing buildings is acceptable.

The proposal will contribute to NPF4 Policies 1, 2, 3, 9 and 21 and will comply with LDP Policy Env 21.

### Historic Assets

NPF4 Policy 7 (Historic assets and places) intent is to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.

It has been established in section a) above that there will be no harm caused to the setting of neighbouring listed buildings.

The City Archaeologist has advised that the buildings to be demolished are the (New) Cavendish Ballrooms (currently the vacant Attic Nightclub) and a group of 19th century buildings located with the historic Tollcross Area of Edinburgh. Although unlisted, the Cavendish has played a central role in the public and social life since its construction at the start of the 20th century and is considered to be of archaeological and cultural significance. For buried archaeology, it is likely that ground works associated with construction may uncover significant archaeological deposits relating to development of the Tollcross area possibly dating back to the medieval period.

Therefore, a condition is recommended to secure an archaeological programme of works, incorporating recording of the historic fabric of the Cavendish building, and a programme of community engagement.

The proposal will comply with NPF4 Policy 7, with the use of a condition.

## Design Quality and Place

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. NPF4 Policy 15 (Local Living and 20-minute neighbourhoods) intent is to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling, cycling or using sustainable transport options.

LDP Design Policies Des 1, Des 2, Des 4, Des 7, Des 8 and Des 11 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 proposals will provide an attractive built environment, located in an area which has high connectivity to sustainable travel modes to reduce car dependency. The buildings are of a modern design providing a co-ordinated redevelopment of the site, in line with LDP Policy Des 2 (Co-ordinated Development) and will improve the appearance of the site in the context of its position and location.

The predominant spatial pattern in the surrounding area is tenement blocks in mainly four and five storeys high. However, the application site does not currently conform to this spatial pattern with buildings on the site occupying most of their associated ground space and a couple of smaller areas containing no buildings. Whilst the buildings will be higher than the predominant height around the application site, they will not appear dominant in the streetscape and will provide a strong presence on the corner of West Tollcross, Thornybauk and Lochrin Terrace. The existing buildings range in height from one storey to two and three storeys which does not reflect the prevailing height of surrounding buildings, although it is acknowledged that there are three storey buildings on Home Street. The proposed height will sit comfortably within the streetscape and provide a stronger edge and frontage, particularly to Thornybauk. It will not interrupt key views and the scale of the building is appropriate for its uses.

Materials proposed are modern and reflect those in other nearby modern developments in the surrounding area. They are acceptable. Using materials with a minimal carbon footprint and taking account of embodied carbon of materials is encouraged and an informative is recommended.

Public realm proposals and layout of the development will improve the pedestrian environment and provide an area of landscaping to soften and improve the appearance of the street environment. Active frontages will be provided by the commercial units thus giving surveillance over the street and providing interest in the street.

The proposal is in an accessible and sustainable location with easy access to a range of facilities for everyday need. It will be a well-connected place and contribute to a compact neighbourhood, in line with NPF4 Policy 15.

The scale and built form of the proposals will contribute to the sense of place. The proposal complies with NPF4 Policies 14 and 15.

## Amenity

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

### *Neighbouring Amenity*

Information provided shows that neighbouring buildings all either pass the diffuse skylight criteria, vertical sky component, average daylight factor or comparative daylight analysis. It also shows that the sunlight to the existing courtyard serving the Home Street and West Tollcross properties is improved as a result of the proposed development.

Nearly all of the windows will overlook the public street. A gable window on each of the storeys on the northern block will look onto the rear of neighbouring properties. Some of the windows in the rear of the neighbouring buildings fronting Home Street, are visible from some parts of the street and from neighbouring buildings. Therefore, privacy to such windows is already compromised. The proposed development will not result in an unreasonable loss of neighbouring privacy. Windows on the gable of the southern building will look onto gable of existing building, which is acceptable as gable windows are not generally protected by the Edinburgh Design Guidance.

The loss of outlook and view of open sky from windows has been raised in the public comments. The closest properties opposite the proposed buildings are on Lochrin Terrace at a minimum distance of approximately 13 metres (building to building). It is acknowledged that some loss of outlook will be experienced from windows, particularly at lower levels. However, the context and character of the surrounding area is of predominantly four storey and five storey high tenements facing opposite each other in a dense City Centre location. In this context, weighing up the benefits of a co-ordinated redevelopment which will reuse brownfield land efficiently, contribute to local living and 20-minute neighbourhoods, and provide homes for students outweigh the loss of outlook from neighbouring windows.

There will not be an unreasonable loss of amenity to neighbouring amenity.

### *Amenity for future occupiers*

All of the rooms assessed comply with either the vertical sky component or average daylight factor criteria and, therefore will receive satisfactory daylight. The outdoor amenity space provided for the development receives at least two hours of sunlight on the spring equinox and, therefore, complies with the Edinburgh Design Guidance. Internally there will be community spaces on the ground floors, lifts and accessible student accommodation units. Externally there will be a courtyard providing amenity space for residents.

The application site is highly accessible being on a frequent bus route which then gives opportunity to access other bus services, train stations and tram stops. It is within walking and cycling distance of university/further education campuses and local facilities. Being near open space, such as The Meadows and Canal walk, as well as being able to travel sustainably to other open spaces, or other leisure facilities and health facilities will contribute to the health and well-being.

A Noise Impact Assessment was submitted. Environmental Protection has recommended a condition for upgraded glazing and ventilation to mitigate the existing noise from the surrounding streets, fire station and road traffic and ensure suitable internal noise levels will be achieved. It has also recommended that a condition be used to ensure that the lift lining be installed to reduce the impact of re-radiated noise due to the vibrations from the lift movement. Environmental Protection has also advised of concerns with the commercial uses below residential use above and in particular, the Class 11 (gym) use. To ensure that the proposed flue will be fixed using appropriate isolating mounts to prevent structure borne noise transfer, a condition is recommended.

Although the NIA includes mitigation measures relating to noise and vibration, Environmental Protection has advised that it cannot support the proposal unless a condition is used which: 1. The student residences and gym will stay within the same ownership or 2. The Class 11 premises is restricted to the use as a martial arts studio (which the existing premises in site presently is). Planning Circular 4/1998: the use of conditions in planning permissions sets out the tests for using conditions. Requiring ownership to be the same is not relevant to planning, is not enforceable and is not reasonable and, as such, a planning condition cannot be used for this scenario. Restricting Class 11 is necessary to protect residential amenity, is relevant to planning and to the proposed development, would be enforceable and reasonable. Therefore, an appropriate condition is recommended.

There is the potential for odours from adjacent premises on Home Street to impact on future occupants of the proposed development. To mitigate the impacts, the applicant has confirmed that the affected student accommodation windows will be fixed closed with mechanical ventilation provided. A condition is recommended for the windows to include suitable ventilation.

Site contamination and ground gas information has been provided in support of the application and the site requires to be made safe for the proposed end uses. A condition relating to site contamination is recommended.

Future occupiers will have a satisfactory living environment, with the use of conditions.

The proposal complies with LDP Policy Des 5.

### Transport

NPF4 Policy 13 intent is to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

LDP Policies Tra 2 - Tra 4 sets out the requirements for private car and cycle parking. The Council's Parking Standards are set out in the Edinburgh Design Guidance.

The Roads Authority (Transport) has advised that it has no objections to the application subject to conditions or informatives relating to the "traffic sensitive street", cycle parking, car club vehicles, a travel plan and residents parking permits. The Roads Authority has also advised that the provision of 149 cycle parking spaces in the form of Sheffield Stands on the lower tier and 33 spaces for non-standard cycles is acceptable. This complies with the Edinburgh Design Guidance C7 Factsheet - Cycle Parking.

The amount and type of cycle parking proposed together with zero parking will contribute to the intent of NPF4 Policy 13, will comply with LDP Policies Tra 2 - Tra 4 and will encourage sustainable travel.

Therefore, the proposals will comply with NPF 4 Policy 13 and LDP policies Tra 2 - Tra 4.

### Waste

Bin storage areas are proposed. The applicant or developer or operator is responsible for a commercial waste agreement, which must comply with the relevant legislation, for the proposed development.

### Infrastructure - and Developer Contributions

LDP policy Del 1 (Developer Contributions and Infrastructure Delivery) states proposals will be required to contribute to infrastructure provision where relevant and necessary to mitigate any negative additional impact and where commensurate to the scale of the proposed development.

There are no developer contributions for the application.

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

Overall, the proposal complies with the development plan and the West Tollcross Development Brief. It will be of an appropriate design and support placemaking. The site is in a sustainable and accessible location and will contribute to local living, 20-minute neighbourhoods and the vitality and viability of the City Centre. There will not be an unreasonable loss to neighbouring amenity and future occupiers will have a satisfactory living standard, with the use of conditions. The use of an archaeology condition will ensure the history of the Cavendish building is recorded and any archaeological finds are also recorded. There are no flooding or transport issues. The proposal is acceptable.

### **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 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. There will be level access to the ground floor units and entrances to the student accommodation. Lifts will be provided internally, and eight accessible apartments provided.

It is recognised that studio flats can have a negative impact on the mental health and wellbeing of students due to lack of social interaction. Some cluster flats are proposed as well as communal spaces and this will encourage mixing socially with other students which will help contribute to good mental health and wellbeing.

High rents and the impact on poorer students were raised in the public comments. Rents are not set by the planning authority and the operator of the student accommodation will set the rents. This is not something that the planning authority can influence.

Confinement and entrapment have been raised in objections and such feelings could lead to claustrophobia. Claustrophobia can make people feel very uncomfortable and anxious in confined spaces. The buildings will be higher than those currently on the site. Most of the nearby buildings are four or five storeys high and the proposed buildings will be mainly one to two storeys higher than such neighbouring buildings. The dense city centre tenemental streets is the prevailing character of the area and the height and form of the proposed buildings will be similar. Whilst a material consideration, it does not outweigh other material considerations for this application.

