

Notice of meeting and agenda

Development Management Sub-Committee

10.00 am Wednesday, 1st May, 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: jamie.macrae@edinburgh.gov.uk / blair.ritchie@edinburgh.gov.uk

Tel: 0131 529 4264

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 29 April 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

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

3. Minutes

- 3.1 Minutes of Previous Meeting of Development Management Sub-Committee of 17 April 2024 – submitted for approval as a correct record 9 - 14

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

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

Pre-Applications

- 4.1 Report for forthcoming application by University Of Edinburgh - Estates Dept. for Proposal of Application Notice at University of Edinburgh, Darwin Building, Max Born Crescent. Erection of research and teaching building, with associated landscaping, access, and cycle parking - application no. 24/01183/PAN - Report by the Chief Planning Officer 15 - 22

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

Applications

- 4.2 3 John's Place, South Leith, Edinburgh - Change of use from Class 4 offices to Class 7 hotel (as amended) - application no. 24/00021/FUL - Report by the Chief Planning Officer 23 - 32

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

- 4.3 3 John's Place, South Leith, Edinburgh - Internal alterations to form Class 7 hotel (as amended) - application no. 23/07500/LBC - Report by the Chief Planning Officer 33 - 40

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

- 4.4 27 - 29, 31 Ratcliffe Terrace, Edinburgh, EH9 1SX - Demolition of an existing mixed use (office and garage) building and the construction of a six-storey purpose-built student residential development with associated access and landscaping, including change of use - application no. 24/01092/FUL - Report by the Chief Planning Officer 41 - 58

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

5. Returning Applications

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

5.1 None.

6. Applications for Hearing

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

6.1 None.

7. Applications for Detailed Presentation

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

- 7.1 7 Henderson Place Lane, Edinburgh, EH3 5DG - Section 75A application to modify the affordable housing obligations (planning permission 21/04326/FUL) - application no. 23/02562/OBL - Report by the Chief Planning Officer 59 - 70
- It is recommended that this application be **ACCEPTED, AND THE AGREEMENT BE MODIFIED.**

8. Returning Applications Following Site Visit

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

and discussion on each item.

8.1 None.

Nick Smith

Service Director – Legal and Assurance

Committee Members

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

The Development Management Sub-Committee consists of 11 Councillors and is appointed by the City of Edinburgh Council. The meeting will be held in the City Chambers, High Street, Edinburgh and remotely by Teams and will be webcast live for viewing by members of the public.

Further information

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

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

Webcasting of Council meetings

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.

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).

This page is intentionally left blank

Minutes

Development Management Sub-Committee of the Planning Committee

10.00am, Wednesday 17 April 2024

Present:

Councillors Osler (Convener), Bennett (substituting for Councillor Beal) (except item 4.7), Burgess (substituting for Councillor Booth), Cameron (items 4.2, 4.5 and 4.6), Dalglish, Gardiner (items 4.2, 4.5, 4.6, 4.12, 4.13 and 7.1), Jones, Mattos-Coelho, McNeese-Mechan, Mowat, and Staniforth.

1. Minutes

Decision

- 1) To approve the minute of the Development Management Sub-Committee of 28 February 2024 as a correct record.
- 2) To approve the minute of the Development Management Sub-Committee of 13 March 2024 as a correct record.

2. General Applications and Miscellaneous Business

The Sub-Committee considered reports on planning applications listed in sections 4 and 7 of the agenda for this meeting.

Requests for a Presentation

Councillor Staniforth requested a presentation on Item 4.2 – Drylaw House, 32 Groathill Road North, Edinburgh – application no – 23/03426/FULSTL.

Request for a Hearing:

Ward Councillors Booth and Faccenda requested a hearing and site visit on Items 4.5 and 4.6 – 18-24 John's Lane, Edinburgh, EH6 7EU development - applications no. 23/06794/FUL and 23/06796/LBC.

Requests for a Site Visits:

Councillor Osler requested a site visit on Item 7.1 – Application for Planning Permission at 5 Winton Drive, Edinburgh, EH10 7AL – application no. 23/07334/FUL.

Decision

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

Development Management Sub-Committee of the Planning Committee 17 April 2024

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

3. 5 Winton Drive, Edinburgh

Details were provided of proposals for the proposed erection of a 48-bed care home development, including landscaping, access and associated works at 5 Winton Drive - application no. 23/07334/FUL.

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

A vote was taken for and against whether to continue the application for a site visit.

Voting

For continuation - 2 votes

Against continuation - 8 votes

(For continuation: Councillors Osler and Staniforth.)

Against continuation: Councillors Bennett, Burgess, Dalgleish, Gardiner, Jones, Mattos-Coelho, McNeese-Mechan and Mowat.)

Decision 1

To **REFUSE** the request for a site visit.

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 Osler, seconded by Councillor McNeese-Mechan

Amendment

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, and an additional informative to ask the developer to consider increasing cycle parking, or capacity for increasing cycle parking, should there be additional demand.

- moved by Councillor Staniforth, seconded by Councillor Burgess

Voting

For the motion - 8 votes

For the amendment - 2 votes

(For the motion: Councillors Bennett, Dalgleish, Gardiner, Jones, Mattos-Coelho, McNeese-Mechan, Mowat and Osler.)

For the amendment: Councillors Burgess and Staniforth.)

Decision 2

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.

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

Appendix

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.</p>		
<p>4.1 – 55 Broughton Road, Edinburgh, EH7 4EX</p>	<p>Proposal for change of use from office to short term let visitor accommodation - application no. 24/00456/FULSTL</p>	<p>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.</p>
<p>4.2 – Drylaw House, 32 Groathill Road North, Edinburgh</p>	<p>Proposal for proposed erection of 3 Nos. self-contained holiday lodges with provision of external shared deck area, associated landscaping, access arrangements and car parking - application no. 23/03426/FULSTL</p>	<p>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.</p>
<p>4.3 – 20 Haymarket Yards, Edinburgh, EH12 5WU</p>	<p>Proposal for erection of office (Class 4) and associated public realm, landscaping, and cycle parking - application no. 24/00297/FUL</p>	<p>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.</p>
<p>4.4 – 4 Hope Street, Edinburgh, EH2 4DB</p>	<p>Proposal for alterations and change of use from offices to 6 No. short term let flats - application no. 23/06659/FULSTL</p>	<p>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.</p>
<p>4.5 - 18-24 John's Lane, Edinburgh, EH6 7EU</p>	<p>Proposal for proposed change of use and alterations to existing derelict warehouse to form student housing development - application no. 23/06794/FUL</p>	<p>To CONTINUE consideration of the application for a site visit and a hearing.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>4.6 - 18-24 John's Lane, Edinburgh, EH6 7EU</p>	<p>Proposal for proposed alterations and change of use of existing derelict warehouse to form student housing development - application no. 23/06796/LBC</p>	<p>To CONTINUE consideration of the application for a site visit and a hearing.</p>
<p>4.7 - 181 St John's Road, Edinburgh, EH12 7SL</p>	<p>Proposal to Section 42 Application to Vary Conditions 04, 05, 06, 07, and 09 and to delete condition 08 of Planning Permission 18/02831/FUL. Mixed use development incorporating residential development (Class 9 and Sui Generis flats) together with commercial floorspace (including Class 1, 2 and 3) and hot food takeaway (Sui Generis), car parking and associated works (amended) - application no. 23/07342/FUL</p>	<p>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.</p> <p>Declaration of interests</p> <p>Councillor Bennett (non-financial) as she had had communication with the developers.</p>
<p>4.8 - 1A Lochend Butterfly Way, Edinburgh, EH7 5FF</p>	<p>Proposal for proposed residential development and associated landscaping works (As Amended) - application no. 23/01418/FUL</p>	<p>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.</p>
<p>4.9 - 119 Montgomery Street, Hillside, Edinburgh</p>	<p>Proposal to change of Use from Office to Short Term Let in retrospect - application no. 23/04763/FULSTL works - application no. 23/06565/LBC</p>	<p>To REFUSE planning permission subject for the reasons as set out in section C of the report by the Chief Planning Officer.</p>
<p>4.10 - 4 Oversman Road, Edinburgh (Land 160 metres northeast of)</p>	<p>Proposal for proposed development of Sui Generis car showroom with car storage and motor vehicle service and repair, ancillary offices, erection of 2.4m high fence, access, car parking and landscaping - application no. 23/07321/FUL</p>	<p>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.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>4.11 - 72 - 77 Princes Street & 1 - 5 Hanover Street, Edinburgh, EH2 2DF</p>	<p>Proposal for redevelopment of existing floorspace for serviced apartment use including associated alterations and extensions - application no. 23/06881/FUL</p>	<p>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.</p>
<p>4.12 - 72 - 77 Princes Street & 1 - 5 Hanover Street, Edinburgh, EH2 2DF</p>	<p>Proposal for redevelopment of existing floorspace for serviced apartment use including associated alterations; new rear extension in place of the existing; replacement windows on the south, west and east elevations; new entrance screens; new pitched roof to replace the original and new rooftop extension; extended lift and stair and new entrance doors - application no. 23/06884/LBC</p>	<p>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.</p>
<p>4.13 - 2F & 3F 7 - 8 Randolph Place, Edinburgh, EH3 7TE</p>	<p>Proposal for proposed change of use from class 4 offices to sui-generis self-catering flats for holiday accommodation - application no. 24/00653/FULSTL</p>	<p>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.</p>
<p>4.14 - 43 Thistle Street South West Lane, Edinburgh, EH2 1EW</p>	<p>Proposal to change of use from vacant offices to serviced apartments with minor external works - application no. 23/04871/FULSTL</p>	<p>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.</p>
<p>7.1 - 5 Winton Drive, Edinburgh, EH10 7AL</p>	<p>Proposal for erection of a 48 bed care home development, including landscaping, access and associated works - application no. 23/07334/FUL</p>	<p>1) To REFUSE the request for a site visit. (On a division)</p> <p>2) To GRANT planning permission subject to the conditions, reasons and informatives as set out in</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
		section C of the report by the Chief Planning Officer. (On a division)

