

# Development Management Sub Committee

Wednesday 27 October 2021

## Application for Planning Permission 20/01069/FUL at 15A - 15B Bath Street Lane, Edinburgh.

The application is for temporary (3 years) permission for a building site type modular unit that will be used as an office and workshop and will be positioned adjacent to the existing Bike Shop showroom within our enclosed yard.

Item number

Report number

Wards

B17 - Portobello/Craigmillar

## Summary

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The proposals comply with the adopted Edinburgh Local Development Plan and non-statutory guidelines. There would be no adverse effect on the character and appearance of the conservation area. The development would have no detrimental impact on residential amenity or road safety and parking. At the request of the applicant, a temporary planning permission is recommended. There are no other material considerations to outweigh this conclusion.

## Links

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[Policies and guidance for this application](#)

LDPP, LDES01, LDES04, LDES05, LEN06, LTRA04, LHOU07, NSG, NSLBCA, NSBUS, OTH, CRPPOR,

# Report

## **Application for Planning Permission 20/01069/FUL**

**At 15A - 15B Bath Street Lane, Edinburgh,**

**The application is for temporary (3 years) permission for a building site type modular unit that will be used as an office and workshop and will be positioned adjacent to the existing Bike Shop showroom within our enclosed yard.**

### **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**

Bath Street Lane is a back street within the Portobello Conservation Area which historically provided stables and storage for the surrounding houses. It is now predominately lock-ups and garages, generally of low-grade commercial character used as storage and small workshops.

The application site is one of the few units in the lane to be fenced off, projecting into the lane. It measures approximately 31 square metres and is enclosed on all sides by metal fencing, with razor wire above. It has access onto the lane and the owner currently carries out bike repairs at the yard.

There is a floodlighting pole within the compound approximately five metres in height with CCTV cameras mounted on it. A telegraph pole sits on the boundary of the yard.

The neighbouring property, 13 Bath Street Lane, is in the control of the applicant, and has a yard screened by green mesh fencing, approximately two metres in height.

This application site is located within the Portobello Conservation Area.

#### **2.2 Site History**

24 February 1999 - Planning permission was refused for a temporary portacabin and wall. This proposal was subsequently dismissed at appeal. (planning application number 98/03320/FUL).

27 February 2002 - Planning permission was granted for the construction of mews type building to blend in with surrounding buildings to be used for commercial purposes (planning application number 01/03681/FUL).

6 February 2002 - A planning enforcement investigation into alleged unauthorised erection of an outbuilding. The case was closed on 6 February 2002 (application number 09/00057/EOPDEV).

25 March 2020 - A planning enforcement investigation into alleged unauthorised works to private road. The case was closed on 30 March 2020 (application number 20/00192/EOPDEV).

### Adjacent Site

12 May 2015 - Planning permission was granted to "Erect work/live unit (as amended)" at 17 Bath Street Lane. This application replaced an existing workshop on the site and developed up to two storeys in height with a brick finish. Car parking and workshop provided at ground floor (application number 15/00386/FUL).

## **Main report**

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

The application is for the erection of a modular unit on the southern side of the application site for a period of three years.

The building, which is a metal shipping container, would measure 6.06 metres in length, 5 metres in depth and 2.59 metres in height with a flat roof. It is also intended to erect timber fencing as a replacement for the current means of enclosure.

It would be used as an office and workshop adjacent to the bike repair business.

The layout of the new building illustrates a workshop and office space, with a kitchen and WC facility. The building would be sited more than two metres off the southern boundary. The layout plan illustrates the existing building as a showroom.

Recycling bins would be accommodated within the layout; however, no details have been provided.

Four bicycle stands and bollards are to be erected on the cobbled apron at the entrance to the premises.

### **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 proposals preserve or enhance the character and appearance of the conservation area;
- (b) the proposed scale, design and materials are acceptable;
- (c) the proposal is detrimental to the amenity of neighbours;
- (d) the proposal affects road safety;
- (e) any other issues and
- (f) any public comments raised have been addressed.

#### **a) Character and appearance of the conservation area**

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

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

LDP policy Env 6 Conservation Areas- Development aims to protect, and where possible enhance, the character and appearance of the conservation area. Proposals should demonstrate high standards of design and utilise materials appropriate to the historic environment.