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

Objection 42, Support 25, General 3

A summary of the representations is provided below:

### *material considerations*

- student accommodation - enough in Tollcross/Fountainbridge area; overprovision; no more; over-density; contrary to development plan; student concentration - more students than residents. Addressed in section b).
- shortage of housing. Addressed in section b).
- loss of outlook/open sky. Addressed in section b).
- loss of daylighting/light; being overshadowed. Addressed in section b).

- loss of privacy. Addressed in section b).
- equalities - confinement and entrapment. Addressed in section c).
- noise - increased. Addressed in section b).
- footfall - increased. Addressed in section b).
- demolition/loss of heritage/built heritage; recycle existing buildings. Addressed in sections a) and b).
- design - too high; too bulky; out of scale; architecture not fit in/is poor; dense; dominate; obtrusive. Addressed in section b).
- character of area - won't fit in/out of keeping with surrounding/fine buildings; spoil beauty of building next to it; strive for a harmonious blend of modernity and tradition. Addressed in section b).
- materials - concern with use of brick. Addressed in section b).
- overdevelopment. Addressed in section b).
- retail space - needed; not needed. Addressed in section b).
- amenity space - needed. Addressed in section b).
- impact on infrastructure - roads, doctors. Addressed in section b).
- loss of community park. Addressed in section b).
- place-making/sense of place - impact on community; homogenisation of the community, loss of long-term residents - leads to the closing of schools, community centres, businesses, and transformation of Tollcross from a residential neighbourhood with vibrant amenities, into a commercial district with no long-term residents; undermining the sense of community and social cohesion; increase transient population. Addressed in section b).
- impact on local facilities - short term financial investment; drain on neighbourhood resources. Addressed in section b).
- lack of parking. Addressed in section b).
- traffic congestion; crowding on pavements; impact on access/egress for fire station. Addressed in section b).
- contrary to Student Housing Guidance (February 2016). Addressed in section b).
- size of accommodation. Addressed in section b).
- loss of entertainment venue/demolition of building. Addressed in section b).
- amenity of students - not aid students. Addressed in section b).
- loss of community space. Addressed in section b).
- welfare/well-being of students. Addressed in sections b) and c).
- equalities - cost of rents; unaffordable. Addressed in section c).

### *Support Comments*

- housing crisis- need more housing of all types
- will help current accommodation shortage i city especially student accommodation; much-needed student accommodation; provide stable [student] housing market
- design - attractive
- dense housing supports/benefits from public transit
- regenerate a site previously in use and with derelict buildings
- will remove noise and air pollution [associated with previous use]
- will reduce criminality, noise pollution, anti-social behaviour
- regenerates forgotten enclave of city
- will be a cleaner and quieter environment; healthy and safe environment

- avoids students occupying other forms of private accommodation releasing supply back into market; other residential units remain available to wider public as family homes etc
- regenerate site - with derelict buildings
- bring added security for residents
- create a sense of place; add to placemaking
- new homes
- ensure sustainability for a better living community
- sensible use of site
- benefitting public realm re: safety and security
- improvement on what exists currently/neglected corner/on current fragmented and disjointed section of streetscape; improve visually and use of public space
- good quality student accommodation needed
- materials - brickwork quality; high design and materials quality
- benefit streetscape
- address street geometry constraints
- appropriate scale - responds to existing adjoining and adjacent buildings
- improved pathways around this corner welcomed; better access and crossings
- impressive public realm and inviting environment
- close proximity to universities and local facilities - important of place and connection
- student population will help local businesses and restaurants in area
- welcome redevelopment of outdated space into student accommodation
- location ideal for proposed use - proximity and transport access to universities
- impact of further residents will be good for small businesses
- commercial spaces on bottom will enhance safety of area and community spirit
- no parking a big plus;
- public transport links excellent
- will bring jobs and support local businesses
- area already mix use and in keeping with policy 27 of NPF4
- fulfil student accommodation especially situated in city centre
- land ownership - CEC own community park
- maybe opportunities for community planting

### *General comments*

- demand for student housing
- luxury student housing;
- maintenance loans/SAAS
- long term sustainability (100 years)
- beautiful developments that will stand the test of time
- the gym is not part of the project and will not be demolished; very successful business
- re-use buildings that are there



### *non-material considerations*

- Location of existing communal bins; illegal bins
- maximising profit/ generating cash for shareholders
- Building/Construction Works - disruption
- Lease - thriving business not getting lease renewed
- loss of nightlife
- Edinburgh needs more affordable housing
- Edinburgh needs more creative spaces
- family housing/normal housing/private or social rented housing/housing for the homeless suggested
- Council Tax
- beautiful city turning into a tourists and rich students theme park
- rising rent costs and house prices
- anti-social behaviour
- students' choice of housing
- vacant shops in area
- exempt from paying non-domestic rates-
- sale of Council land to developers
- road safety of existing junction - crossing at junction of West Tollcross and Home Street/Earl Grey Street
- impact on existing businesses - re: uncertainty
- [existing] odours
- music heritage

### *Tollcross Community Council*

- definition of locality - 800m radius (circle)/10 minute walk severe restriction on locality; Edinburgh University (Bristo Square is 12 minutes' walk) and Napier (Merchiston campus) outwith 800m. Addressed in section b)
- over-concentration of students and other transient residents - student population underestimated; rising student numbers not accounted for; number of residents smaller than census figures (as includes short-term residents e.g. those in short-term lets, hotels, bed and breakfasts. Addressed in section b)
- delivery of housing and mixed development - retail on ground floor may be converted to student use in future; building of student housing prevents provision of housing or other development; financially lucrative to build PBSA. Addressed in section b)
- over-development - buildings should be set back to give more space for pedestrians; footprint of buildings too large; courtyard too small; block out view of sky line from tenements opposite; overlooking into tenements opposite; dominant bulk; impact on and loss of view of old buildings. Addressed in section b)
- the student experience - mostly studio flats (expensive and detrimental to students' mental health); minority of cluster flats; noise from fire station/engines. Addressed in section b).

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

There are no compelling reasons in the other material planning considerations why the application should be refused.

## Overall conclusion

The proposal is acceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as it will not harm the setting of the neighbouring listed buildings. Overall, the proposal is in accordance with the Edinburgh Local Development Plan and NPF4. The uses are compatible with the mixed use character of the surrounding city centre area and the student use will not have an adverse impact in terms of a balanced community. The proposal is of an appropriate design and scale and will comprehensively regenerate the site. It will be sustainable incorporating clean energy features and cycle parking and is situated in a sustainable and accessible location near public transport. The proposal will contribute to local living and 20-minute neighbourhoods and supplement the vitality and viability of the adjacent Tollcross Town Centre. There will not be an unreasonable loss to neighbouring residential amenity and future occupiers will have a satisfactory living environment, with the use of conditions. There are no flooding issues or archaeology issues, with the use of a condition. Other material considerations support the presumption to grant planning permission. The proposal is acceptable subject to conditions. There are no material considerations that 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. 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 demolition nor development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis & reporting, publication & public/community engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Planning Authority.
4. The noise mitigation measures, as specified within the ITP Energised Noise Impact Assessment referenced Project/Proposal No: 6566 Version: V1 Date: 2023-11-22 should be installed and operational prior to occupation of the development, or unless otherwise agreed with the Planning Authority.
5. The Class 1 and 3 premises (with no ventilation extraction proposed) should be limited to 1 microwave, 1 single Panini machine sandwich maker, 1 soup kettle and 1 toaster only. No other forms of cooking/heating equipment are permitted within the premises.
6. The cooking ventilation extraction details as shown on drawing 20765-FJA-00-00-DR-A-PL00 Rev 01 17/08/23 should be installed and operational prior to start of operations on site, or unless otherwise agreed with the Planning Authority.
7. The Class 11 premises shall be restricted to the use of a martial arts studio only with no other use within Class 11 permitted.
8. The fixed windows and MVHR ventilation specification as shown in drawings 20765-FJA-ZZ-04-DR-A-PL04 Rev P01 and dated 08/17/23 and drawing 20765-FJA-00-05-DR-A-PL05 Rev P01 and dated 8/17/23 shall be installed and operational prior to start of occupation of the development.
9. No development shall take place until Scottish Water accepts surface water discharge into the combined sewer and this approval has been submitted in writing to the planning authority. Should Scottish Water not accept discharge into the sewer, the applicant will be required to provide a surface water discharge strategy to be approved by the planning authority in writing and implemented thereafter.

## **Reasons**

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure the most efficient and effective rehabilitation of the site.
3. In order to safeguard the interests of archaeological heritage.
4. In order to protect the amenity of the occupiers of the development.
5. In order to protect the amenity of the occupiers of the development.
6. In order to protect the amenity of the occupiers of the development.
7. In order to protect the amenity of the occupiers of the development.

8. In order to protect the amenity of the occupiers of the development.
9. In order to ensure that the development and neighbouring properties are not at risk of flooding.

## **Informatives**

It should be noted that:

1. 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.
2. The applicant should consider the installation of swift bricks.
3. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
4. The applicant should be advised that:
  - a. as the development is student housing, they will not be eligible for residential parking permits in accordance with the Transport and Environment Committee decision of 4 June 2013. See [https://democracy.edinburgh.gov.uk/Data/Transport%20and%20Environment%20Committee/20130604/Agenda/item\\_77\\_-\\_controlled\\_parking\\_zone\\_amendments\\_to\\_residents\\_permits\\_eligibility.pdf](https://democracy.edinburgh.gov.uk/Data/Transport%20and%20Environment%20Committee/20130604/Agenda/item_77_-_controlled_parking_zone_amendments_to_residents_permits_eligibility.pdf) (Category F - All student housing).
5. The applicant should consider the provision of car club vehicles in the area. A contribution of £12,500 (£1,500 per order plus £5,500 per car) would be required.
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 the proposed development lies on or adjacent to a 'traffic sensitive street' and that this may affect the method and timing of construction, including public utilities - see <https://www.edinburgh.gov.uk/roads-pavements/road-occupation-permits/2>

## **Background Reading/External References**

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

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

**Date Registered: 5 October 2023**

## **Drawing Numbers/Scheme**

01-21.