Development Management Sub Committee

Wednesday 1 May 2024

Report for forthcoming application by

University Of Edinburgh - Estates Dept. for Proposal of Application Notice.

24/01183/PAN

at University of Edinburgh, Darwin Building, Max Born Crescent.

Erection of research and teaching building, with associated landscaping, access, and cycle parking.

Item number

Report number

Wards

B15 - Southside/Newington

Summary

This report is to inform the Development Management Sub-committee of a potential forthcoming planning application for the erection of a replacement research and teaching building on the site of the Darwin Building along with associated landscaping, access works and cycle parking.

In accordance with the provisions of The Town and Country Planning Act (Scotland) Act 1997 (as amended), a Proposal of Application Notice was submitted on the 8 March 2024.

Links

Coalition pledges

Council outcomes

Single Outcome Agreement

Recommendations

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

Background

2.1 Site description

The site is located within the University of Edinburgh King's Buildings Campus. It extends to 1.2 hectares and includes the Darwin Building, which has permission for demolition, the Michael Swann Building (being retained) and a temporary construction access leading to Mayfield Road. The site bounds educational uses except Craigmillar Park Golf Course to the south and residential properties on the eastern side of Mayfield Road.

The site is within the Urban Area in the Edinburgh Local Development Plan 2016. There are no specific designations which apply to the site, except Cycleway Footpath Safeguard T7 (To King's Buildings and Mayfield Road) which is located at the southeast corner. Craigmillar Park Golf Course is designated Open Space and falls within the Green Belt, a Special Landscape Area (Braids, Liberton, Mortonhall) and a Local Nature Conservation Site.

Craigmillar Park Conservation Area terminates at Mayfield Road and the Category B listed Hudson Beare Building (LB51407) sits outwith the site to the north on the opposite side of Max Born Crescent. The Darwin Building is located within the cone of one Key View S10b (Castle from A701, Liberton Brae/Kirkgate). The non-statutory King's Buildings Planning Framework applies to the site.

2.2 Site History

24/01184/SCR
University of Edinburgh
Darwin Building
EH9 3BF
Request for an EIA Screening Opinion
EIA Not Required
19 March 2024

24/01187/CLP
University of Edinburgh
Darwin Building
EH9 3BF
Proposed demolition of Darwin Building and temporary growth facility
Granted
20 March 2024

23/06561/FUL
University of Edinburgh
Darwin Building
EH9 3BF
Application for temporary construction road (continuance of planning permission
19/04307/FUL) (as amended)
Granted
15 December 2023

20/05825/FUL
Land Adjacent to Daniel Rutherford Building
Max Born Crescent
Edinburgh
Proposed portacabins for research and development
Granted
22 March 2021

17/04651/FUL
University of Edinburgh
Darwin Building
EH9 3BF
Erection of Research and Development Facility for School of Biological Sciences
including associated access, servicing, and landscape works.
Granted
1 February 2018

16/02873/FUL
University of Edinburgh
Darwin Building
EH9 3BF
Proposed extension to and redevelopment of existing Darwin Building and demolition
with redevelopment of existing library building with associated landscaping, car
parking access and infrastructure.
Granted
7 November 2016

Main report

3.1 Description of the Proposal

Any planning application will relate to the erection of a replacement research and teaching building on the site of the Darwin Building along with associated landscaping, access works and cycle parking. The gross floor space of any building as a result of the development is likely to exceed 5,000sqm.

3.2 Key Issues

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

a) The principle is acceptable in this location

The principle is acceptable as the planning application is not anticipated to include any material change in the use of the land.

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 (CP2030) 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 CP2030 may change, including the weight attributed to it as it undergoes examination.

There is also the potential for CP2030 to be adopted during the eighteen-month period that this Proposal of Application Notice is valid or during the determination period after a planning application is submitted. In this event, CP2030 and National Planning Framework 4 will form the Development Plan against which any planning application will be assessed along with any material considerations.

b) The design is acceptable in this location

The demolition of the Darwin Building and adjacent 'Temporary Growth Facility' has been confirmed as permitted development under Class 70 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) (application reference: 24/01187/CLP). It would not be competent for the Planning Authority to entertain the retention of a building(s) which can lawfully be demolished under Class 70. Accordingly, the forthcoming planning application shall solely focus on the acceptability against relevant policy of the new development and retention / refurbishment of the existing building(s) will not be considered.

The proposals will be assessed against all relevant design related policies of the Development Plan in force as well as the provisions of non-statutory Planning Guidance. At this stage, and whilst subject to change, the replacement building is likely to be smaller in height but greater in footprint than the Darwin Tower. Any planning application will be expected to demonstrate how the development constitutes an improvement for the street and city scape whilst safeguarding and enhancing (where relevant) the interest and integrity of nearby natural and historic assets (e.g. setting of listed buildings and impact on key views).

c) There will be material adverse impacts for residential amenity

The proposals will be assessed against all relevant amenity related policies of the Development Plan as well as the provisions of non-statutory Planning Guidance. At this stage, and whilst subject to change, material adverse impacts for residential amenity are not expected owing to the distance properties will sit from a replacement building of a similar principal use and floorspace to what already exists.

d) The access arrangements and transport impacts are acceptable

The proposals will be assessed against all relevant transport related policies of the Development Plan as well as the provisions of non-statutory Planning Guidance. At this stage, and whilst subject to change, very limited car parking is proposed and the temporary construction access leading to Mayfield Road is likely to be removed. The applicant will be required to provide transport information to demonstrate how the proposals prioritise active travel and are aligned with parking standards, including service arrangements and cycle parking provision.

e) There are any other environmental factors that require consideration

Whilst an Environmental Statement will not be required (application reference: 24/01184/SCR), sufficient information to demonstrate that the site can be developed without unacceptable impacts on the environment including how it will address the global climate and nature crisis will be expected. The following supporting documentation is anticipated:

- Archaeological / heritage information;
- Design and Access Statement;
- Landscape and visual impact information;
- Pre-Application Consultation Report;
- Planning Statement;
- Site remediation information;
- Surface water drainage information;
- Sustainability information and
- Transport information.

The above is not an exhaustive list and other supporting documentation may be identified prior to the planning application being submitted or during its 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

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

Risk, Policy, compliance and governance impact.

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

Equalities impact

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

Sustainability impact

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

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions are currently ongoing regarding a possible planning application.

8.2 Publicity summary of representations and Community Council comments

The following parties were served with a copy of the Proposal of Application Notice on the 8 March 2024:

-
- Grange and Prestonfield Community Council;
 - Liberton and District Community Council;
 - Gilmerton and Inch Community Council;
 - Councillor Steve Burgess;
 - Councillor Pauline Flannery;
 - Councillor Simita Kumar;
 - Councillor Tim Pogson;
 - Councillor Lezley Marion Cameron;
 - Councillor Martha Mattos-Coelho;
 - Councillor Phil Doggart;
 - Councillor Lesley Macinnes;
 - Daniel Johnson MSP and
 - Ian Murray MP.
-

The following consultation was/will be carried out:

- Public event on the 27 March 2024 between 4pm and 7pm at the Elm
- Lecture Theatre, University of Edinburgh King's Building's Campus,
- EH9 3FG;
- Public event on the 8 May 2024 between 4pm and 7pm at the Elm Lecture
- Theatre, University of Edinburgh King's Buildings Campus, EH9 3FG;
- Publication of an advert in the Edinburgh Evening News the week
- commencing the 18 March 2024;
- Publication of an advert in the Edinburgh Evening News the week
- commencing the 29 April 2024; and
- Publication of a website (now live) at www.ed.ac.uk/local/campus-development-and-consultations.

