

# Development Management Sub Committee

Wednesday 17 March 2021

**Application for Planning Permission 20/05170/FUL  
at 5 Cluny Gardens, Edinburgh, EH10 6BE.  
Plot subdivision and the creation of a new dwelling by  
conversion of existing domestic garage and studio  
outbuilding with associated new works including  
reconstruction work, alterations and extensions.**

**Item number**

**Report number**

**Wards**

B10 - Morningside

## Summary

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The principle of the proposal is acceptable and the character and appearance of the conservation area will be preserved. The proposal is of a suitable scale, form and design and there are no transport issues. Neighbouring amenity will not be unreasonably impacted and there will be an appropriate living environment for future occupiers. Conditions are recommended in relation to materials, landscaping and drainage to ensure the quality of the development.

## Links

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[Policies and guidance for this application](#)

LDPP, LEN06, LHOU05, LDES01, LDES04, LDES05, LHOU04, LDES12, LTRA02, LTRA03, LTRA04, NSG, NSLBCA, NSGD02, OTH, CRPMON,

# Report

## **Application for Planning Permission 20/05170/FUL at 5 Cluny Gardens, Edinburgh, EH10 6BE. Plot subdivision and the creation of a new dwelling by conversion of existing domestic garage and studio outbuilding with associated new works including reconstruction work, alterations and extensions.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The application site is a semi-detached stone villa on the north side of Cluny Gardens near its junction with Morningside Road. The villa appears as two and a half storeys from the front and, due to the sloping nature of the site, three and a half storeys from the rear. It has garden ground to the front, which is laid out mostly as hardstanding, and a large rear garden.

A partially constructed building sits to the west between the gable of the application property and number 3 Cluny Gardens. This was originally a garage.

The street and surrounding area are predominantly residential although there are other land uses nearby including a church and retail.

This application site is located within the Morningside Conservation Area.

#### **2.2 Site History**

The relevant site history is:

4 November 1999 - planning permission granted to alter, extend and sub-divide dwelling house (as amended) (to form two flats) (application number 99/01974/FUL).

12 April 2000 - planning permission refused to alter and extend dwelling house (application number 00/00523/FUL).

20 April 2001 - planning permission granted to extend the dwelling house (application number 01/00541/FUL).

29 January 2004 - Planning permission granted for decking (in retrospect) (application reference 03/04098/FUL).

4 June 2007 - Application Refused to form on-site parking with pavement crossing (Not appealed) (application number 07/01417/FUL).

2 April 2009 - Planning permission refused for extension and conservatory (application number 09/00239/FUL).

22 November 2019 - Planning permission granted for the reinstatement of the main house into one dwelling and the demolition of the existing extension at lower ground (application number 19/04486/FUL).

4 April 2019 - Planning permission granted for the subdivision of plot and conversion of existing garage/studio to dwelling (as amended) (application number 19/04488/FUL).

29 September 2020 - planning permission granted for amendment to permission (Ref: 19/04488/FUL) relating to new vehicle turntable within existing driveway, boundary wall and changes to external stairs to lower garden for new house in grounds of 5 Cluny Gardens, Edinburgh (application number 20/03061/FUL) and

2 December 2020 - appeal to Local Review Body upheld decision to refuse planning permission for amendment to permission (ref: 19/04488/FUL) relating to new vehicle entrance, boundary wall and changes to external stairs to lower garden (refused on 05.10.2020) (application number 20/03062/FUL).

Recent relevant Tree application history:

16 July 2020 - not make a Tree Preservation Order for Deodora (Himalayan Cedar) - to crown lift by 20% to a height of 6 metres (tree is 29 metres high (application number 20/02565/TCO).

26 August 2020 - not make a Tree Preservation Order Large cedar rear garden to remove the tree (application number 20/02951/TCO) and

01 September 2020 - application withdrawn for Cedrus deodora of approximately 20m height - sectional dismantle to ground level (application number 20/03057/TCO).

Recent relevant Enforcement History:

22 July 2010 - Case closed for unauthorised development (hardstanding) - Enforcement Notice Served (Reference: 10/00420/EOPDEV).