Scheme 1

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

Contact: Jackie McInnes, Planning officer  
E-mail: [jackie.mcinnnes@edinburgh.gov.uk](mailto:jackie.mcinnnes@edinburgh.gov.uk)

## Appendix 1

### Summary of Consultation Responses

NAME: Archaeologist

COMMENT: The development is regarded as being of occurring within an area of archaeological potential and a programme of archaeological works should be secured by condition.

DATE: 30 October 2023

NAME: Roads Authority (Transport)

COMMENT: No objections to the application subject to conditions.

DATE: 16 January 2024

NAME: Flood Planning

COMMENT: No objection subject to condition.

DATE: 24 January 2024

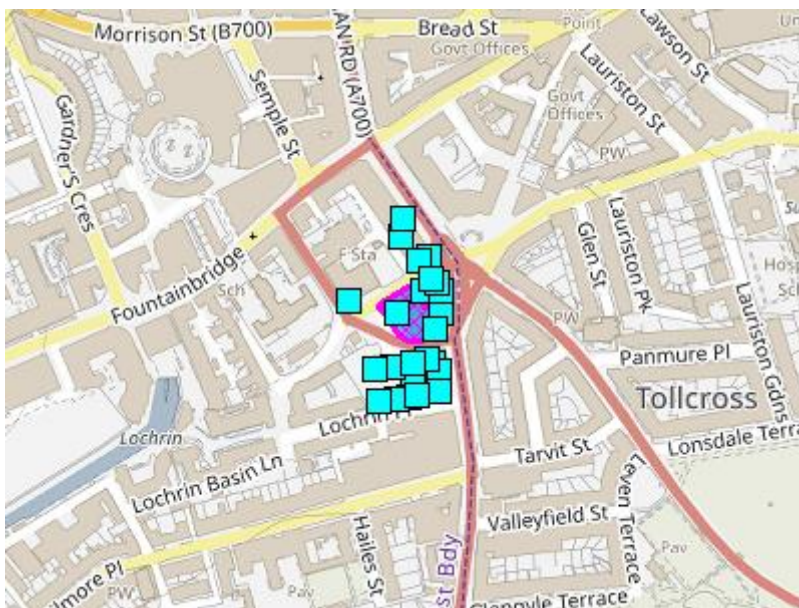
NAME: Environmental Protection

COMMENT: Environmental Protection raises concerns with the gymnasium aspect of the proposal which relates to gymnasium noise and vibration affecting the proposed student residences structurally attached above. However, should Planning be of the opinion that the application should be granted then conditions are recommended.

DATE: 25 January 2024

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

### Location Plan



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## Development Management Sub-Committee Report

**Report returning to Committee - Wednesday 28 February 2024**

**Application for Planning Permission STL  
Totley Wells Grange, Westfield, Totley Wells.**

**Proposal: Change of Use from dwelling to short-term let (Sui Generis)**

**Item – Committee Decision  
Application Number – 23/02467/FULSTL  
Ward – B01 - Almond**

### **Report Returning to Committee**

This application was continued at the Development Management Sub-Committee on the 24 January 2024. The Committee requested further time and consideration:

- To allow for a Local Economic Impact Assessment to be undertaken.

### **Recommendations**

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

## **SECTION A – Assessment**

### Local Economic Impact Assessment

At the 24 January meeting of the Development Management Sub-Committee members requested a Local Economic Impact Assessment should be submitted. This should provide more information about the equestrian / accommodation business, demonstrating how the local economic benefits would outweigh the loss of housing in this instance.

An Economic Impact Assessment has been submitted by the applicant. The Assessment includes information which demonstrates how the change of use of the dwelling (The Grange) to short term let will deliver local economic benefits in conjunction with the equestrian business.

## Context

The applicant has made a significant investment in the equestrian business which has been operating for just over one year. The Grange dwelling house (as short term let accommodation) and shepherd's huts are an integral part of the overall business plan. Currently, the Grange is not producing revenue, although still incurring costs.

The house is not suitable for long-term rental or general residential use as the location is within the centre of an operational equestrian business and therefore amenity is compromised. Furthermore, any long-term renters/residents making excessive noise could be harmful to the horses.

Totley Wells owners live in the community in which it operates and have employed local business people including joiners, electricians, flooring, plasterers, groundworkers, caterers and other specialist trades. Maintenance of the STL use, once it is operating, will continue the need for the employment of local businesses.

## Summary

The Economic Impact Assessment highlights the following elements of the equestrian/accommodation business which would benefit the local economy:-

- A vision to create a premium experience and centre of wellbeing for equestrians and their horses;
- The creation of two new PTE jobs involved in the day-to-day management of the accommodation. These jobs will support additional jobs in local cleaning and property management companies;
- Although STL guests will likely be occupied in schooling, equestrian lessons, clinics and camps during the day, they will have time off when they can visit local tourist attractions, shops and restaurants which will benefit the local economy;
- Building on phase 1 of the business plan which has seen a significant investment in the equestrian business. This has included the upgrading of derelict buildings on the land, removal of trailers and older stables and an ongoing biodiversity programme.
- Delivery of phase 2 of the business plan which is the operation of the 'Grange' for equestrian-themed accommodation for camps, clinics and rural stays. When camps are not organised the accommodation will be available for STL to horse-friendly tourists visiting the local area and/or attending weddings/functions at nearby venues.
- Investing in an operational team where staff, through their roles and activity working with horses, gain significant health and wellbeing benefits.

## Conclusion

The Economic Impact Assessment submitted by the applicant includes sufficient information about the equestrian/accommodation business to demonstrate how the local economic benefits would outweigh the loss of housing in this instance. The proposal is acceptable with regard to impact on residential amenity and the character of the area and the loss of residential accommodation is outweighed by demonstrable economic benefits. It complies with NPF 4 policy 30(e) and the Edinburgh Local Development Plan (LDP).



A copy of the original Committee report can be found in the list of documents on the [Planning and Building Standards Portal](#)

Or [Council Papers online](#)

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

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## Development Management Sub-Committee Report

**Wednesday 28 February 2024**

**Application for Planning Permission  
Murrayfield Sports Bar, 20 Westfield Road, Edinburgh**

**Proposal: Demolition of existing building and erection of a purpose-built student accommodation development (Sui Generis) with associated amenity space, access, cycle parking, and landscaping (as amended).**

**Item – Committee Decision  
Application Number – 23/05902/FUL  
Ward – B07 - Sighthill/Gorgie**

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

The application is referred to the Development Management Sub-Committee as 57 objections and 22 support comments to the proposals have been made. 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 proposal demonstrates that on balance it is compliant with the development plan despite the site and area being at risk of flooding from a 1 in 200-year event in the future. The proposal will deliver a sustainable, well-designed development on a brownfield site that minimises environmental impact. The design is of a high quality and takes cues from the character of the surrounding area. The use will help support local living and is consistent with the six qualities of a successful place.

Subject to a condition in relation to noise mitigation, the proposal will result in a satisfactory living environment for future occupiers and will not result in an unreasonable impact on neighbouring occupiers. It encourages use of sustainable modes of transport and reduces reliance on car usage. No specific road or pedestrian safety issues are raised.

As SEPA has objected to the application, if the Development Management Sub-committee is minded to grant planning permission, the application must be notified to Scottish Ministers prior to a decision being issued.

Subject to recommended conditions and an appropriate legal agreement for a contribution towards the Edinburgh Tram, and notwithstanding the matter of a conflict with policy on flooding, the proposal is acceptable and on balance complies with National Planning Framework 4 and the aims of the 2016 Edinburgh Local Development Plan, as well as the Council's non-statutory guidance for student housing and the Edinburgh Design Guidance. There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site ('the site') is on the southwest side of Westfield Road to the east of Stevenson Road which forms one of the main arterial routes to the city from the west. The site area is 0.09 hectares. Currently the Murrayfield Sports Bar, a single storey building with external yard with canopied seating space to its northwest elevation, is located at the site. The existing building is forward of the neighbouring building line of neighbouring four storey flats to the east, closer to Westfield Road. A car sales unit is situated at the neighbouring plot to the west, a seven and eight storey flatted development with surrounding parking and amenity ground is located south of the site boundary, and Westfield Road is at the front of the site where access is taken from. Four-storey tenement flats are located across Westfield Road opposite the site.

Other development in the area includes student accommodation at the crossroads of Westfield Road and Stevenson Road, a retail unit occupied by Sainsbury's to the north of the site behind tenements, four-in-a-block flats along Stevenson Road, flatted development at Westfield Avenue, and a variety of commercial buildings in the surrounding area.

Neighbouring sites include a number of trees near the site's mutual boundary to the south and east, and trees are a prominent feature along Westfield Road.

### **Description of the Proposal**

#### *Accommodation*

Student accommodation comprising 87 rooms is proposed which includes 78 studio rooms, five accessible studio rooms, and four bedrooms within a cluster unit at the ground floor. At the ground floor of the proposed building an amenity space measuring approximately 144 sqm. is located to the front of the building with floor to ceiling height glazing to the Westfield Road. Other ancillary features on the ground floor include a management suite, lobby, accessible WC, bin store for different refuse streams including food recycling, glass recycling, mixed recycling, and non-recyclable waste. Seven accommodation rooms consisting of three studios and four cluster rooms with a living and kitchen space complete the ground floor plan along with circulation space and a plant room. In addition to the ground floor amenity space, a further lounge space measuring 19 sqm. with access to an amenity terrace measuring 42 sqm. is proposed at the fifth floor.

### *Building design*

The proposal will reach six storeys at its tallest point, and there are stepped features at levels three and four to the rear wing of the building. The fifth floor is set-back at the front elevation to Westfield Road. Proposed materials include a mixture of engineered stone cladding mainly to the principal frontage combined with areas of glazing and bronze feature cladding, brick to the east, west and southern elevations, bronze metal cladding to the top floor, and use of aluminium windows throughout. Solar panels are proposed on the flat roof of the set-back top floor. The building is accessed from two different points of the Westfield Road pavement, one stepped and the other providing level surface; both entrance points from the street are a similar distance from the main entrance to the building. Access to a landscaped courtyard is available from the ground floor amenity room.