The results of the above consultation will be summarised within a Pre-application Consultation Report for submission with any planning application.

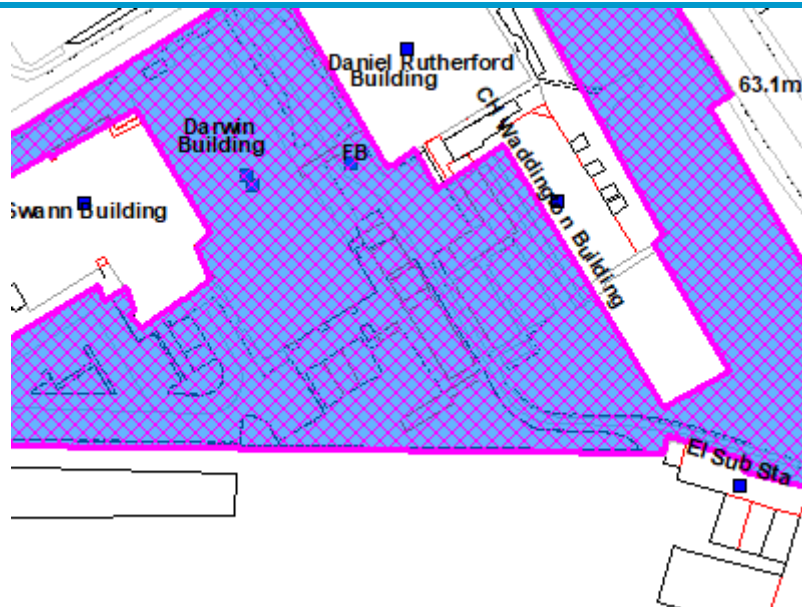
Background reading/external references

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

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Graham Fraser, Assistant Planning Officer
E-mail: graham.fraser@edinburgh.gov.uk Tel:0131 469 3811

Location Plan



© Crown Copyright and database right 2015. All rights reserved. Ordnance Survey License number 100023420
END

This page is intentionally left blank

Development Management Sub-Committee Report

Wednesday 1 May 2024

**Application for Planning Permission
3 John's Place, South Leith, Edinburgh.**

Proposal: Change of use from Class 4 offices to Class 7 hotel (as amended).

**Item – Committee Decision
Application Number – 24/00021/FUL
Ward – B13 - Leith**

Reasons for Referral to Committee

The application received 28 public comments in support of the proposed development. Consequently, under the Council's Scheme of Delegation the application must be determined by the Development Management Sub-Committee as the recommendation is for refusal.

Recommendation

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

Summary

The proposed change of use to a Class 7 hotel would have an unacceptably adverse impact on the amenity of neighbouring residential properties. The proposal fails to comply with NPF 4 policy 30 and LDP policy Hou 7.

SECTION A – Application Background

Site Description

The application site is a mid-terraced four storey traditional townhouse, overlooking Leith Links and is currently in Class 4 office use. The property is Category B listed (ref 27540 14/12/1970) and is located in the Leith Conservation Area. The property has been previously extended and altered to the rear.

The surrounding area is mixed in character with residential properties on either side of the application site, and a commercial car garage to the rear accessed on Johns Lane.

Description of the Proposals

The application proposes a change of use from an existing Class 4 office to a Class 7 hotel. A total of 16 en-suite bedrooms are proposed along with a laundry room, reception, and storage.

There are no external alterations proposed associated with the change of use.

Relevant Site History

No relevant site history.

Other Relevant Site History

Nearby Properties:

24/00770/LBC - Alter existing guest house at 9 John's Place, change the use of and extend adjacent buildings at 15, 16 and 17 John's Lane from disused garage to guest house and interconnect with 9 John's Place. Refused 23/04/2024.

23/06794/FUL - Proposed change of use and alterations to existing derelict warehouse to form student housing development. Pending decision continued for hearing 17/04/2024.

23/02622/FUL - Alter an existing guest house at 9 John's Place, change the use of and extend adjacent buildings at 15, 16 and 17 John's Lane from disused garage to guest house and interconnect with 9 John's Place. Refused 23/01/2024.

23/01510/FUL - Remove walls, gate and railings between pillars to allow access and form car parking. Refused 26/05/2023.

22/01291/FUL - Alter an existing guest house at 9 John's Place, change the use of and extend adjacent buildings at 15, 16 and 17 John's Lane from disused garage to guest house and interconnect with 9 John's Place. Withdrawn 12/04/2023.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Environmental Protection

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

Publicity and Public Engagement

Date of Neighbour Notification: 11 January 2024

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 19 January 2024

Site Notices Date(s): 16 January 2024

Number of Contributors: 31

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 or its setting?

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

- Managing Change - Use and Adaptation of Listed Buildings

All physical alterations proposed to the property associated with the change of use are internal only and do not require planning permission. The internal alterations have been assessed separately in an application for listed building consent (23/07500/LBC).

HES guidance on adaptations to listed buildings states; *"The reuse of listed buildings will have planning implications. Any proposals will have to comply with local and national planning policies. There may also be other issues to take into account when determining a planning application"*.

Conclusion in relation to the listed building

There are no external alterations proposed to the listed building and there will be a neutral impact on its special character. The proposal will not impact on the special architectural or historic interest of the listed building and is acceptable 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 Leith Conservation Area Character Appraisal emphasises the area's unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value.

Conclusion in relation to the conservation area

The Leith Conservation Area is characterised by a mix of uses including residential and commercial. The proposals will have a neutral impact on the character of the conservation area.

The proposals preserve the character and appearance of the conservation area and are acceptable 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 support 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 Policies 7, 9, 30.
- LDP policies Emp 10, Hou 7.

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

Principle

The application seeks a change of use from an existing Class 4 to a Class 7 hotel.

The proposed floor plans submitted do not demonstrate that the premises can be operated as a Class 7 use as would typically be expected. Although a small area at the front door is labelled as reception, other than a linen room there are no other facilities proposed that would be traditionally associated with a hotel use such as a lobby, seating area or bar/restaurant area. This implies that the reception would only be managed with no significant staff presence. If this is the case, the proposed use would be more akin to a Sui Generis short term serviced apartment than a Class 7 hotel. As a result, although an assessment of the principle of a Class 7 hotel has been made below, there is insufficient certainty in the submitted plans to show if this change of use could take place.

LDP policy Emp 10 (Hotel Development) states new hotels will be supported in locations within the urban area with good public transport access to the city centre.

NPF 4 Policy 30 (Tourism) states that proposals for tourism related development should take into account;

- i) the contribution made to the local economy;
- ii) compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors;
- iii) impacts on communities, for example by hindering the provision of homes and services for local people;
- iv) opportunities for sustainable travel;
- v) accessibility for disabled people;
- vi) measures taken to minimise carbon;
- vii) opportunities to provide access to the natural environment.

In terms of the site location, the property is located within the urban area and is accessible to the city centre with regular bus and tram routes within a short walking distance. The proposal complies with LDP policy Emp 10 and NPF 4 Policy 30 iv).

No evidence has been submitted with the application to show the impact to the local economy which the loss of office space and replacement with a hotel would create. A full assessment against NPF4 Policy 30 i) cannot be made.

The property itself does not create accessibility for physically disabled people. However, this is constrained by the listed status of the existing building and a justified compliance with NPF 4 Policy 30 v) is made.

The proximity of the site to Leith Links gives opportunities to access open space in compliance with NPF 4 Policy 30 vii).

Parts ii) and iii) of NPF4 Policy 30 are addressed in the amenity section below.

NPF4 Policy 9 states "development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses.

The existing property has not been vacant for a substantial period of time. However, the proposal will make use of an existing building, and require internal alterations only to facilitate the change of use. The proposal therefore complies with NPF 4 policy 9.

Impact on neighbouring amenity

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*".

Adjoining properties on either side of the application site at 2, 4 and 5 Johns Place are currently in residential use.

The existing Class 4 use of the building allows for business use which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell or fumes. The change of use to a Class 7 would result in pedestrian and visitor movements later in the evening with a high turnover of guests. The size of the property, with 16 guest bedrooms means that there will be frequent movements from the property. A hotel use of this scale would adversely affect neighbouring amenity given the immediate prevailing character is residential.

In addition, a Class 7 hotel use would allow for the potential future installation of other internal services associated with a hotel use such as a commercial kitchen/bar area for guests, without requiring planning permission. This has the potential to impact on neighbouring amenity and no details of sound attenuation and ventilation have been submitted.