13 May 2011 - Case closed regarding unauthorised operational development for unauthorised hardstanding, with soft landscaping not removed as per the previous investigation (i.e. formation of hardstanding in conservation area). Enforcement Notice issued 20 December 2010 and appeal to DPEA dismissed subject to a variation of the steps for compliance (reference: 10/00550/EOPDEV).

27 January 2015 - Case closed for non-compliance with enforcement notice - no further action for hardstanding to front (Reference: 14/00772/ECOND) and

22 December 2020 - enquiry received for alleged non-compliance with plans and works without planning permission (re: application numbers 20/03061/FUL and 19/04488/FUL) (reference: 20/00790/EOPDEV).

## **Main Report**

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

The proposal is for the subdivision of the plot and the creation of a new dwelling by converting the existing domestic garage and studio outbuilding. The formation of the dwelling unit will include a gable end to the front and an extension and terrace/balcony to the rear with a spiral staircase leading down to the rear garden.

The dwelling will be single storey from the front and two storeys at the rear with a pitched slated roof. The front and rear elevations will be stone and the side elevations will be render.

Access from the street will be taken from the existing vehicular access.

#### Revised Scheme

The spiral staircase has been repositioned to the east elevation in Scheme 2.

#### Supporting Documents

- Planning Statement
- Design Statement

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

### **3.2 Determining Issues**

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Do the proposals comply with the development plan?

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

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

### 3.3 Assessment

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

- (a) the principle of development at this location is acceptable;
- (b) the proposals will preserve or enhance the special character or appearance of the conservation area;
- (c) the proposals are an acceptable scale, form and design;
- (d) the impact on neighbouring amenity is acceptable;
- (e) the proposal will result in a satisfactory residential environment;
- (f) there are any road safety or parking issues;
- (g) there are any other material considerations and
- (h) the comments raised have been addressed.

#### a) Principle of the development

Policy Hou 1 Housing Development in the Edinburgh Local Development Plan (LDP) supports housing on suitable sites in the urban area, provided that the proposals are compatible with other policies in the Plan.

The application site is in the urban area of the LDP and the street and surrounding area are predominantly residential in character. The principle of housing development at the site is therefore acceptable as long as the proposals are compatible with other policies in the plan.

The proposal complies with Policy Hou 1.

#### b) Conservation Area

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

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

Policy Env 6 (Conservation Areas- Development) of the LDP states that development within a conservation area will be permitted which preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant character appraisal.

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

The building sits subtly within the gable to gable of two stone villas of two and half storeys to the front. The street is characterised by garages positioned in the spaces between the villas and the dwelling unit will not detract from this spatial relationship.

The building will improve the frontage appearance in street scene, compared to the former garage.

The rear of the lower level of the proposed dwelling will have a terrace on its roof, which is not a traditional characteristic of the conservation area. However, it integrates well with the design and will not diminish the special qualities of the conservation area.

Materials proposed are mostly suitable for the conservation area and it is recommended that a condition be used, should planning permission be granted, to ensure the quality and details of the materials. Although render is not a traditional material of the conservation area, it is found in the area, for example, on the gables of garages in the street and in this context it is acceptable.

The principle of the subdivision of the plot has already been established in planning permission 19/04488/FUL which was granted on 4 December 2019. This permission is still valid and is, therefore, a material planning consideration for the current application. Whilst the plot will be thinner than that of the plots in the street, it will retain its depth in the rear garden and will not detract adversely from the spatial pattern of the surrounding plots nor from the character and appearance of the conservation area. Further, the drawings show suitable physical boundary treatment between plots in the form of hedge planting which is characteristic of boundary treatments within the conservation area. A condition is recommended to ensure the boundary treatment and landscaping will be good quality. The principle of subdividing the plot will not detract from the special qualities of the conservation area.

The proposal will preserve the character and appearance of the conservation area. It complies with policy Env 6.

### c) Scale, form and design

LDP Policy Des 1 (Design Quality and Context) requires development proposals to create or contribute towards a sense of place. The design should be based on an overall design concept that draws upon the positive characteristics of the surrounding area.