### *Landscape design*

The proposal includes a detailed landscaping scheme which includes: the planting of three trees within a landscape designed frontage to Westfield inclusive of raised planters with in-built timber seating; a landscaped courtyard to the southwest corner of the building inclusive of eight trees of varying species and sizes, timber seating, block paving, flag paving, a mixture of shrubs, rain garden boundary planting, edge kerbing, and gravel surface to the west part of the site. Other hard landscape features include 650-millimetre-high railing at the site's frontage to the rear of the raised planters, and 1.8-metre-high secure fencing at the west and east sides of the building's frontage.

At the roof level of the set-back third floor and the top floor roof sedum planting is proposed on the flat roofs, and the amenity terrace at the fifth floor is to be paved with flag paving and furnished with two picnic tables.

### *Access and parking*

The site is accessed from Westfield Road, with the main entrance to the street accessible from two points on the pavement one of which is stepped and one level. Bicycle parking is included in a secure external store to the rear of the building. In total, 87 bicycle parking spaces are proposed for occupants of the building and two Sheffield racks at the front of the building are proposed for visitors. Cycle parking spaces within the secure store is comprised of 22 x two-tier racks (44 spaces / 50% provision), 13 x Sheffield stand spaces inclusive of 4 x wide spaces for non-standard bikes (25 spaces / 29% provision), and 6 x lockers each capable of storing three folding bicycles (18 spaces / 21% provision). The cycle store can be accessed from the front of the building via a secure gate and there is a further access from the store to the rear courtyard which is a secured area.

Zero car parking is proposed. Refuse collection is proposed to be from the street, with a refuse store accessed via secure gate to the building's eastern side.

### *Sustainability*

The applicant proposes to include solar panels, utilise solar gain, air source heat pumps and green roofs on the main building and cycle store for water attenuation. The soft landscape strategy includes rain garden drainage features and sustainable travel is proposed in the form of cycle parking and surrounding public transport.

## Scheme 1

During the assessment phase the applicant amended the proposal by revising the mix of accommodation to include one cluster flat rather than 100% studio accommodation, adjusting above ordnance datum (AOD) heights on plans, adjusting window specifications, adjusting cycle parking provision for occupants in response to Council guidance, adding visitor cycle parking, and updating the ground floor plan to add entrance doors to the amenity courtyard.

### **Supporting Information**

The below information was submitted in support of the application:

- Design and Access Statement.
- Planning statement.
- Visualisations.
- Landscape strategy, plans, and planting scheme
- Transport statement.
- Noise impact assessment.
- Air quality impact assessment.
- Preliminary ecological appraisal.
- Bat roost survey.
- Flooding and drainage assessments.
- Archaeological desk-based assessment.
- Daylighting study.
- Utilities assessment.
- Energy statement.

The above information is available to view on the online Planning and Building Standards portal.

### **Relevant Site History**

00/02021/FUL

22 Westfield Road

Edinburgh

EH11 2QF

Form small cellar extension to rear, re clad existing front porch roof in tiles.

Granted

16 August 2000

17/03679/FUL

Murrayfield Sports Bar

20 Westfield Road

Edinburgh

EH11 2QR

Erection of two lightweight structures/car port including external screens/fencing to external spaces, in retrospect

Granted

9 October 2017

## Other Relevant Site History

None.

## Pre-Application process

Pre-application discussions took place on this application.

## Consultation Engagement

SEPA

Flood Planning service

Environmental Protection service

Scottish Water

Archaeology service

Roads Authority

Gorgie Dalry Community Council

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

## Publicity and Public Engagement

**Date of Neighbour Notification:** 25 October 2023

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

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

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

**Number of Contributors:** 79

## 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:

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

## **Assessment**

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

### **a) The proposals comply with the development plan.**

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

- NPF 4 Sustainable Places policies 1, 2, 3, 9, 11, 12, 13.
- NPF 4 Liveable Places policies 14, 15, 16, 18, 19, 20, 22, 23, 25.
- LDP Delivering the Strategy policy Del 1.
- LDP Design Principles for New Development policies Des 1, Des 3, Des 4, Des 5, Des 7, Des 8.
- LDP Caring for the Environment policies Env 12, Env 21, Env 22.
- LDP Housing and Community Facilities policies Hou1, Hou 8.
- LDP Transport policies Tra 2, Tra 3.
- LDP Resources and Services policy RS 6.

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

The Council's Non-Statutory Student Housing Guidance is a material consideration and expands on the interpretation and requirements of LDP policy Hou 8.

### Acceptability of the proposal in principle

Policy 1 of the NPF 4 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. It is to be applied together with the other policies in NPF 4 and its weight must be considered when considering the proposal in the context of the development plan and material considerations. These considerations should be assessed holistically in the context of other development plan policies.



NPF 4 Policy 2 a) (climate mitigation and adaptation) 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. Part c) of this policy does not apply. This policy is considered throughout the assessment.

Policy 16 of NPF 4, in criterion c), lends support to development proposals for new homes that improve affordability and choice, by being adaptable to changing and diverse needs, and which address identified gaps in provision. Housing types for homes for people undertaking further and higher education are one of the categories of homes which are supported, subject to compliance with policies in other categories of NPF 4. The applicant's supporting information asserts that there is an identified gap in provision for student accommodation in the City. Adaptability of the proposal is addressed below.

Policy 9 of NPF 4 aims to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land, and empty buildings, and to help reduce the need for greenfield development. The proposal uses a brownfield site and draws support from part a) of the policy subject to sustainable re-use. The policy confirms that 'In determining whether the reuse is sustainable, the biodiversity value of the brownfield land which has naturalised should be taken into account'; in this case the site has little biodiversity value in its current condition, and it is not naturalised. Part b) of the policy does not apply as the site is not greenfield. Part c) of the policy requires development proposals to demonstrate the land can be made safe and suitable for the proposed new use. Due to the previously developed nature of the site, a condition is attached requiring a site contamination investigation to be carried out and any necessary mitigation measures to be put in place in the interests of future occupiers of the development, as recommended by Environmental Protection. Compliance with this condition would ensure the development accords with the terms of LDP policy Env 22 (Pollution and Air, Water and Soil Quality).

Part d) of NPF 4 policy 9 states that demolition is the least preferred option and reuse of existing buildings is supported taking into account their suitability for conversion or other uses. The applicant is of the view that re-use of the existing building would not be suitable for the proposed use and given the difference in the existing building's footprint and materials it is accepted that demolition is required for the proposal to deliver a new and sustainable building at the site. Despite demolition of the existing building, the proposal complies with the intent of NPF 4 policy 9 by directing development to a sustainable location, minimising additional land take, and reusing brownfield land.

### **Housing land and student accommodation**

Within the urban area, LDP Policy Hou 1 part d) 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 site is identified in the 2014 LDP housing land supply study as being a low probability for housing delivery, and previous appeal decisions have made clear there is no obligation to consider all potential development sites in the urban area for windfall housing land supply before being considered for other uses. The proposal for residential student flats at this site complies in principle with the requirements of Hou 1 (subject to other policy considerations, notably policy Hou 8).

LDP Policy Hou 8 has two requirements for assessing student accommodation. Part a) specifies that 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. Part b) states that development 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. In addition to the two criteria of policy Hou 8, the policy's supporting text states that *'It is preferable in principle that student needs are met as far as possible in purpose-built and managed schemes rather than the widespread conversion of family housing'* and it is further stated that student accommodation schemes can take place at relatively high densities to support the growth of the City's universities and the City's attractiveness for higher education.

### **Location of student housing**

With reference to Hou 8 part a), the site is within a distance of approximately 100 metres - 300 metres of bus stops at Westfield Road, Stevenson Road, and Gorgie Road; these stops are served by a selection of bus services including the 1, 2, 3, 22, 25, 30, 33, 38, N22, N25, N28, N30. The Edinburgh Tram stop beside Murrayfield Stadium is an eight-minute walk from the site as well. Active travel routes immediately around the site are mostly on-road and provide onward connectivity to the City's existing core path and path network the nearest being the Water of Leith Walkway nearby at Westfield Avenue.

Although the site is not within or immediately adjacent to a main campus the site is in the urban area of the city and within an appropriate and accessible location for universities. The applicant's supporting planning statement sets out that proximity to the main higher education institutions in Edinburgh ranges between 28 minutes and approximately an hour walking, between 8 minutes to 21 minutes by bicycle, and between 17 minutes to 27 minutes by public transport. Community council comments question the distances and times quoted in supporting information and a review of online route planning and mapping confirms that the distances quoted by the applicant are accurate.

Although the site is not within or immediately adjacent to a main campus the site is within an appropriate and accessible location to access universities. The proposal accords with part a) of LDP policy Hou 8.

### **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 Council's Student Housing Guidance clarifies that where the student population is dominant, exceeding 50% of the population, there will be a greater potential imbalance within the community.

While there is no definition of what constitutes an area for the purposes of calculating student population, the data zones from the 2011 census area provide a reasonable basis for determining this, however as these data zones are tightly drawn, considering them in isolation does not give an accurate reflection of the population demographic within the local area. The Council has typically used the data zones that fall within an 800m radius, an approximate 10-minute walk from the application site. Using this method considers a wider catchment and provides a more accurate representation of the local population.

The nearest student operational student accommodation in the area is located at 24 Westfield Road with a capacity for 394 students, with the other operational developments located at The Mill House, Napier University Student Accommodation at Slateford Road which has capacity for 256 students. Other nearby applications for student accommodation that were approved in 2023 include the former Tynecastle High School which includes 468 student beds (granted on appeal PPA-230-2393), and at 36-44 Westfield Road for 289 students (reference: 22/02539/FUL).

The census data for 2011 shows that the population for the local area was 12,059 people, and this consisted of 1,612 students meaning in 2011 the student population in this area was 13%. Within the site's data zone, the 2011 census data shows a total population of 793, which included 103 students or 13% of the population. When the 2021 adjusted single census zone within which this application site is located is considered with the additional 87 students proposed, the overall population would be 1,246, with 446 of those being students (36%). When the census data is adjusted to include population figures inclusive of consented development in the local area up to the year 2021 and the proposed student accommodation of 87 in this application, the population in the local area would be 15,033 consisting of 3,106 students, or 21%.