The Portobello Conservation Area Character Appraisal states that "Portobello retains the character of a small town with a distinct town centre, an exceptionally high-quality residential hinterland, a shoreline setting and a long sea-front promenade. The architectural form and character of Portobello is rich and varied, with many fine Georgian and Victorian historic buildings. The building materials are traditional: stone, harling, slate, pantiles, timber windows and doors."

The conservation has three-character zones and the site lies within Portobello's main residential zone, which includes an abundance of fine Georgian villas, as well as a robust stock of Victorian villas and tenements which contribute to the suburban character.

Bath Street Lane is a private lane which was occupied historically by stable buildings serving the properties on Bath Street and Regent Street.

The character of the immediate vicinity to the site is one of small-scale industrial units, with no significant visual cohesion or architectural merit. Given the existence of such a variety of building styles and quality in the lane, the proposed structure would not form an incongruous or over-dominant feature and would sit comfortably within its confined industrial context.

Notwithstanding the above conclusion, the applicant has requested that the permission be restricted to a period of three years. In these circumstances, it is appropriate to attach a condition requiring the restoration of the land to its original condition prior to or before the expiry of the three year period.

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the proposals preserve and enhance the character and appearance of the conservation area, in compliance with LDP Policy Env 6.

#### b) Scale, Design and Materials

LDP Policy Des 1 Design Quality and Context, supports new development whose design contributes towards a sense of place and picks up on the positive characteristics of the area.

LDP Policy Des 4 Development Design - Impact on Setting, aims to ensure that development has a positive impact on its surroundings.

The proposed single storey structure is of a simple design and its form relates to the surrounding area. It would reflect the character of the immediate vicinity and would be compatible in terms of height and form. The choice of materials and positioning would be appropriate, relative to the character of the existing buildings and the lane.

The proposal also includes the erection of a 3.5m high timber fence around the site to replace the corrugated iron sheets. This would improve security and visually enhance this corner of Bath Street Lane. A condition has been added requiring details of the fencing to be submitted before works are commenced on site.

The proposal complies with LDP policies Des 1 and Des 4.

#### c) Neighbouring amenity

LDP Policy Des 5 Development Design - Amenity, aims to ensure that new developments do not have an unacceptable impact on neighbouring properties in relation to noise, daylighting, sunlight, privacy or immediate outlook.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) states that developments, including a change of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

The proposed building is bound to the south and west by residential properties. The layout, siting and height of the new building is such that it will not overlook or overshadow these buildings.

The new structure will increase the size of the buildings within the compound but will not increase the area of the commercial premises. The doors of the proposed building will open into the courtyard/car park space to the north and noise breakout from within the unit would be directed away from the surrounding residential premises. Moreover, the site is the end unit within a group of car repair garages which have potentially noisy activities and where there are no restrictions on noise. There is existing background noise during the day and any additional noise from the new unit would not result in an unacceptable loss of residential amenity.

Residents have expressed concerns over how the applicant deals with business waste. The Council no longer operates a trade waste collection facility. Commercial premises are now required to make their own arrangements for the storage and disposal of waste.

The proposal complies with LDP Policies Des 5 and Hou 7.

#### d) Road Safety Issues

Bath Street Lane is private and unadopted. It is currently in poor condition and in need of upgrading. This is not a planning issue, but a matter for all owners/users to resolve. Parking is currently uncontrolled

The erection of the building would result in the loss of two car parking spaces and would formalise the cobbled apron in front of the site entrance to form a parking area with two entrance bollards and four cycle hoops. The development would not constitute a material change of use or intensification of use and it would not have an unacceptable impact on road safety in these circumstances.

#### e) Any other issues

An appeal against non-determination of the application was submitted to the Local Review Body in December 2020. Given the number of representations received, the application would have required to be determined by the Development Management Sub-Committee (DMSC) and therefore the appeal could not be considered by the (LRB). The applicant was advised to contact the DPEA, who concluded that an appeal against non-determination was time barred. Accordingly, this application still requires to be determined by the committee.

#### f) Public Comment

The representations may be summarised as follows.