It is noted that there are uses in the area which may be an existing noise source such as a car repair garage on John's Lane to the rear of the application site which may have an impact on the existing amenity levels for these residential properties. However, these also appear to operate during traditional business hours with little impact during quieter evening hours. The proposed change of use will have a greater degree of movement and noise during these existing quieter times and it is on this basis that an adverse impact on existing amenity would occur.

The proposal fails to comply with NPF4 policy 30 ii) and LDP policy Hou 7.

Impact on the historic environment

NPF4 policy 7 c) states that development proposals for the reuse of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. NPF4 policy 7 d) states 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.

As detailed above all physical alterations proposed to the property associated with the change of use are internal only and do not require planning permission. The internal alterations have been assessed separately in an application for listed building consent (23/07500/LBC). The proposals therefore comply with NPF4 policy 7 c) and d).

Climate and nature crisis

No details have been submitted with the application to show how the proposed use will be supported by low carbon technology. Insufficient evidence has been submitted to show compliance with NPF4 policy 30 vi).

Conclusion in relation to the Development Plan

The proposals fail to comply with NPF4 policy 30 and LDP policy Hou 7.

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

The following material planning considerations have been identified:

Emerging policy context

On 5 April 2024 the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the proposed modifications have been fully considered.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified. There are no changes proposed to the accessibility of the building from the existing situation.

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

Public representations

A total of 28 support comments and 3 objections were received. The Leith Links Community Council objected to the proposals.

A summary of the representations is provided below:

material considerations - support

- Site is located in the urban area;
- Located in an area with good transport links;
- Complies with NPF 4 policies 9 and 30;
- Reuse of the listed building supported by NPF 4 policy 7.
- Complies with LDP policy Emp 10.

material considerations - objection

- Adverse impact on amenity of neighbouring residents;
- Increased footfall and noise to property;
- Existing overprovision of hotels in Edinburgh;
- Loss of office space which provides employment uses;
- Failure to provide operational details;
- Intensification of hotel uses in the local area;
- Failure to comply with LDP policy Hou 7.

non-material considerations - objection

- Potential use of the property as HMO accommodation;

Material considerations have been addressed in the report above.

Overall conclusion

The proposed change of use to a Class 7 hotel would have an unacceptably adverse impact on the amenity of neighbouring residential properties. The proposal fails to comply with NPF 4 policy 30 and LDP policy Hou 7.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

Reason for Refusal:-

1. The proposal fails to comply with NPF4 policy 30 as they are incompatible with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors.
2. The proposal fails to comply with LDP policy Hou 7 (Inappropriate Uses in Residential Areas) as it would have a materially detrimental effect on the living conditions of nearby residents.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 9 January 2024

Drawing Numbers/Scheme

01, 02A, 03A, 04A, 05, 06, 07A, 08A, 09, 10

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Rachel Webster, Planning Officer
E-mail: rachel.webster@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals.

DATE:

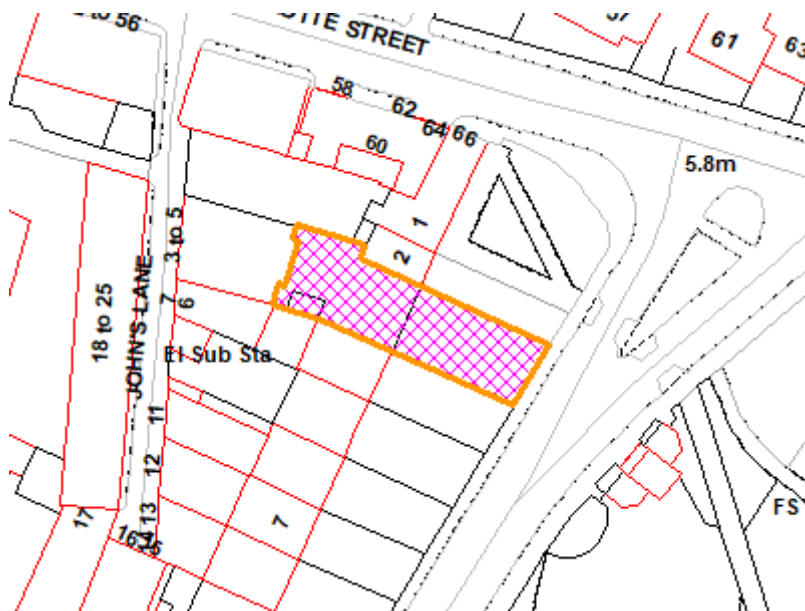
NAME: Environmental Protection

COMMENT: No objection subject to condition

DATE:

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

Location Plan



© Crown Copyright and database right 2014. All rights reserved. Ordnance Survey License number 100023420

Development Management Sub-Committee Report

Wednesday 1 May 2024

**Application for Listed Building Consent
3 John's Place, Edinburgh, EH6 7EL.**

Proposal: Internal alterations to form Class 7 hotel (as amended).

**Item – Committee Decision
Application Number – 23/07500/LBC
Ward – B13 - Leith**

Reasons for Referral to Committee

This application has been referred to the Development Management Sub Committee for determination as it relates to listed building consent for works requiring committee determination under application 24/00021/FUL.

Recommendation

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

Summary

The proposals have insufficient special regard to the desirability of preserving the building and will adversely impact on its special architectural and historic interest. The proposals will preserve the character and appearance of the conservation area. The proposals fail to comply with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a mid-terraced 4 storey traditional townhouse, overlooking Leith Links currently in Class 4 office use. The property is Category B listed (ref 27540 14/12/1970) and is located in the Leith Conservation Area.

The surrounding area is mixed in character with residential properties on either side of the application site, and a commercial car garage to the rear accessed on Johns Lane.

Description of the Proposals

The application proposes a change of use from an existing Class 4 office to a Class 7 hotel. A total of 16 en-suite bedrooms are proposed along with a laundry room, reception and storage.

Various internal alterations are proposed associated with the change of use. These include new full height partitions to form en suites within existing rooms, new podded en-suite formed within principal rooms, down takings, new partition walls and blocking up existing doorways.

A revised scheme has been submitted which shows clarity on the heights of new internal partitions proposed. However, there is little detail on plan to show how these new features will be serviced including extract and ventilation and the impact that this may have on existing features of historical interest in the property.

Relevant Site History

24/00021/FUL
3 John's Place
South Leith
Edinburgh

Change of use from Class 4 offices to Class 7 hotel (as amended).

Other Relevant Site History

No additional history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

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

Publicity and Public Engagement

Date of Neighbour Notification: Not Applicable

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 19 January 2024

Site Notices Date(s): 16 January 2024

Number of Contributors: 2

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) within a conservation area, this application for listed building consent requires to be assessed against Sections 14 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

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

Assessment

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

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

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

- Managing Change - Interiors
- Managing Change - Use and Adaptation of Listed Buildings

Impact on Listed Building

The proposal will make alterations to both the plan form and decorative schemes within the existing building. Within the principal rooms to the front of the property the proposals involve the framing out and blocking up of existing fireplaces to accommodate new bed positions. Also, throughout the building new en-suite bathrooms are proposed, including podded bathrooms within principal rooms.

Managing change - Interiors states *"room proportions are important to the integrity of a design. The size and height of a room is normally carefully proportioned to suit its historic function. For example, the size and arrangement of a principal space such as a dining or drawing room normally contrasts with the less formal or less elaborate 'private' spaces, such as bedrooms"*.

Non statutory Listed Building and Conservation Area guidance states *"podded kitchens and bathrooms will rarely be permitted in principal rooms but may be permitted elsewhere provided they are of a limited area, are freestanding and do not have a detrimental effect on any fixtures of architectural interest."*

The guidance also states, "*new kitchens and bathrooms should be located at the rear of a building to prevent fittings being built across windows to the front of a property and to avoid cluttering a front elevation with downpipes and ventilators*".

The proposed alterations to rear rooms, and those on the basement and second floor level are acceptable on the basis that they will have a limited impact on historic features.

However, the plan form of principal rooms at first floor level will be lost through the erection of new podded partition walls to form en-suite bathrooms within these spaces.

The drawings also fail to show how servicing including duct work and ventilation will impact on the historic fabric. The proposals will have a detrimental impact on historical architectural features and will obstruct views of existing cornice in principle rooms and will therefore adversely impact on the special architectural and historic interest of the listed building.

Conclusion in relation to the listed building

The proposal will have an adverse impact on the special architectural or historic interest of the listed building and fails to comply with Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

The works are wholly internal and will have no impact on the character and appearance of the conservation area.

Conclusion in relation to the conservation area

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

c) there are any other matters to consider?

The following matters have been identified for consideration:

Equalities and human rights

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

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

Public representations

Two objections have been submitted, including one from the Leith Links Community Council.

material considerations

- Concealment of fireplace in bedroom 10;
- No investigation of historic fabric behind lowered ceilings.

non-material considerations

- Lack of design statement or structural condition report.