The proportion of students in the site's data zone and in the 800-metre radius from the site would not exceed the 50% identified in the Council's guidance on student housing and the proposal would not lead to an over-concentrated student population in the area. The proposal accords with part b) of LDP policy Hou 8.

Gorgie Dalry Community Council (GDCC) submitted calculations for levels of student concentration using the Community Council boundary area and contend that the level of student concentration would reach 29% for the GDCC area, and up to 45% of the 'Gorgie West - 03' census data zone. This would still be below the 50% threshold outlined in the Council's guidance.

In relation to appeal decisions for student accommodation in the area such as at Tynecastle High School and more recently in other parts of the City at Lower Gilmore Place and Arthur Street, Scottish Ministers have accepted as appropriate the methodology used by the Council to calculate concentration levels and establish locality when considering proposals for student accommodation. In this context, the proposal would comply with policy and guidance requirements for student concentration levels.

The proposal complies with parts a) and b) of LDP policy Hou 8.

## **Student Housing Guidance**

The Council's non-statutory student housing guidance recognises the value of higher education to the city and sets out the locational and design guidance to be applied for student housing. Part a) accepts student housing in locations within or sharing a boundary with a main university. This clause does not apply to the application site. Part b) states that out with criteria a), student housing will generally be supported on sites with less than 0.25ha of developable area. The proposal has a developable area of approximately 0.09 ha and is supported by this part of the guidance. Criterion c) of the guidance requires sites with a developable area of over 0.25 hectares to include 50% of the gross student accommodation floor area as residential housing. This clause does not apply as the developable site area is below the threshold.

Criterion d) of the guidance states that student accommodation should comprise a mixture of accommodation types including clusters. Scheme 1 was for 87 studio bedrooms, and during the assessment process the applicant amended the proposal to include one cluster unit with four bedrooms. The student guidance is non-specific about what mixture of studios and clusters should be provided in proposals. While one cluster with four bedrooms is a small proportion of the 87 rooms proposed, it does provide a mix in accordance with the guidance. The applicant highlights that other proposals for studio only student accommodation have been approved in the City, for example following appeal decisions for student accommodation at Arthur Street and Lower Gilmore Place (appeal references PPA-230-2439 and PPA-230-2436), and where good quality common and external areas are included within proposals a higher proportion of studios should be supported. Amenity is addressed below within this report, however in summary, the useable external amenity area at the ground floor is approximately 18% of the site area (approximately 170 sqm.) and a terrace at the fifth floor measuring 42 sqm. is also proposed. These external amenity spaces in combination with the two internal common lounges at the ground and fifth floors which measure 163 sqm. provide a variety of options for students to spend time with other occupiers if they wish.

The application accords with condition d) of the non-statutory guidance, and despite the mix of bedrooms being mostly studios, the provision of an internal common room, an external courtyard, seating at the front of the building and a rooftop terrace and a with amenity common room at the fifth floor provides adequate space for occupants to mix and socialise in the development.

## **Principle Conclusion**

The development plan through NPF 4 policy 16 and LDP policy Hou 8 supports development for purpose-built student accommodation in the City and the proposal accords with these policies. With reference to the Council's non-statutory guidance for student housing the proposal accords with the aims of the guidance and the applicable criteria b) and d).

## Design and liveable places

Policies 14, 15 and 16 of NPF 4 support development that delivers quality places, spaces and environments that can further contribute to achieving 20-minute neighbourhood principles. LDP policies Des 1 to Des 8 also sets out requirements for new development and require proposals to be based on an overall design concept which takes influence from positive characteristics of the surrounding area to deliver high quality design.

### **Liveable places and local living**

The proposal demonstrates a variety of the NPF 4 six qualities for successful places which are outlined in NPF 4 policy 14 as well as meeting many of the requirements outlined for new development in NPF 4 policy 15 in relation to local living. For example, the application site is close to local amenities in the Westfield Road and Gorgie areas allowing for sustainable living, the proposal facilitates active travel storage and is well-located on main arterial routes to the City, it is well-located for access to public transport to other parts of the City without the need to use a car, and it introduces a new building with high-density accommodation on brownfield land in the urban area. With reference to safety, the proposal will be managed by the applicant and entrances to and from the site would be well-overlooked from the public footway and road. With reference to adaptability of the proposal for other uses in future, the applicant asserts that the proposal is a viable long-term use at this site, however it is conceivable that due to the configuration of circulation cores, external envelope and fenestration strategy that the proposal could be adapted in future to accommodate a different use if necessary.

### **Design, height, mass and layout**

In the surrounding area there are a mixture of building forms and a wide range of heights with no settled or prevailing height in this part of the city. Buildings on Westfield Road typically face the street and range from three to four storey tenements while other buildings on Stevenson Road are taller and larger in their form.

Policy Des 1 (Design Quality and Context) of the LDP requires new development to draw upon the positive characteristics of the surrounding area and contribute to creating a sense of place while policy Des 4 lends support to development that will have a positive effect on its surroundings in respect of height and form, scale and proportions, position of buildings, and materials and detailing.

Policy 14 of NPF 4 requires development proposals to improve the quality of an area regardless of scale and support is given to proposals that are consistent with the six qualities of successful places. The proposal is in close proximity local retail and other services, as well as public transport links and it demonstrates a series of sustainable design features. The proposal would contribute to local placemaking by introducing a new use to the site.

The proposal is six storeys in height with its set-back top floor flat roof rising to a similar height as the top of chimney stacks of the opposite tenements, while the eaves height of the fifth floor which will be visible from Westfield Road will be marginally higher than the eaves of the opposite tenements. Although the proposal is taller than residential flats at the eastern boundary, it sits comfortably lower than the neighbouring flats at Westfield Court to the west which rise to eight storeys in height. The position of the building and its 'T' shape form are appropriate, and its frontage will have a positive impact on the character of the townscape of the street in terms of the position of buildings and other features on the site, as required by LDP policy Des 4 c) and NPF4 policy 14 parts a) and b).

The proposal will be distinctive in its appearance while drawing from the positive characteristics of the surrounding area such as the fenestration of tenements, height, and form both of which are within the parameters of surrounding development scale, respecting the established urban grain, and a pleasant frontage to the street will be introduced. The building's entrance is taken from the street and large glazing provides activation to the frontage, as required by LDP policy Des 5-part c). Materials including brick, reconstituted stone, and bronze or metallic cladding at ground and upper levels are appropriate in this setting and are of a high quality, while the soft landscaping scheme at the site's frontage draws upon the tree-lined character of the street. While the material strategy is appropriate a condition to secure the specification of materials to be used in the development is recommended. The proposal is appropriate in the context of the surrounding area, and it complies with part c) of NPF 4 policy 14.

Part a) of LDP policy Des 2 (Co-ordinated development) encourages a comprehensive approach to redevelopment and regeneration with a view to avoiding piecemeal development in the City. The applicant's supporting information includes details of how the proposal does not adversely affect the development of adjacent sites, notably the neighbouring garage at the corner of Westfield Road and Stevenson Road, and this shows that the proposal is designed in such a way that it could be extended as part of a terrace along Westfield Road and its layout does not compromise the effective development of adjacent land. Clause b) of policy Des 2 does not apply in this case. The committee should note that further development at the site or neighbouring land would require a separate planning permission.

Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) of the LDP supports proposals where existing features on site or in the surrounding area worthy of retention are retained and incorporated into the design. While in this case the existing bar is to be demolished and there is little on the site worthy of retention that would be compatible with the design of the proposal the applicant has resolved to ensure the proposal does not impact on surrounding trees and the proposal would accord with this policy.

With reference to landscape design the supporting landscape strategy and landscape plans demonstrate that the proposal will integrate with the surrounding area, notably by complementing the treeline in the streetscape with three new trees, while the other features including the courtyard with 15 new trees, shrubs, bench seating, and a green roof provide a well-balanced soft and hard landscape design at the site. A clear distinction between private and public spaces is provided by secure gates at the sides of the building, in compliance with LDP policy Des 5 d). The landscape design aspects of the proposal comply with LDP policy Des 8 (Public Realm and Landscape Design) and the objectives of NPF 4 policy 14 which both require a high-quality and design-led approach to new development.

The design, height, mass, and layout of the proposal are appropriate, and the proposal complies with LDP policies Des 1, Des 2, Des 3, Des 4, Des 7, and Des 8 as well as NPF 4 policy 14.

### **Amenity**

Policy 23 of NPF 4 supports development that will have positive effects on human health and protect people and places from environmental harm. Policy Des 5 (Development Design - Amenity) sets out further policy requirements for new development to achieve a good standard of amenity for new development and to protect sensitive neighbouring land uses.

The applicant submitted a design statement and accompanying information in relation to amenity of future occupiers of the proposal and the amenity of neighbouring properties in relation to air quality, noise, and daylight.

#### *Amenity of neighbours*

Surrounding development is comprised of tenements to the north of the site across Westfield Road, flatted properties to the east, flatted properties to the south, and a garage to the west beyond which lies four-in-a-block flats. The applicant submitted a daylighting study to establish the effect(s) of the proposal on neighbouring amenity; the study was completed with reference to the recommended methodology in the Edinburgh Design Guidance (EDG) and the Building Research Establishment's guidance 'Site Layout planning for daylight and sunlight: A guide to good practice' (BRE 209 3rd Edition, 2022).

The supporting daylighting information advises that of the 153 windows assessed in tenements across Westfield Road (23-35 Westfield Road) and flats in Westfield Court to the south, 148 would achieve at least 80% of the former value for vertical sky component (VSC) which is in accordance with the EDG. The EDG advises that where daylighting cannot meet the desired VSC, alternatively further analysis using the average daylight factor (ADF) can be conducted to establish the amount of daylight in affected rooms in existing buildings. Of the 153 windows assessed, five at numbers 29 and 31 Westfield Road at the ground floor do not achieve 80% of their former VSC value. The applicant's supporting assessment concludes that the ADF for bedrooms and living rooms at these properties are compliant with the ADF targets that are acceptable in the EDG. The proposal's effect on daylight to neighbouring buildings is therefore acceptable.