LDP Policy Des 4 (Development Design - Impact on Setting) also requires development proposals to have a positive impact on its surroundings, including the character of the wider townscape, having regard to its height and form, scale and proportions, including the spaces between the buildings, position of the buildings and other features on the site; and the materials and detailing.

LDP Policy Hou 4 (Housing Density) states that the density of a development on a site will be dependent on its characteristics and those of the surrounding area; the need to create an attractive residential environment within the development; the accessibility of the site to public transport; and the need to encourage and support the provision of local facilities necessary to high quality urban living. It goes on to explain that in established residential areas, proposals will not be permitted which would result in unacceptable damage to local character, environmental quality or residential amenity.

The application states that the proposal is for the conversion, alteration and extension of an existing building. However, the agent has advised that when works commenced on site to implement the extant planning permission, the walls of the garage were found to be unstable and could not be used for the conversion. This included a section of boundary wall which was unsafe and has been taken down. The current application, therefore, seeks permission for an amended scheme which will be almost all new build.

The dwellinghouse is of a simple design which will sit comfortably between two taller traditional stone villas. It will not be dominant in the streetscene and will be subservient to the original villa. Although it will be slightly longer than the consented scheme (19/04486/FUL), it will not dominate the subdivided plot nor detract from the original villa. It will be the same height and width as the extant planning permission.

The front building line remains unchanged and the rear building line of the proposal will marginally extend beyond the existing rear building line of the row of villas. Due to the low level and simple design of the proposal, this does not detract from the spatial pattern of this part of the neighbourhood area nor from the row of villas and extends no further than nearby rear extensions.

Whilst the scale of the neighbouring houses is much higher than the proposed dwelling, its design, scale, size and overall positioning is very similar to that which existed when the garage was present. Overall, the proposal is compatible with the surrounding context of neighbouring properties and respects the character and appearance of the conservation area.

The scale, form, and design respect the character of the area. The proposal complies with policies Des 1, Des 4 and Hou 4.

d) Existing Residential Amenity

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

The proposed house will be in a gable to gable position and will not result in unacceptable overshadowing of the neighbouring properties. Analysis of the impact on daylight and sunlight has demonstrated that there will be no adverse impact on daylighting or overshadowing to neighbouring properties. A negligible amount of overshadowing will be created in a small area of the rear gardens of the neighbouring properties. This is acceptable given the large size of the neighbouring gardens. A reasonable amount of sunlight will still be experienced in the neighbouring gardens.

The front windows will look onto the public street and the rear windows are more than 20 metres from opposite windows. A patio window proposed in the side elevation at lower ground (basement) level will face onto the solid gable elevation of the existing property at No.5.

The proposed balcony/terrace will be surrounded by a 1.8m high privacy screen. The spiral staircase has been relocated to the eastern side of the proposed building and will not present an unacceptable loss of privacy to neighbouring gardens. Therefore, there are no overlooking or privacy issues.

It is unlikely that normal residential use of the property would generate a significant noise impact upon existing residents.

There would be no unreasonable loss of amenity to neighbours as a result of the development.

The proposal complies with policy Des 5 and the Edinburgh Design Guidance.

e) Residential Environment

LDP Policy Hou 4 (Housing Density) takes account of the need to create an attractive residential environment within the development.

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

LDP Policy Des 5 (Development Design- Amenity) relates to the impact on amenity of a proposed development.

The Edinburgh Design Guidance also seeks to address the criteria of an acceptable level of amenity for future occupiers of the development.

The Edinburgh Design Guidance (EDG) states that private open space/gardens should be designed for a range of functions. Edinburgh Design Guidance requires a minimum internal floor area.

The proposed internal floor space of 143 square metres well exceeds the minimum requirement in the EDG of 66 square metres for a two bedroom unit and is acceptable.

Living spaces within the proposed development will be capable of receiving adequate levels of daylight as windows and doors are suitably located to ensure habitable rooms will receive an adequate level of daylight.

A rear garden will be provided of a satisfactory amount and type of private outdoor amenity space. The element of the garden which will remain allocated solely to No.5 will also continue to provide adequate private outdoor amenity space.