Overall conclusion

The proposals have insufficient special regard to the desirability of preserving the building and will adversely impact on its special architectural and historic interest. The proposals will preserve the character and appearance of the conservation area. The proposals fail to comply with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

Reason for Refusal: -

1. The proposals will have a detrimental impact on historical architectural features and will obstruct views of existing cornice in principle rooms and will therefore adversely impact on the special architectural and historic interest of the listed building. The proposals fail to comply with Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 8 January 2024

Drawing Numbers/Scheme

01, 02A, 03A, 04A, 05, 06, 07A, 08A, 09, 10

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

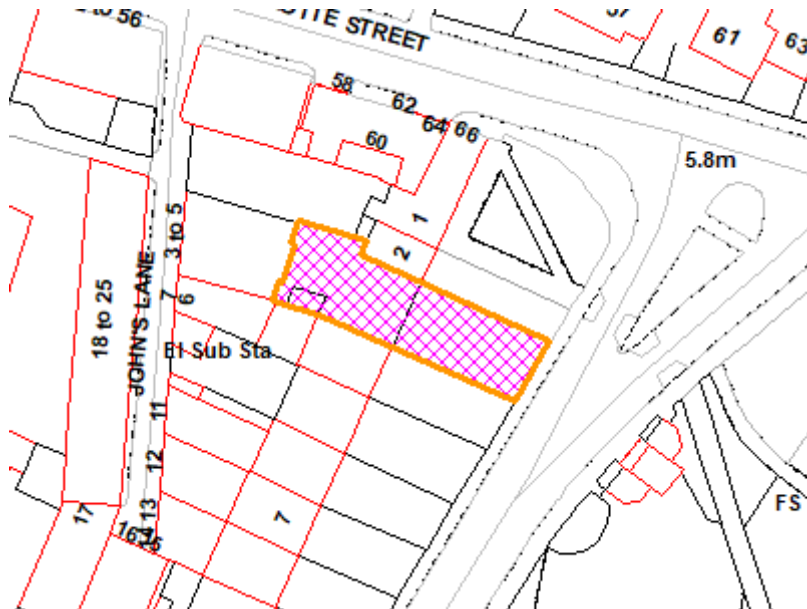
Contact: Rachel Webster, Planning Officer
E-mail: rachel.webster@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

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

Location Plan



© Crown Copyright and database right 2014. All rights reserved. Ordnance Survey License number 100023420

This page is intentionally left blank

Development Management Sub-Committee Report

Wednesday 1 May 2024

**Application for Planning Permission
27 - 29, 31 Ratcliffe Terrace, Edinburgh, EH9 1SX.**

Proposal: Demolition of an existing mixed use (office and garage) building and the construction of a six-storey purpose-built student residential development with associated access and landscaping, including change of use.

**Item – Committee Decision
Application Number – 24/01092/FUL
Ward – B15 - Southside/Newington**

Reasons for Referral to Committee

The application received 55 public comments in support of the proposed development. Consequently, under the Council's Scheme of Delegation the application must be determined by the Development Management Sub-Committee as the recommendation is for refusal.

Recommendation

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

Summary

Overall, the proposals fail to accord with the Development Plan and associated guidance. The proposals are not an appropriate scale and density for the location and there will not be an acceptable level of amenity achieved for occupiers. There are no material considerations which outweigh the proposals failure to accord with the Development Plan.

SECTION A – Application Background

Site Description

The application site is located on the eastern side of Ratcliffe Terrace opposite its junction with Grange Loan. The existing site consists of a Class 4 office within a three storey building fronting onto Ratcliffe Terrace. An access pend leads through to the rear of the site which is used as a car repair garage and features low rise industrial style buildings.

The surrounding area is characterised by mixed uses with a petrol station to the west of the application site, a builder's yard directly to the north and a number of residential uses in the immediate local area.

The site is located outwith, but adjoining the edge of the Blacket Conservation area which runs down the eastern boundary of the site. The designated Ratcliffe Local Centre is also outwith but adjoining the application site with its boundary running along the sites southern edge.

Description of the Proposals

It is proposed that all existing buildings on the site are demolished and a new purpose built student accommodation (PBSA) block is erected. A total of 59 studio units are proposed.

The development will consist of two separate accommodation blocks which will be linked by a large, glazed curtain wall providing walkway corridors on the southern side of the site. No windows are proposed on the north or south facing elevations of each block. Between the blocks will be a small courtyard area which will be enclosed using a hipped glass roof to provide amenity space for future occupiers. At the eastern end of the site an area will be provided as external amenity space.

The new buildings will be six storeys in height with a flat roof. Part of the sixth floor at the front block will be set back from the main building. Proposed materials are buff brick with areas of white render. To the top floor red zinc cladding is proposed.

The proposals include no vehicle parking provision. Cycle parking provision will be at a rate of 100% with 59 spaces proposed within an internal, secured access. The bike store will comprise of.

- 32 two tier racks (54%).
- 27 standard racks (47%).

Supporting Documents

A design statement was included with the submitted drawings and this can be found on the Planning Online portal.

Relevant Site History

No relevant site history.

Other Relevant Site History

No additional history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Transport Planning

Archaeology

Environmental Protection

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

Publicity and Public Engagement

Date of Neighbour Notification: 15 March 2024

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 22 March 2024

Site Notices Date(s): 19 March 2024

Number of Contributors: 195

Section B - Assessment

Determining Issues

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

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

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

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

Assessment

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

b) The proposals comply with the development plan?

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

- NPF4 Climate and nature crises policies 1, 2, and 3;
- NPF4 Historic assets and sustainable places policies 7, 9, 12 and 13;
- NPF4 Successful places policies 14, 15, 16, 20, 22 and 23;
- LDP Design Policies Des 1, Des 2, Des 3, Des 4, Des 5, Des 6, Des 7, Des 8, Des 11;
- LDP Housing Policies Hou 1, Hou 8;
- LDP Environment Policies Env 21, Env 22;
- LDP Transport Policies Tra 2, Tra 3, Tra 4;
- LDP Employment Policy Emp 9;
- LDP Resources Policies Rs 1;

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

Principle

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

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

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

Location of Student Housing

In terms of criterion a) of policy Hou 8, the site is located within easy walking distance of George Square and Kings Buildings campus of Edinburgh University. Direct bus routes to Naper Merchiston Campus, the Bioquarter can also be accessed within a short walking distance of the application site and are easily accessible by cycle routes. There are several designated cycle quiet routes within a short distance of the application site. The site has appropriate access to educational facilities via a range of sustainable transport modes.

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

Concentration of Student Housing

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

The 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. Due to the small number of units there is minimal impact of the proposal on the concentration within the 800m area which would increase from 43.9% to 44%. However, the overall concentration should be considered as even small cumulative increases may have an impact depending on the character of the area and its existing uses.

The site is close to Edinburgh University and the 800m area includes a large amount of University Accommodation concentrated within Pollock Halls. It therefore to be expected that this area will have a high concentration of students within purpose-built accommodation but also those in other private accommodation who chose to live close to the university.

Much of the existing PBSA is located to the north of the proposal site and to the east where Pollock Halls is located. In the immediate vicinity there is PBSA at 199 Causewayside which provides 187 bedspaces, Duncan Street which provides 24 bed spaces and 59 Ratcliffe Terrace which provides 70 bedspaces. There is a current application at 140 Causewayside for 174 units (this has been taken account of in the concentration figure). These sit alongside a range of other uses including the national library, retail units with residential above, residential units and business units.

The wider area is mixed including educational institutions, commercial uses, residential along with private purpose built and university student accommodation. Given the nature of the area, that the estimated student concentration is a maximum and that the impact of the proposal on the concentration level is small it would seem unlikely that this proposal would cause such change in the area that would be detrimental to the balance of the community or to the established character of the area.

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

Site Area and Mix of Uses

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

The site is not identified in the LDP for delivering housing and therefore does not contribute towards the housing land supply. The site area as submitted in the application does not exceed the size criterion set out within the Student Housing Guidance and the expectation would be that there is a 50% contribution to housing on the site. The proposals comply with criterion C.

Mix of Accommodation Type

The proposal is for solely studio rooms therefore does not meet criteria d) of the Student Housing Guidance which advises that sites should comprise a mix of type of accommodation, including cluster units. An internal breakout space of approximately 80 sqm is proposed within the covered courtyard. As this is within an entirely glazed room it is likely that this will hold a poor standard of amenity space to mitigate that lack of social interaction in studio rooms, particularly during the winter months.

The proposal fails to comply with criteria d) of the non-statutory student housing guidance.