The EDG requires that new buildings should be laid out so that reasonable levels of sunlight are maintained to existing gardens and spaces. It is noted in the guidance that the use of the affected area of the garden and the size of the garden as a whole is to be taken into account when assessing whether any loss of sunlight is adverse, and the qualities of the existing space and the effects of sunlight, both before and after will inform whether any loss of sunlight is considered adverse. A sunlight assessment and associated shadow plans were submitted in support of the proposal. The supporting information includes shadow plans on 21 March (Spring equinox) and 21 June (midsummer). The assessment shows that secondary front garden spaces to the ground floor tenements opposite the application site on Westfield Road, notably numbers 29 and 31 as the Gorgie Dalry Community Council confirm in objection comments, will receive less sunlight than they currently do. The data for March 21 shows that these front garden spaces will receive the same sunlight from 10am to 12pm but reduced sunlight thereafter. While these secondary garden spaces will receive reduced sunlight in the afternoons, they receive over two hours of sunlight which is comparable to the standard for new development in the EDG. Larger garden spaces are available to the rear of tenements as well and the impact of the proposal is acceptable with reference to levels of sunlight. During midsummer, the shadow plan shows no encroachment to the front garden spaces.

Policy Des 5 of the LDP part a) also requires new development to consider noise, privacy, and immediate outlook. The proposal for purpose-built student accommodation within this part of the urban area would not lead to unacceptable effects for neighbours as window positions and gable designs of the proposal are suitable positioned and distanced. The proposed external terrace is located at the fifth floor and any noise complaints from neighbours associated with this space can be effectively managed on-site by the accommodation operators; Environmental Protection note in comments that the existing bar has outdoor seating areas and the proposal is unlikely to impact upon residential amenity by way of the external terrace any more than is presently the case. While the outlook for surrounding properties will change, a proposal of this scale and design is appropriate in the urban area of the City. Plant in the form of air source heat pumps is proposed at the southeast corner of the site, sitting on the roof of the proposed bicycle store; this is to be housed in an acoustic enclosure to mitigate noise to an acceptable standard for neighbouring residential receptors. The proposal complies with part a) of Des 5.



### *Amenity of future occupants*

Future occupants will enjoy good quality external amenity in the courtyard area, which is furnished with seating and a picnic table, the front landscaped space which has seats, and balcony area which has picnic tables. The applicant has included a study demonstrating that the proposal offers a high level of external amenity space in comparison to other student accommodation in the city and the external space is suitable for the proposed use. Internal amenity spaces offer a good quality environment for occupants to interact with each other at the ground floor level and at the fifth floor. There are no minimum room size standards for student accommodation in the Edinburgh Design Guidance (EDG), however the proposed sizes are in line with other student accommodation developments in the city. The applicant submitted preliminary daylighting information for the ground and first floor accommodation in the proposal (13 bedrooms); this summarises that 84% of proposed rooms on these floors would comply with the EDG average daylight factor standards. This is acceptable for commercial student accommodation and in combination with access for occupants to other areas which are well lit the proposal is acceptable.

Due to surrounding noise sources including the neighbouring garage to the west, a nearby food truck generator on Stevenson Road, and plant associated with the proposal itself the applicant submitted a noise impact assessment to establish what mitigation is required for the proposal to ensure a satisfactory living environment can be secured for future occupants of rooms in the west façade of the proposal. Plenum windows with pre-designed opening distances are proposed as mitigation to allow for fresh air to enter the accommodation and Environmental Protection accepts the proposed mitigation as it complies with Scottish Building Regulations. At the southeast corner of the proposal some rooms will be facing the bicycle store with air source heat pumps on its roof; the acoustic enclosure for this plant will provide suitable mitigation for this noise source. Internally, rooms that are adjacent or above the ground floor plant room will not be affected due to enhanced wall specification to insulate against noise impact. A condition is proposed in relation to securing the above noted mitigation measures.

In respect of amenity the proposal provides an acceptable standard in the context of LDP policy Des 5, NPF 4 policy aspirations for quality homes, liveable places and health and safety, and the EDG.

### Climate change, flood risk, biodiversity, and sustainability

#### **Drainage and flood risk**

The applicant submitted a flooding, drainage, and surface water strategy report in support of the application. the assessment process further information on flood risk was submitted in response to comments from the Council's Flood Planning service and SEPA.

The Water of Leith is approximately 250 metres west of the site. The site is shown to be at risk of flooding from the Water of Leith based on the SEPA Flood Maps which provide high-level information on flood risk. The applicant's supporting documentation advises that in a 1-in-200-year flood event including an uplift of 56% for climate change the site would flood, leaving the development with no pedestrian access or egress in such an event. Flood levels would be approximately 0.6 metres to 0.8 metres.

The Council's Flood Planning service notes in comments that the supporting information identifies there would be approximately 0.8m of flooding at the site and Westfield Road in a 1:200-year event, including a climate change allowance. Comments advise that while the proposals include residential development on the upper floors, dry pedestrian access and egress to the site cannot be achieved and the proposals therefore do not comply with Flood Planning's guidance.

SEPA objects in principle to the application on the grounds of flood risk from the Water of Leith which they expect to put people or property at risk of flooding. In summary, SEPA advises that the proposal will result in a change from 'Least' to 'Highly' vulnerable as set out in SEPA's Land Use Vulnerability Guidance resulting in an increased land use vulnerability at the site. SEPA is of the view the proposal would not comply with Policy 22 of NPF 4 which intends to protect development from flood risk and that there would be no exception for the proposal under part a) of the policy as the site is not specifically allocated for the proposed use in the development plan and it does not demonstrate long-term safety and resilience can be secured in accordance with relevant SEPA advice.

SEPA is also of the view that site is shown to be at risk in a 1 in 200-year flood event without an appropriate allowance for climate change; it is noted in the comments that SEPA guidance requires a greater uplift than the Council's Flood Planning service for climate change within flood modelling.

The applicant contends that the proposal draws a degree of support from the development plan as student accommodation is supported through LDP policy Hou 8 and associated guidance, as well as NPF 4 policies 16 and 9, and is of the view that these policies mean the terms of NPF 4 policy 22 part a) iv are satisfied as the development plan has identified a need to bring previously used sites into positive use. The proposal however would not comply with the final qualifying part of the policy criterion which requires proposals to demonstrate that long-term safety and resilience can be secured in accordance with relevant SEPA advice. In respect of remaining text of policy NPF 4 policy 22 part a) iv, applicants are required to demonstrate: that all risks of flooding are understood and addressed; there is no reduction in floodplain capacity, increased risk for others or need for future flood prevention schemes; development remains safe and operational during floods; flood resistant and resilient materials and construction methods are used; and, future adaptations can be made to accommodate the effects of climate change.

The applicant demonstrates that flood risk at the proposal is understood, that loss of floodplain capacity and any resultant increase in flood risk to others is considered and accommodated in the development through the development's design as it allows potential flood water to enter the site in an extreme event, and resilient materials are used in external spaces and the front of house element of the ground floor. The applicant acknowledges that safe access and egress from the development during a flood event will not be possible, but specifies that the floor level of accommodation set at 45.25 metres above ordnance datum (AOD) will be above the potential flood level of 44.8 metres AOD and above the general levels of Westfield Road (approx. 44.2 metres AOD) where emergency services vehicles would be stationed. While the front of house parts of the building would flood, accommodation at the ground floor and upper levels would not flood due to mitigation in the form of higher ground floor levels.

While student accommodation does draw support from the development plan, SEPA correctly notes that in the context of NPF 4 policy 22 a iv the proposal is not capable of complying with relevant SEPA guidance. The proposal does not comply with NPF 4 policy 22 and there is a tension between the above noted policies of the development plan. The supporting text of LDP policy Env 21 also states proposals *...will only be favourably considered if accompanied by a flood risk assessment demonstrating how compensating measures are to be carried out, both on and off the site, and that any loss of flood storage capacity is mitigated to achieve a neutral or better outcome*. While the applicant has demonstrated a clear understanding of the flood risk and introduced mitigation measures by design to minimise impact, the proposal is contrary to LDP policy Env 21 (Flood Protection) part a) as it will be at risk of flooding.

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

In relation to adequate drainage infrastructure being available for the proposal, Scottish Water does not object to the proposal but notes feedback provided does not confirm that the proposed development can currently be serviced. The comments go on to note that there would be sufficient water capacity for the proposal and sufficient capacity for foul only connection and specifies that the developer should contact Scottish Water to discuss requirements for surface water discharge. Flood Planning notes that the applicant will also need to confirm that Scottish Water accept the surface water discharge to the combined network. On the basis of no objection from Scottish Water the proposal complies with LDP policy RS 6 (Water and Drainage) which requires new development to be served by adequate water supply and sewerage capacity.

## **Transport**

The development plan lends support to development where sustainable travel is available. Zero car parking is proposed at this development, and this complies with the Council's Parking Standards which allow for a zero-parking approach for student accommodation where justified. The site is well-located with reference to public transport along nearby Stevenson Road and in Gorgie Road, and the existing road and path network in the city allows access to surrounding retail and community facilities within a reasonable walking distance. The Edinburgh Tram is approximately 650m away with the nearest stop at Murrayfield. The proposal for zero parking complies with the aims of both NPF 4 and the Council's aims to reduce car journeys and locate development close to local amenities, and the Roads Authority is satisfied with no car parking provision at this development.

A total of 87 bicycle parking spaces are proposed. Council guidance states that no more than 80% of cycle parking spaces should be of one type, and that no more than 50% of provision should be two-tier racks. The number of bicycles that can be accommodated comply with the Council's parking by providing cycle parking at a rate of 100%. The location and design of the secure store complies with the Council's street design guidance part C fact sheet C7 for new development.

No more than 50% of racks are two tier, 29% are Sheffield racks with provision for four non-standard bicycles, and 21% are bike lockers for foldable bicycles. Transport comments note that foldable bikes are not listed in the Council's street design guidance sheet C7, however this list of non-standard bicycles is not exhaustive in the guidance.