The rear facing windows of the dwelling will directly overlook its rear garden. The outlook from the windows on the front elevation of the dwelling will be similar to those of the existing neighbouring properties on Cluny Gardens.

The proposal complies with policies Des 5, Hou 4 and Hou 3 and will, therefore, provide adequate amenity space for prospective occupants.

f) Road Safety and Parking

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

The Roads Authority has advised that it has no objections to the application subject to conditions or informatives as appropriate, relating to residential parking permit.



The existing vehicle access currently used for no. 5 Cluny Gardens will remain and be used for the proposed dwelling unit.

LDP Policy Tra 2 states that planning permission will be granted for development where proposed car parking provision complies with and does not exceed the parking levels set out in Council guidance. The proposal indicates existing car parking space will be used by the new dwelling unit. This is acceptable given the established landscaping design of front gardens in the neighbouring properties and as the site is currently part mono blocked it does not currently provide an active garden area frontage.

Scope for bicycle parking in the proposed house or the rear garden could be achievable given the generous space available and, thus, the proposal could comply with Policy Tra 3.

There are no road safety or parking issues.

The minor infringement of Tra 2 - 3 are acceptable in this case.

g) Other Considerations

*Flooding and drainage*

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

A Surface Water Management Plan would be required to ensure the proposed dwellinghouse does not flood and that it will not result in the flooding of neighbouring properties or of the road. Therefore, a condition is recommended to ensure that the associated drainage of the site is acceptable should planning permission be granted.

*Trees*

LDP Policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or on any tree or woodland worthy of retention unless necessary for good arboricultural reasons. where such permission is granted, replacement planting of appropriate species and numbers will be required to offset the loss to amenity.

There are few existing trees on the application site, none of which will be affected by the new dwellinghouse. One tree in the neighbouring garden is close to the existing boundary and will be adjacent to the proposed terrace/balcony. It has been pruned and its growth would not be constrained by the proposal.

*Setting of Listed Building*

LDP Policy Env 3 (Listed Buildings - Setting) states that development within the curtilage of a listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting.

The new dwellinghouse will not be within the curtilage of a listed building and will not result in a major change within the streetscene or the conservation area. It is not immediately adjacent to the grounds of the listed church and will not be any closer than the former garage building. The proposal will not be detrimental to the architectural character, appearance or historic interest of the listed building (church) or its setting.

The proposal complies with LDP Policy Env 3.

#### *Waste Development Management*

No details have been provided regarding the location of bin stores. Any domestic collection of waste would need to be agreed in advance with Waste and Cleaning Services before developing the site.

#### h) Public Comments

##### **Material Comments - Objection:**

- adverse impact on Conservation area. Addressed in 3.3b).
- scale, form and design inappropriate. Addressed in 3.3c)
- increase in traffic and congestion. Addressed in 3.3f).
- privacy, over and overlooking issues; Addressed in 3.3d).
- overshadowing and loss of daylighting and sunlight. Addressed in 3.3d).

##### **Non-material Comments:**

- Future development - only the planning application presented in front of the planning authority can be considered;
- Trees felled without consent/permission - the records for tree applications show that consent was given for removing and cutting down trees;
- Planning applications and process - applicants may submit any number of applications at any time; reasons for revisions not required; plans submitted meet relevant regulations; planning legislation allows for retrospective applications;
- Current building development started without/contrary to permission -planning legislation allows for retrospective applications; current planning enforcement investigation; and
- Neighbour Notification - Neighbour notification undertaken correctly; only properties within 20 metres from application site are notified.

## CONCLUSION

The principle of the proposal is acceptable, and the character and appearance of the conservation area will be preserved. The proposal is of a suitable scale, form and design and there are no transport issues. Neighbouring amenity will not be unreasonably impacted and there will be an appropriate living environment for future occupiers. Conditions are recommended in relation to materials, landscaping and drainage to ensure the quality of the development. No other material considerations outweigh this conclusion.