Employment Uses

LDP Policy Emp 9 (Employment Sites and Premises) supports the redevelopment of premises in the urban area for uses other than business provided that the introduction of non-employment uses will not prejudice or inhibit the activities of any nearby employment use and the proposal will contribute to the comprehensive regeneration and improvement of the wider areas.

As the site area falls under one hectare, there is no requirement for replacement business spaces to be provided. Nonetheless there will be a small element of employment uses maintained by way of the running and maintenance of the student housing block.

The surrounding area is mixed in character with commercial premises to the north and south of the application site, and residential properties to the east and west. The existing commercial premises are relatively noisy operations and little evidence has been submitted by the applicant to show how the proposals would impact on the ongoing operations of these premises.

The agent of change principle would apply to the development as a noise sensitive use adjacent to existing commercial premises and insufficient justification has been shown how this would be addressed in order to comply with NPF4 policy 23.

The proposed residential student use in this location would potentially inhibit these existing nearby employment uses. The proposal fails to comply with NPF4 policy 23.

Conservation Area Setting

The proposed development site lies outwith, but directly adjacent to the boundary of the Blasket Conservation Area. The conservation area boundary runs along eastern edge of the site enclosing the rear curtilage of properties on South Gray Street. As a result of the proximity of the site to the conservation area, any development has the potential to impact on its setting.

The 'Blasket Conservation Area Character Appraisal' identifies that there are a number of key areas of setting and edges to the conservation area. The West Blasket area demonstrates a diverse mix of building types given coherence by the limited range of traditional materials.

The area around the application site is not identified as a key gateway to the conservation area. However, the proposals will result in the building and massing which is taller than the prevailing character of this part of Ratcliffe Terrace. The application has provided no analysis of the impact of the proposals on existing local and protected Key Views which extend over the conservation area. No Townscape and Visual Impact assessment has been submitted with the application which would address this issue. In addition, no heritage statement has been submitted with the application.

The proposal has shown insufficient justification that it complies objectives of NPF4 Policy 7.

Climate Mitigation

NPF4 Policy 1 (Tackling the climate and nature crisis) gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. The proposed development contributes to the spatial principles of 'Compact Urban Growth' and 'Local Living' through the use of an existing developed site for alternative uses.

NPF4 Policy 2 a) (climate mitigation and 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.

NPF4 Policy 9 encourages the use of previously developed land over greenfield development. Criteria a) states development proposals that will result in the sustainable reuse of brownfield land will be supported. Criteria d) states that development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses. Given the need to conserve embodied energy, demolition will be regarded as the least preferred option.

Sustainable transport is prioritised by the very low car parking levels proposed in the new development. A plant room is shown at basement level, but no other details have been provided to show how the proposed building will be heated and proposed energy sources.

The proposal fails to comply with NPF 4 policies 2 and 9 as no analysis has been provided on the suitability of conversion of the existing buildings on site and how lifecycle greenhouse gas emissions are to be minimised.

Ecology

NPF 4 policy 3 (Biodiversity) states that proposals for local development should include appropriate measures to conserve, restore and enhance biodiversity. The site is existing developed land with little opportunity for habitat. No analysis has been provided to show if the existing buildings have habitat potential such as bat surveys. The proposed plans show two new trees within the rear garden area which will increase biodiversity. However, given the overshadowing of this area of the plot it is unlikely that these will become successfully established.

Height, scale and massing

NPF4 Policy 14 (Design, quality and place) supports development proposals that are designed to improve the quality of an area and are consistent with the six qualities of successful places. LDP Design Policies Des 1 - Des 8 set a requirement for proposals to be based on an overall design concept which draws on the positive characteristics of the surrounding area with the need for a high quality of design which is appropriate in terms of height, scale and form, layout, and materials.

LDP policy Des 11 (Tall Buildings) states that development which rises above the prevailing building height will only be granted in specific circumstances. A street section has been submitted to show how the proposal would fit along the established heights on the eastern side of Ratcliffe Terrace. Although it is noted that there is a slope to the street, this section shows that the proposed 6 storey building will still sit slightly above the ridge line heights of existing four storey traditional tenements. On this basis, the proposed development would be overly conspicuous in local and city views and fails to comply with LDP policy Des 11.

In addition, although there are tenement scale buildings which front onto Ratcliffe Terrace, these do not typically maintain this scale throughout the depth of the plot towards South Gray Street. The eastern side of these plots on this side of the street are typically occupied by garden ground or by lower rise development such as mews style accommodation. The scale and built form of the proposals will not contribute to the sense of place and the spatial character of the area. The proposed heights and massing of the building are not appropriate in their immediate context and fail to comply with LDP Policies Des 3 and Des 4.

Design and Materials

LDP Policy Des 1 (Design Quality and Context) states that proposals should be based on an overall design concept that draws on the positive characteristics of the surrounding area. LDP Policy Des 3 (Incorporating and Enhancing Existing and Potential Features) states that planning permission will be granted for development where it is demonstrated that existing characteristics and features worthy of retention on the site and in the surrounding area, have been identified, incorporated and enhanced through its design.

The existing buildings on site are split into three main areas with a three storey brick frontage with pend, followed by a single storey and two storey industrial style building to the rear. Although there is little architectural merit to the rear two buildings, and their demolition is supported, the existing frontage has a positive impact on the character of the street and local distinctiveness. There is inadequate justification provided for the demolition of this building which also contributes to the local history of the area.

The building will have a blocky appearance with a flat roof and a set back element at sixth floor level. To the front elevation the proposal also includes large windows with a distinct horizontal emphasis. This is at odds with the traditional tenements which are characteristic of area which have a vertical emphasis to the elevation and fenestration pattern. The proposal will also have an unusual design feature with a six storey glazed walkway linking the two parts of the proposed new build. Although an innovative design feature, this will have an imposing mass particularly when the site is viewed travelling northwards along Ratcliffe Terrace when viewed with the blank gables of the accommodation blocks.

The proposed material palette consists of buff multi brick to the front and the majority of the side elevations, with white render feature areas to the side and courtyard facing elevations. The use of brick as a material in the context of Ratcliffe Terrace is an appropriate material. However, the extent of the brick proposed on the north and south elevations of the building mean that this will have an overtly dominant appearance in the streetscene. The top floor of the building is to be finished in part in a red zinc cladding. Although there are neighbouring properties with red pantiles to the roof, all tall buildings in the area feature a slate roof and a grey colour to reflect this would be a more appropriate solution than the current proposals.

As is typical in PBSA developments, the building will be serviced through a single main entrance. An active frontage will be provided with access to a reception area.

The design and the proposed materials fail to comply with LDP policy Des 1 and Des 3.

Landscaping

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

The main landscaped area is located at the eastern end of the site and will form a lightwell between the gable of the proposed development and existing properties on Middleby Court (South Gray Street). The garden area will be relatively small extending 10 metres x 3 metres with two new trees. The EDG target is for 50% of a space to achieve two hours or more of sunlight on 21 March. No shadow path analysis of the external amenity areas has been submitted with the application. It is likely that the external amenity space would only receive direct sunlight in the mornings.

The proposals will have an inadequate provision of external amenity space for future occupiers and fail to comply with LDP policy Des 8.

Co-ordinated development

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

No details have been shown how the proposals would have an acceptable impact on potential development sites to the north and south of the proposals and should not unduly constrain neighbouring development sites. The proposed building will occupy the majority of the plot and should any development occur to the south, adjacent to the proposed glazed walkways, the daylight to the development will be severely restricted to the courtyard facing rooms.

The proposals have not shown that they comply with LDP policy Des 2.

Amenity for Future Occupiers

LDP Policy Des 5 (Amenity) sets out criteria for ensuring future occupants have acceptable levels of amenity in relation to noise, daylight, privacy or immediate outlook. Regarding privacy, the guidance states that the pattern of development in an area will help to define appropriate distances between buildings and privacy distances. The application site will not result in any direct overlooking of neighbouring properties and is acceptable.

No formal daylight assessment has been submitted with the application to show how the proposals comply with the Edinburgh Design Guidance in terms of daylight to new rooms which will be the main living areas for future occupiers. However, it is clear that the proposals will fail to meet the required standards using the No Skyline test on the basis of the provision of inner and courtyard facing rooms. Four of the rooms on the southeast corner of the building do not have any window opening at all.

The site is adjacent to existing noisy commercial premises including Jewson, a stonemason, a commercial garage and a jet wash and car garage. No noise impact assessment has been provided to show how these would impact on future occupiers of the development.

The proposed development would fail to provide an adequate standard of accommodation for future occupiers and fails to comply with LDP policy Des 5.

Neighbouring Occupiers

The application site will have limited impact in terms of privacy, sunlight and daylight on neighbouring residential amenity. Although there are residential properties on the adjoining site to the east, this has a blank gable which faces directly onto the application site.