Overall, the proposal complies with the required number of spaces set in parking standards and a mix of cycle parking spaces is provided. The applicant amended the cycle parking layout during the assessment period in an attempt to better comply with Council guidance; in Scheme 1 the store had 87 spaces formed of 64 spaces on two-tier racks, 18 spaces on Sheffield racks, and five spaces in bike lockers. It is recommended that details of the four visitor bicycle parking spaces identified in supporting information that are to be integrated into the front landscaping space be secured by condition.

The proposal complies with LDP policies Tra 2 Private Car Parking and Tra 3 Private Cycle Parking and the Council's parking standards. The transport strategy of the proposal complies with the aims of NPF 4 policy 13 which supports development that promotes and facilitates sustainable travel to prioritise walking, wheeling, cycling and public transport for everyday travel. The site is well-located for bus travel, the proposal does not rely on the private car, and it is consistent with NPF 4 policy 15 which supports developments that contribute to local living. The proposal complies with parking standards and despite the mix of cycle parking for non-standard spaces deviating from the example types of bicycles listed in guidance, provision for a mix of bicycle types is provided and offers a suitable solution at this site.

### **Biodiversity and trees**

The applicant's Preliminary Ecology Appraisal notes that there are no notable plants or habitat within the site boundary, and there was no evidence of otter, badger, water vole, or breeding birds at the time of survey. Low bat roost potential was identified in the existing building, and a subsequent Bat Roost Survey report was prepared following a survey which confirmed that roosting bats were absent from the site. With reference to habitat and species protection the proposal would accord with the terms of LDP policy Env 16 (Species Protection). With reference to NPF 4 policy 3 which seeks to protect biodiversity and strengthen nature networks the introduction of rain garden features, green roofs, a swale, trees, and other planting within the site's amenity areas to the rear and front of the site will result in an enhanced environment for biodiversity. This approach means the proposal complies with the intention of the policy.

Despite little habitat value within the site, the value of surrounding trees at the site's mutual boundaries is highlighted in the supporting ecology information. Trees are located close to the site's boundaries on three sides and the ecology survey recommends tree protection measures are put in place for habitat and species protection. The applicant submitted a tree survey and tree protection details for surrounding trees at the north, south and east boundaries which are all category A and B. Works to four trees are recommended in supporting information including crown reductions of up to approximately one metre and pruning to avoid potential damage from construction activities at the application site; it is recommended that a condition is attached to ensure protection of these trees in accordance with the applicant's tree protection plan and arboricultural impact assessment is put in place as part of the redevelopment activities at the site should permission be granted. Subject to a condition the proposal complies with LDP policy Env 12 (Trees) and NPF 4 policy 6 which both seek to protect and retain trees.

Subject to the recommended condition the proposal complies with the above noted policies of the development plan.

## **Energy and Sustainability**

NPF 4 policy 19 in criterion f) supports development proposals that will be occupied by people where they are designed to promote sustainable temperature management by use of passive solutions and materials. Policy 11 a) iv of NPF 4 supports development proposal for all forms of renewable technologies at a small scale.

The proposal features photovoltaic panels at the roof level and air source heat pumps located at the roof level of the external bicycle store and these features are supported. The applicant's supporting documentation further notes that materials will be to a specification that reduces energy demand for heat and cooling the building, while other features including green roofs will offer further benefits for drainage and ecology. The supporting sustainability strategy details that the proposal will aspire toward use of materials that are low in embodied carbon, water efficient, and energy efficient lighting and systems within the building, while the site's location will allow for use of existing facilities in the local area in accordance with 20-minute neighbourhood principles. Other considerations that have informed the design are stated to include levels or natural daylighting, passive solar design, choice of fabric for the building, and level of air tightness. The energy statement further notes that the site is located in the urban area and is car free with facilities to allow or active travel and will reduce the use of resources associated with private car travel.

The supporting utilities appraisal confirms the building will be disconnected from the existing gas pipework as the proposal is to be fully electric, while existing infrastructure for telecommunications, water, and electricity will be utilised.

The proposal complies with the aims of NPF 4 and will be subject to detailed building design methods will be subject to Scottish Building Standards.

## **Zero Waste**

NPF 4 policy 12 aims for the reduction and reuse of materials in construction and upon operation of new development.

The proposal will include waste management facilities with a refuse store at the ground floor and this will be capable of providing bins for future occupants for mixed, food and glass recycling. Waste collection would be privately managed for a development of this type, with collection proposed from Westfield Road and the Transport Authority comments do not note any concern with this arrangement within comments.

Policy 12 policy supports development proposals where they re-use buildings and infrastructure, minimise demolition and salvage materials for re-use, minimise waste, use materials with low embodied emissions, and use materials that are suitable for reuse. The sustainability information submitted with the proposal notes that the development will seek to reuse material from any demolition in the new build where it might be appropriate to do so. The applicant also advises that any material removed from the site will be recycled wherever possible. Supporting documentation states that construction waste management plan(s) could be prepared if necessary for planning purposes, however the management of construction waste is a matter that can be managed out with the planning system.

The applicant has demonstrated that the proposal when operational can contribute to zero waste objectives identified in NPF 4 policy 12 criterion c). Criterion b) of policy 12 supports development where amongst a variety of criteria; existing buildings and infrastructure is re-used; materials can be salvaged for re-use; waste is minimised, and use of virgin resources reduced; use of recycled and natural materials is maximised; and use of materials that can themselves be recycled with minimal processing. While the existing building will be demolished, existing physical and social infrastructure can support the new use due to the site's sustainable location. The supporting information states that materials shall be selected which are considered sustainable, low impact and healthy and contribute to the longevity and robustness of the proposed development, while re-use of site-won materials will be reviewed.

The proposal allows for sustainable management of waste and commits to reducing its embodied carbon impact. The proposal complies with the objectives of NPF 4 policy 12.

### Archaeology and built heritage.

National Planning Framework 4 Policy 7 intends to protect the historic environment, and criterion o) states that non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. During the assessment stage the applicant submitted a desk-based archaeology assessment in support of the proposal. With reference to built heritage there are no listed buildings that would be affected by the proposal nor is the application site in a conservation area. As the proposal involves the demolition of the existing Murrayfield Sports Bar the City's Archaeology Service recommends that a basic historic building survey is undertaken (photographic record, description, and annotated plans) of the public house prior to its demolition, as part of an overall programme of works.

A condition in relation to a programme of archaeological work is attached on the recommendation of the Archaeology Service. Subject to the recommended condition, the proposal complies with the aims and intentions of NPF 4 policy 7.

### Infrastructure first

#### **Tram**

Policy 18 of NPF4 encourages an infrastructure first approach to planning and placemaking. The Edinburgh LDP, through policy Del 1 (Developer Contributions) part 1a) and associated Action Programme items, promote sustainable travel and continuing development of Edinburgh's tram network. The application site is within the Tram Contribution Zone (zone 2) as defined in the Council's finalised guidance on Developer Contributions and Infrastructure Delivery (August 2018). The Transport Authority has requested that the applicant contributes the sum of £120,000 towards the Edinburgh Tram and this will be secured through a Section 75 legal agreement. Transport comments note the applicant should consider the provision of a car club vehicle in the area which would require a contribution of £7,000; this is not a requirement for the proposed development and an informative is attached for the applicant's consideration.

#### **Healthcare**

Public comments raise concern with regard to the effect of the proposal on local health services such as doctors and dentists. The proposal is not located in a contribution zone for health care as shown in the Council's finalised guidance on Developer Contributions and Infrastructure Delivery (August 2018). There is no necessity to apply a planning contribution for this proposal in the context of NPF 4 policy 18.

#### Conclusion in relation to the Development Plan

Overall, the proposed development broadly complies with the provisions of NPF 4, the 2016 Edinburgh LDP and associated guidance although there is one notable issue of conflict as the proposal is anticipated to be at risk of flooding from the Water of Leith in the future.

The Scottish Government Chief Planner's letter on 'Transitional arrangements for National Planning Framework 4 notes that 'Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement.'

The location of the site within a flood risk area from the Water of Leith and non-compliance with both NPF 4 policy 22 and LDP policy Env 21 in the event of a 1 in 200-year flood with a 56% uplift for climate change. There is potential for future flood risk for the proposal which is anticipated to be a 0.5 % chance of flooding. This risk cannot reasonably be mitigated against within this application as it relates to the external land level out with the application site. The proposal would not comply with Council standards or NPF 4 policy 22 as it would be an island in an extreme flood event without dry access and egress in contravention of relevant SEPA guidance.

In this case, the proposal delivers accommodation at a reasonable scale on a brownfield site in the urban area of the city. Subject to the recommended conditions the proposal is generally in accordance with policies relating to principle, design, transport, and sustainability. The site is within an established urban area with surrounding residential accommodation and other existing uses that would also be susceptible to extreme flood events in the future. While dry access and egress from the building in an extreme flood event would not be possible, the proposal's floor level is set at a level high enough to ensure accommodation would not flood, providing a comparable or better level of security from flood water than surrounding residential developments in this part of the city. Flood depth would be at a level of approximately 0.6 metres and water is envisaged to be a low flood flow due to the site's location near the periphery of the flood area.

While non-compliance with NPF 4 policy 22 cannot be overcome at this site, the LDP supports purpose-built student accommodation through policy Hou 8, NPF 4 policy 16, and NPF 4 policy 9 supports development on brownfield sites.

NPF 4 policies 1 and 2 require place significant weight on climate change mitigation and adaptation. The proposal demonstrates a range of sustainable design features that mean the proposal has appropriately considered climate change and managed the impact of future climate risks to an acceptable level. The applicant has considered flood risk and included mitigation measures as far as practicable, with consideration of adaptation to climate change. In relation to NPF 4 policy 2, the building will be sustainable in terms of energy efficiency and durability, and while it does not fully adapt to future flood risk from the Water of Leith, it includes mitigation measures that manage flood water in extreme events without accommodation quarters flooding.

Taking a balanced approach to applying the policies of the development plan the proposal is an efficient use of brownfield land in the established urban area of the City; the matter of the building being within an area flood risk for a 1 in 200 year event does not outweigh the benefits of the proposal and its broad compliance with the 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. The proposal provides five accessible rooms within the development and there are internal lifts to access all floors including the balcony amenity area. Access to the external courtyard amenity area is at the ground floor level.