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

### **3.4 Conditions/reasons/informatives**

#### **Conditions: -**

1. A Surface Water Management Plan shall be submitted for the further approval of the Planning Authority prior to the commencement of the development hereby approved. Full details can be found at [http://www.edinburgh.gov.uk/info/20045/flooding/1584/planning\\_application\\_guidance\\_on\\_flooding](http://www.edinburgh.gov.uk/info/20045/flooding/1584/planning_application_guidance_on_flooding)
2. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.
3. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and all planting, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.
4. The approved landscaping scheme shall be fully implemented within six months of the completion of the development.

#### **Reasons:-**

1. To ensure water run off is properly managed.
2. In order to enable the Planning Authority to consider this/these matter/s in detail.
3. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
4. In order to ensure that the approved landscaping works are properly established on site.

## **Informatives**

It should be noted that:

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

## **Financial impact**

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

There are no financial implications to the Council.

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

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

## **Equalities impact**

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

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

## **Sustainability impact**

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

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

## **Consultation and engagement**

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

There is no pre-application process history.

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

The application was advertised on 11 December 2020 and 32 public comments have been received. All of the comments were objections.

## Background reading/external references

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

### Statutory Development

#### Plan Provision

Edinburgh - Local Development Plan - Conservation Area and Urban Area

#### Date registered

24 November 2020

#### Drawing numbers/Scheme

01-02, 03A-07A, 08, 09A.,

Scheme 2

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## Links - Policies

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### Relevant Policies:

#### Relevant policies of the Local Development Plan.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Hou 5 (Conversion to Housing) sets out the criteria for change of use of existing buildings to housing.

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

LDP Policy Hou 4 (Housing Density) sets out the factors to be taken into account in assessing density levels in new development.

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

LDP Policy Tra 4 (Design of Off-Street Car and Cycle Parking) sets criteria for assessing design of off-street car and cycle parking.

### **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

**Non-Statutory guidelines** Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

### **Other Relevant policy guidance**

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

# Appendix 1

**Application for Planning Permission 20/05170/FUL  
at 5 Cluny Gardens, Edinburgh, EH10 6BE.  
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## Consultations

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### Roads Authority

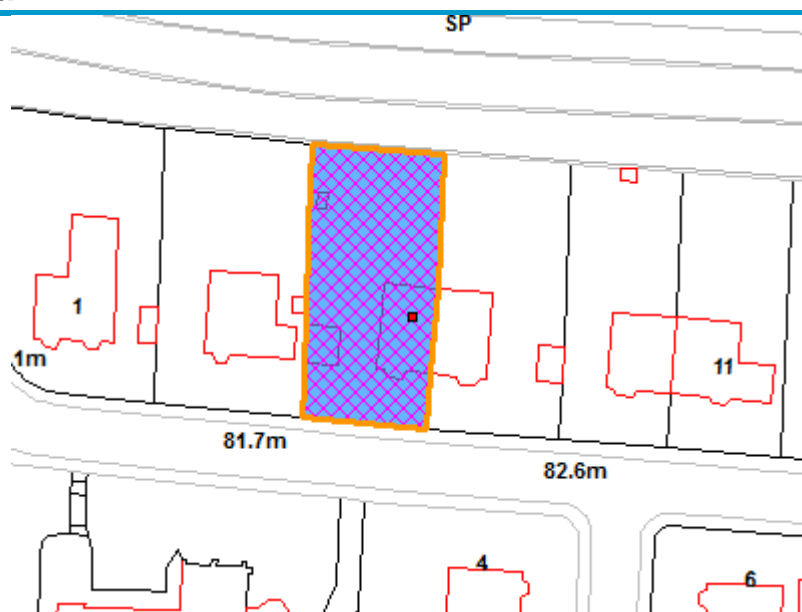
Summary Response  
No objections.

Full Response  
No objections to the proposed application subject to the following being included as conditions or informatives as appropriate:

1. as the development is located in the extended Controlled Parking Zone, they will be eligible for one residential parking permit per property in accordance with the Transport and Environment Committee decision of 4 June 2013. See [http://www.edinburgh.gov.uk/download/meetings/id/39382/item\\_7\\_7](http://www.edinburgh.gov.uk/download/meetings/id/39382/item_7_7) (Category D - New Build);

## Location Plan

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**END**