Transport

LDP Policies Tra 2 (Private Car Parking) and Tra 3 (Private Cycle Parking) set out the requirement for private car and cycle parking. The Council's Parking Standards for developments are contained in the Edinburgh Design Guidance.

The proposals involve a car parking free development. Given that this is a highly accessible location in terms of pedestrian, cycle and public transport access, this strategy meets the relevant parking standards. Reducing the impact of the car helps to create more sustainable, attractive places to live and will help to address congestion, air pollution and noise. NPF policy 13 (Sustainable Transport) supports development that promotes and facilitates sustainable travel to prioritise walking, wheeling, cycling and public transport for everyday travel. NPF4 Policy 15 (Local Living) supports developments that contribute to local living and the 20-minute neighbourhood. The proposal allows for reduced car dependency and complies with NF4 policies 13 and 15.

Cycle storage has been provided with 59 secure, covered cycle parking spaces. The internal storage will be 32 two tier racks (54%) and 27 standard bike racks (46%). No non standard cycle parking spaces are proposed. No external visitor cycle parking is proposed. The proposed cycle store is insufficiently scaled to accommodate the required parking provision. Only 1.2 metres of floorspace is provided between the standard and two tier racks which will result in difficulties manoeuvring into the cycle parking spaces.

The proposed cycle parking fails to comply with Edinburgh Design Guidance and the Edinburgh Street Design Guidance Factsheet C7 Cycle Parking and LDP policies Tra 3 and Tra 4.

Flooding

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

A Surface Water Management Plan has been requested to show how the proposals will deal with runoff which has not been submitted for assessment. The proposal fails to comply with NPF policy 22 and LDP policies Env 21 (Flood Protection) and RS 6 (Water Supply and Drainage) which all seek to ensure sustainable water management is in place for new development.

NPF4 policy 20 states that, where appropriate, new blue and/or green infrastructure will be supported as an integral element of the design. The proposed development consists of a flat roof to be finished in a single ply membrane with no integrated blue/green infrastructure or SUDS. The proposal fails to comply with NPF 4 policy 20.

Archaeology

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

Waste

LDP Policy Des 5 (Development Design - Amenity) sets out that planning permission will be granted for development where it is demonstrated that (amongst other matters) refuse and recycling facilities have been sensitively integrated into the design.

Communal refuse storage is provided within the block. However, for the mixed recycling, residual waste and food recycling the proposals are for slightly less capacity than that required by guidance issued by Waste Services. The proposal fails to comply with Policy Des 5 and NPF 4 policy 12.

Healthcare

The site is not within a Healthcare Contribution Zone. No contribution is required at this time.

Contaminated Land

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

b) Conclusion in relation to the Development Plan

The proposal is contrary to NPF4 Policies 2, 9, 7, 20, 22 and 23 and LDP Policies Hou 8, Des 1, Des 3, Des 4, Des 5, Des 11, Env 21, Rs 6, and Tra 3.

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

The following material planning considerations have been identified:

Emerging policy context

On 5 April 2024 the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the proposed modifications have been fully considered.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. Consideration has been given to human rights. No significant impacts have been identified through the assessment.

The proposed accommodation would be fully accessible with amenity spaces located on the ground floor and a lift to the upper floors, thereby meeting varying needs

Public representations

Objection 138, Support 55, Neutral 1

A summary of the representations is provided below and issues are addressed in the report above;

Material objection comments

- existing frontage is of architectural merit;
- excessive height of proposals;
- not in keeping with character of surrounding area;
- inappropriate materials;
- inappropriate fenestration pattern design;
- embodied energy from demolition of existing building;
- impact on neighbouring local centre;
- overall height located at brow of hill;
- adverse impact on the setting of A listed building;
- oversupply of PBSA;
- no affordable housing proposed;
- loss of existing business use;
- insufficient parking provision;
- conversion should be considered;
- loss of local history;
- lack of co-ordination with adjoining sites;
- insufficient bin provision;
- fails to comply with npf 4 policy 7;
- lack of outdoor amenity space for occupiers;
- loss of privacy;
- loss of daylight;
- loss of sunlight;
- traffic congestion;

- impact on local recognised views;
- demolition not supported in climate emergency.

Non - material objections

- loss of private view
- Impact during construction period

Material comments in support

- meets need for new flatted residential;
- massing in keeping with neighbouring blocks;
- good standard of living for future occupiers;
- current buildings run down;
- good for wider economy;
- easily accessible to university campuses and city centre;
- good transport links;
- removes existing noisy use;
- well designed;
- shortage of PBSA.

Conclusion in relation to identified material considerations

None of the identified matters constitute compelling material considerations for approving the proposals.

Overall conclusion

Overall, the proposals fail to accord with the Development Plan and associated guidance. The proposals are not an appropriate scale and density for the location and there will not be an acceptable level of amenity achieved for occupiers. There are no material considerations which outweigh the proposals failure to accord with the Development Plan.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

Reason for Refusal:-

1. The proposals fail to comply with LDP Policy Hou 8 (Student Accommodation) as they would fail to provide cluster flats and a mix of proposed accommodation types.
2. The proposals fail to comply with NPF4 policy 23 as the Agent of Change principle would apply to the development as a noise sensitive use, adjacent to existing commercial premises, and insufficient justification has been shown how this would be addressed.

3. The proposals fail to comply with NPF4 Policy 7 (Historic Assets and Places) as the proposals would fail to preserve or enhance the setting of the adjoining Blacket Conservation Area and fail to show the impact that the proposals would have on key views over the conservation area.
4. The proposal fails to comply with NPF 4 policies 2 (Climate Mitigation and Adaptation) and 9 (Brownfield, Vacant and Derelict Land) as no analysis has been provided on the suitability of conversion of the existing buildings on site and how lifecycle greenhouse gas emissions are to be minimised.
5. The proposed development would be overly conspicuous in local and city views and fails to comply with LDP policy Des 11 (Tall Buildings).
6. The proposal fails to comply with LDP policy Des 3 (Incorporating and Enhancing Existing and Potential Features) as the development has not demonstrated that existing characteristics and features worthy of retention on the site and in the surrounding area, have been identified, incorporated and enhanced through its design.
7. The design and the proposed materials fail to comply with LDP policy Des 1 (Design Quality and Context) and Des 4 (Development Design - Impact on Setting) as the overall design concept fails to draw on the positive characteristics of the surrounding area.
8. The proposed development would fail to provide an adequate standard of accommodation for future occupiers and fails to comply with LDP policy Des 5 (Amenity).
9. The proposed cycle parking fails to comply with LDP policy Tra 3 (Private Cycle Parking) as the proposed layout of the cycle store will prevent user friendly access to storage racks and does not allow for provision of non-standard bike storage.
10. The proposal fails to comply with NPF policy 22 and LDP policies Env 21 (Flood Protection) and RS 6 (Water Supply and Drainage) which seek to ensure sustainable water management is in place for new development
11. The proposed development consists of a flat roof to be finished in a single ply membrane with no integrated blue/green infrastructure or SUDS. The proposal fails to comply with NPF 4 policy 20 (Blue and Green Infrastructure).

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 13 March 2024

Drawing Numbers/Scheme

01-12

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Rachel Webster, Planning Officer
E-mail: rachel.webster@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Transport Planning

COMMENT: No response.

DATE:

NAME: Archaeology

COMMENT: Potential for unrecorded remains and photographic survey of existing building required. Condition recommended.

DATE:

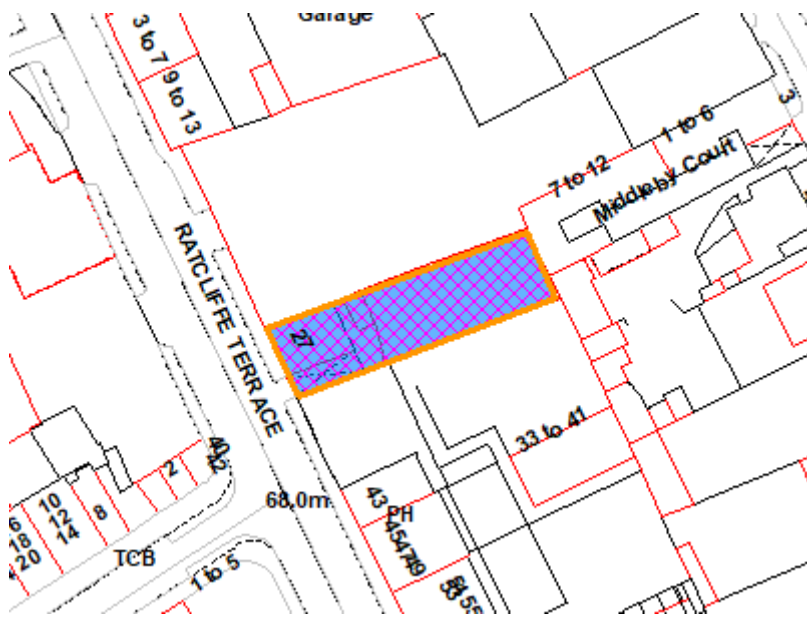
NAME: Environmental Protection

COMMENT: Additional information requested from applicant including a Noise Impact Assessment.