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

Public representations

A summary of the representations is provided below:

*Material objections*

- Opposition to principle of student accommodation at this site - addressed in Section B.
- Non-compliance with student housing policy and guidance including over concentration of students and proximity to universities - addressed in Section B.
- Adverse impact on local community and health services - addressed in Section B.



- Design objections in relation to mass and scale - addressed in Section B.
- Impact on neighbouring amenity - addressed in Section B.
- Lack of adaptability of the proposed building - addressed in Section B.
- Non-compliance with City Plan 2030 - addressed in Section B.
- Loss of existing use - addressed in Section B.
- Non-compliance with NPF 4 policy 25 (Community wealth building) - the proposal will contribute to the local economy by using local services and job creation.

#### *Non-material considerations*

- Preference for social or affordable housing at this site - the applicant has not proposed this form of development.
- Cost of student accommodation.
- Dissatisfaction in relation to applicant's business practices.
- Potential for students to use private parking spaces in the local area - the management of private parking spaces is not a planning matter.
- Alleged adverse impact students will have on the local area related to noise and littering.
- Impact on historic Hearts turnstiles at the site - these are private property and their re-use not a planning matter.

#### *Material support comments*

- Support for student accommodation and positive effect on housing pressure - addressed in Section B.
- Positive economic impact of proposal to local businesses, facilities, services, and the City's universities.
- Support for scale and design of proposal including landscape features - addressed in Section B.
- Support replacing existing building and use - addressed in Section B.
- Car free development and good sustainable transport options - addressed in Section B.

#### *Community Council comments*

Gorgie Dalry Council submitted comments objecting to the proposal. The objection raised the following matters:

- Preference for social and affordable housing.
- Concentration of students in the area being too high and non-compliant with policy and Student Housing Guidance.
- Object to 100% studio room provision.
- Dispute travel times to university campuses within supporting information.
- Objection to the proposal's design, scale, massing, and streetscape features and resultant non-compliance with development plan LDP policy Des 4.
- Impact of proposal on amenity (daylight impact) on tenement flats across Westfield Road and resultant non-compliance with LDP policy Des 5.
- Proposal does not accord with NPF 4 policy 14b in relation to adaptability to housing or other uses for the proposal should student accommodation demand in the City reduce.

- Price of student accommodation for students.
- Non-compliance with City Plan 2030 policy Hou 6.

Despite its overall opposition, the Community Council welcomed the proposed approach to sustainable drainage in the proposals.

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

The material considerations do not raise any matters which would result in recommending the application for refusal.

### **Overall conclusion**

The proposal demonstrates that on balance it is compliant with the development plan despite the site and area being at risk of flooding from a 1 in 200-year event in the future. The proposal will deliver a sustainable, well-designed development on a brownfield site that minimises environmental impact. The design is of a high quality and takes cues from the character of the surrounding area. The use will help support local living and is consistent with the six qualities of a successful place.

Subject to a condition in relation to noise mitigation, the proposal will result in a satisfactory living environment for future occupiers and will not result in an unreasonable impact on neighbouring occupiers. It encourages use of sustainable modes of transport and reduces reliance on car usage. No specific road or pedestrian safety issues are raised.

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

Subject to recommended conditions and an appropriate legal agreement for a contribution towards the Edinburgh Tram, and notwithstanding the matter of a conflict with policy on flooding, the proposal is acceptable and on balance complies with National Planning Framework 4 and the aims of the 2016 Edinburgh Local Development Plan, as well as the Council's non-statutory guidance for student housing and the Edinburgh Design Guidance. There are no material considerations that 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. 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 construction work is commenced on site; Note: samples of the materials may be required.
3. The approved landscape scheme including boundary treatments as shown in planning drawing reference 14 and the associated planting and maintenance schedules shown on page eight of the Landscape Statement prepared by Christopher Palmer Associates dated 4th October 2023 shall be implemented within six months of the occupation of the development. The maintenance schedule shall apply for a five-year period.
4. Details of the four visitor bicycle parking spaces that are identified in planning drawing reference 15A and titled 'Cycle Parking' shall be submitted to the planning authority for approval prior to the commencement of development at the site. Thereafter the approved bicycle parking shall be available for use at the development prior to its first occupation.
5. No demolition nor development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, excavation, analysis & reporting, publication, community engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
6. 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.
7. Noise mitigation measures specified within ITP Energised Noise Impact Assessment referenced 6519 Version 2 and dated 2023-12-20 should shall be installed and operational prior to occupation of the development.
8. Proposed plant noise shall operate within noise levels specified in the ITP Energised Noise Impact Assessment referenced 6519 Version 2 and dated 2023-12-20 unless otherwise agreed with the planning authority.

## Reasons

1. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

2. In order to enable the planning authority to consider this matter in detail, in the interests of visual amenity.
3. In order to ensure that the approved landscaping works are properly established and maintained at the site.
4. In order for the development to comply with the Council's bicycle parking standards and to provide appropriate sustainable travel facilities.
5. In order to safeguard the archaeological heritage of the site.
6. In order to protect the health of the building's occupants.
7. In order to protect the health of the building's occupants and to safeguard neighbouring amenity.
8. In order to protect the health of the building's occupants and to safeguard neighbouring amenity.

## **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:

Contribute the sum of £120,000 (based on 87 units in Zone 2) to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report. The sum to be indexed as appropriate and the use period to be 10 years from date of payment.

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. This consent is for planning permission only. Work must not begin until other necessary consents, e.g. listed building consent, have been obtained.
3. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
4. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
5. The applicant should note the following Transport matters:

- The applicant should consider the provision of a car club vehicles in the area. A contribution of £7,000 (£1,500 per order plus £5,500 per car) would be required.
- 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. The applicant should note that this will include details of lighting, drainage, Sustainable Urban Drainage, materials, structures, layout, car, and cycle parking numbers including location, design, and specification. Particular attention must be paid to ensuring that refuse collection vehicles are able to service the site. The applicant is recommended to contact the Council's waste management team to agree details.
- The applicant should note that doors must not open outwards on to footways or carriageways.
- 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.
- The applicant should be advised that:
  - a. as the development is student housing, they will not be eligible for residential parking permits in accordance with the Transport and Environment Committee decision of 4 June 2013. See [https://democracy.edinburgh.gov.uk/Data/Transport%20and%20Environment20Committee/20130604/Agenda/item\\_77\\_-\\_controlled\\_parking\\_zone\\_amendments\\_to\\_residents\\_permits\\_eligibility.pdf](https://democracy.edinburgh.gov.uk/Data/Transport%20and%20Environment20Committee/20130604/Agenda/item_77_-_controlled_parking_zone_amendments_to_residents_permits_eligibility.pdf) (Category F - All student housing).
- The developer must submit a maintenance schedule for the SUDS infrastructure for the approval of the Planning Authority.
- The applicant should note that the Council will not accept maintenance responsibility for underground water storage / attenuation.

## **Background Reading/External References**

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

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

**Date Registered: 24 October 2023**

## **Drawing Numbers/Scheme**

01,02,03B,04-07,08A-12A,13,14,15A

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

Contact: Sean Fallon, Planning Officer  
E-mail: sean.fallon@edinburgh.gov.uk

## Appendix 1

### Summary of Consultation Responses

NAME: SEPA

COMMENT: Object in principle to proposals on grounds of flood risk and non-compliance with National Planning Framework 4 policy 22a.

DATE: 31 October 2023

NAME: Flood Planning service

COMMENT: Object on grounds of non-compliance with Council guidance.

DATE: 10 January 2024

NAME: Environmental Protection service

COMMENT: No objection subject to recommended conditions.

DATE: 23 January 2024

NAME: Scottish Water

COMMENT: No objections subject to information in full comments.

DATE: 31 October 2023

NAME: Archaeology service

COMMENT: No objection subject to recommended condition to secure the implementation of a programme of archaeological work (historic building recording, excavation, analysis & reporting, publication, community engagement) in accordance with a written scheme of investigation.

DATE: 3 November 2023

NAME: Roads Authority

COMMENT: No objections subject to conditions and informatives.

DATE: 18 December 2023

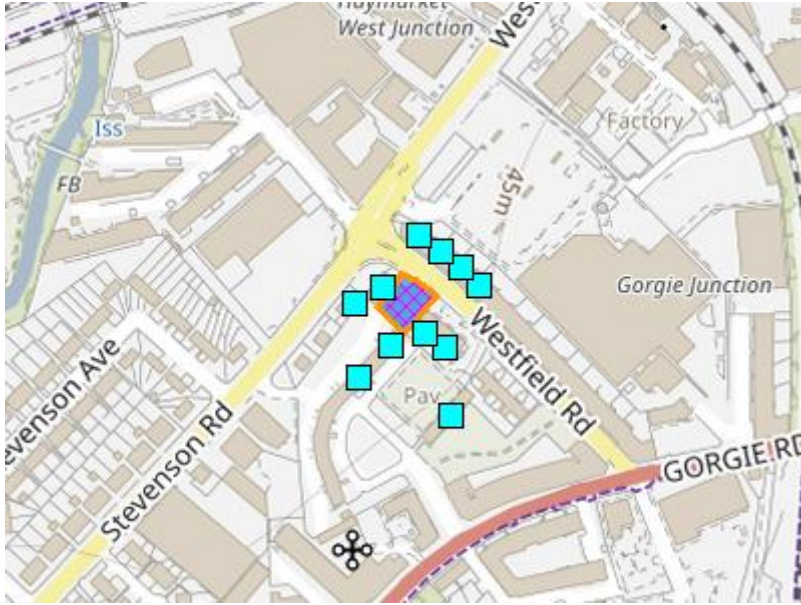
NAME: Gorgie Dalry Community Council

COMMENT: Object to proposals on grounds of non-compliance with LDP policy Hou 8, the Council's Student Housing Guidance (dated 2016), LDP policy Des 4, Des 5, and National Planning Framework 4.

DATE: 27 November 2023

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

## Location Plan



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