DATE:

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

Location Plan



© Crown Copyright and database right 2014. All rights reserved. Ordnance Survey License number 100023420

This page is intentionally left blank

Development Management Sub-Committee Report

Wednesday 1 May 2024

**Application for Planning Obligation
7 Henderson Place Lane, Edinburgh, EH3 5DG.**

Proposal: Section 75A application to modify the affordable housing obligations (planning permission 21/04326/FUL)

**Item – Committee Decision
Application Number – 23/02562/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 £56,500 per unit (£593,250 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 application relates to a level site measuring approximately 0.20 hectares in area, located on the south side of Henderson Place Lane, and bounded on the south and west sides by Henderson Place which leads off Henderson Row to the north.

The site was formerly part of a larger site occupied by the Edinburgh Tramway depot in the later 19th century. All depot buildings were demolished in the 1980s and the frontage of the 1888 offices on Henderson Row were incorporated into a new office development for Scottish Life (subsequently Royal London).

The surrounding area is predominantly residential in use with mainly late 20th century flatted blocks and terraces of between four and five stories and there is a two/three-storey mews-style terrace to the south of the site. Mixed commercial uses, including retail and cafes, occupy premises at ground floor level within the tenement at the south-east corner of Henderson Row and Dundas Street.

The development on site commenced, following a Notice of Initiation of Development (section 27 of the Town and Country Planning (Scotland) Act 1997) on 1 April 2022. This application was submitted to the Council on 13 June 2023. The development is presently in its basic form in excess of two storeys in height.

Description of the Proposal

This application seeks to modify the planning obligation (dated 14 April 2022) regarding on-site affordable housing forming a part of that development, (reference 21/04326/FUL).

That permission was granted for demolition of the existing building on the site and erection of a residential development comprising 42 flats, including 10 affordable units with private and communal amenity space. With the residential accommodation comprising; 2 x studio, 3 x one-bed, 15 x two-bed, 9 x 3-bed, and 3 x four-bed 'open market' units; and 8 x one-bed and 2 x three-bed 'affordable' units.

This application seeks to remove the existing Clause 3 provisions that require the provision of the 10 on-site affordable housing units and to replace them with clauses enabling the payment of a commuted sum to provide for off-site affordable housing provision calculated in relation to 10.5 units (being 25% of the original 42 units within the development).

The applicant, within his modification submission, proposes a commuted sum of £55,000 per unit at a total of 10 units equating to a total contribution of £550,000. Those values were based on other off-site contributions within the same catchment area.

There are no proposed replacement clauses, at this stage of the process, concerning when the contribution would be paid and nothing that would place a limit on the Council's use of the payment thereafter.

The other provision, within the legal obligation, for an education infrastructure contribution of £41,160(indexed) was paid in full to the Council on 2 August 2022.

Supporting Information

- Supporting Statement and
- Financial Appraisal.

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

Relevant Site History

21/04326/FUL

7 Henderson Place Lane

Edinburgh

EH3 5DG

Proposed demolition of existing building and erection of a residential development comprising 42x flats with amenity space, landscaping, cycle, parking, and other associated infrastructure.

Granted

16 June 2022

21/04326/VARY

7 Henderson Place Lane

Edinburgh

EH3 5DG

Non-Material Variation of consent 21/04326/FUL to reduce quantity and detail of metal cladding to the building's facades, alterations to window / door design, roof, and floor heights.

VARIED

26 January 2023

21/04326/VAR2

7 Henderson Place Lane

Edinburgh

EH3 5DG

Non-Material Variation of consent 21/04326/FUL - slight relocation of 2x parking spaces for parking space to be used as private spaces minor amendments to fenestration detailing.

VARIED

15 September 2023

Other Relevant Site History

No other relevant planning site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Housing Management and Development (Affordable Housing)

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

Publicity and Public Engagement

Date of Neighbour Notification: Not Applicable

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable

Site Notices Date(s): Not Applicable

Number of Contributors: 0

Section B - Assessment

Determining Issues

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

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

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

Assessment

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

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)' 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 42 dwellings, with the number of affordable housing units to comprise 10 units: 8 x 1-bed and 2 x 3-bed apartments. That would equate to 23.8% provision: 25% equating to 10.5 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 £230,000 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 £56,500 per unit, therefore a total off-site affordable housing contribution of £593,250 for the 10 units (25% of the overall development). It should be noted that this is greater than that offered by the applicant in the modification application.

The District Valuer recommends a commuted sum totalling £593,250. 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 4 of 2023)) made within 3 months of the date of this modification determination.

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

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

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

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

Necessity:

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

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

Planning purpose:

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

LDP Policy Hou 6 (Affordable Housing) sets out the parameters for assessing and requiring affordable housing whilst noting that provision should normally be on-site. The Affordable Housing Guidance provides further information on using the policy, including the circumstances for when a commuted sum will be acceptable. 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 £55,000 per unit, providing a total of £550,000, does not meet the level as calculated by the District Valuer and as such cannot be accepted in this instance.

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 5 April 2024, the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the proposed modifications have been fully considered.

Equalities and human rights

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

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

Public representations

None received.

Conclusion in relation to identified material considerations.

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

Overall conclusion

That affordable housing is no longer proposed to be provided on site because it is not financially viable and that a commuted sum is considered acceptable, as independent financial advice has been obtained, and sum of £56,500 per unit (£593,250 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.

Informatives

It should be noted that:

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

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 13 June 2023

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

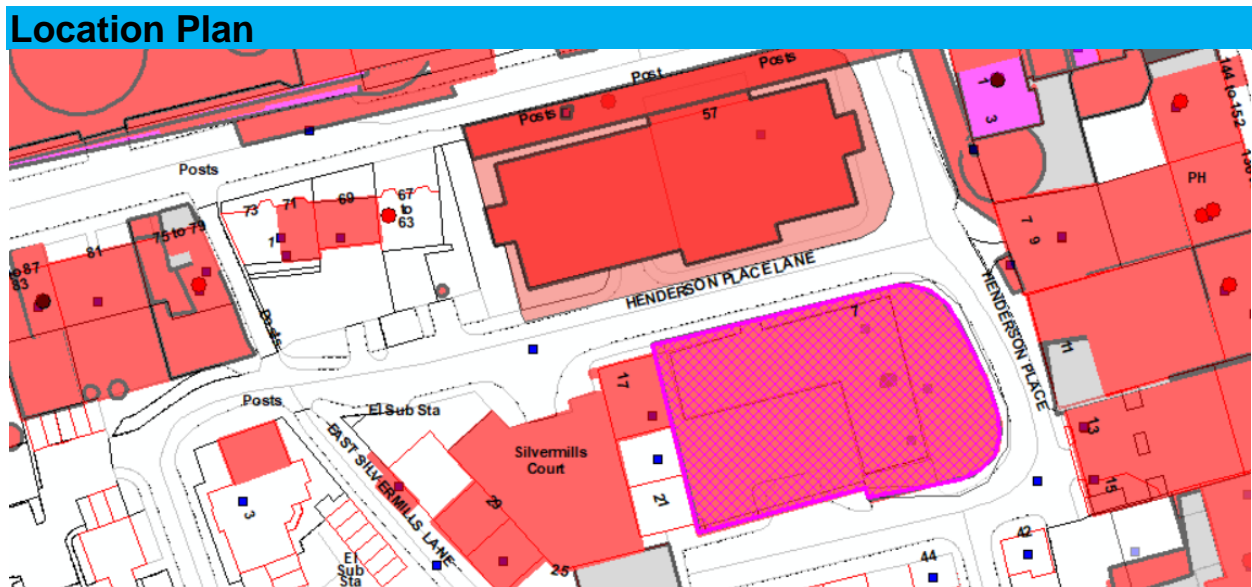
NAME: Housing Management and Development (Affordable Housing)

COMMENT: The applicant seeks amendments to the existing Section 75 legal 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 £230k per home.
- The District Valuer recommends a commuted sum which has been calculated based on nationally accepted principles.
- Their recommendation is a commuted sum of £593,250 in total.
- The sum would be secured through a Section 75 legal agreement.
- The Housing Service recommend that a confidential briefing is arranged for members of Development Management Sub Committee in advance of the application being presented to committee so that the details of the costs and the District Valuers report can be scrutinised.

DATE: 26 March 2024

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



© Crown Copyright and database right 2014. All rights reserved. Ordnance Survey License number 100023420

This page is intentionally left blank