#### Material Comments - Support

- bike shop has been trading for years, improvements to their premises should be welcomed - assessed in sections 3.3 (a) and 3.3(b)
- the secure bike parking is supported - assessed in section 3.3(d)
- the development would improve an existing building, bringing revenue to the area - assessed in sections 3.3(a) and 3.3(b)
- proposal is in an inconspicuous location and would not have a detrimental effect on anyone - assessed in sections 3.3(a) and 3.3(b)

## Material Comments - Objections

- impact in the conservation area - assessed in section 3.3(a)
- adding bike racks and yellow lines will diminish the character of the lane - assessed in sections 3.3(a) and 3.3(b).
- the proposal does not protect the historic residential setting and does not compliment the mix of Victorian and Edwardian buildings around Bath Street Lane - assessed in section 3.3(a)
- the design and materials of the proposed container is out of character with the area - assessed in section 3.3(b)
- the proposed commercial use as a showroom is inappropriate in this location - assessed in sections 3.3(a) and 3.3(b).
- the proposal would upset the historic form of the lane, building out from the historic line of the garages - assessed in sections 3.3(a) and 3.3(b)
- the proposed fencing is too high - assessed in section 3.3(b)
- the proposal would affect the residential amenity of the new live/work building at no.17 Bath Street Lane - assessed in section 3.3(c)
- a showroom of motorcycles will create a noise nuisance to the surrounding domestic dwellings - assessed in section 3.3(c)
- unlikely that the applicant will include waste and recycling bins on site - assessed in section 3.3(c)
- there is no space within the lane for additional car parking associated with the application - assessed in section 3.3(d)
- the creation of a showroom will further increase traffic and congestion in the lane with vehicles parked semi-permanently around it - assessed in section 3.3(d)
- not an appropriate location for a showroom - assessed in section 3.3(a)
- the proposal could lead to hazard for emergency vehicles or delivery vehicles to the lane - assessed in section 3.3(d)
- the temporary building will be accessed from existing workshop and is unlikely to remain temporary - the permission is limited to a three year period

## Non-Material considerations

- the applicant proposes to take ownership of a public space in an historic conservation area - not part of this application
- inaccurate description of existing and planned development - the drawings have been checked and the details are correct.
- a number of concerns have been raised in relation to personal circumstances. These are not material to the assessment of the planning merits of the proposal.
- the bike shop is not a registered business; it does not pay for trade waste collection - not relevant to planning process
- Uses a communal bin in Bath Street Portobello for disposing of oil etc, it is not a legitimate commercial business - not relevant to Planning process
- the applicant has caused damage to the lane by digging holes in the cobbled area and erecting posts and fences to stop others using it - not part of this application
- the applicant proposes to take access over a public lane - not part of planning process
- the applicant proposes to claim public land for his own use -not part of planning process

- the applicant stores derelict vehicles in the lane which causes obstructions and friction with other lane stakeholders - not part of this application
- bikes help reduce pollution - not part of this application
- concern regarding health and safety and the storage of gas cylinders/carboard packaging storage causing a fire hazard - not relevant to Planning
- currently the applicant works long hours in the lane, not within normal business operating hours - not relevant to Planning
- a good community facility / good personal service - not part of this application
- positive development offering a secure and viable service - not part of this application
- not enough bike garages in Edinburgh - not part of this application
- Council should encourage more bike use over cars / less congestion/ take up less space and free up movement in the city - not part of this application
- a small business is a lifeline for other small business - the proposal is operational development to an existing business
- general support for bike shops in principle - the proposal is operational development to an existing business
- support small local business - the proposal is operational development to an existing business

### Conclusion

The proposals comply with the adopted Edinburgh Local Development Plan and non-statutory guidelines. There would be no adverse effect on the character and appearance of the conservation area. The development would have no detrimental impact on residential amenity or road safety and parking. There are no other material considerations to outweigh this conclusion.

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

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

#### **Conditions :-**

1. Permission for the container building is granted for a limited period of three years from the date of this consent. The temporary development hereby approved shall cease or be removed prior to or on the date of expiry of the limited period of consent and the any land and or buildings restored to their previous condition within 3 months of the removal of the development.
2. Full details of the replacement boundary treatment shall be submitted to the Planning Authority and approved prior to the siting of the temporary building. The approved boundary treatment shall be erected prior to the commencement of operations in the new building and retained in the approved form thereafter.

#### **Reasons:-**

1. Due to the temporary nature of the proposed development.
2. In order to enable the planning authority to consider this/these matter/s in detail.

## **Informatives**

It should be noted that:

1. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
2. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
3. Bath Street Lane is a private road and as such permission / agreement should be sought from all owners prior to the erection of the cycle racks / bollards or yellow lines within the communal areas.
4. The applicant is reminded for the need for advertisement consent for any advertisements/signage in or around the application site.
5. The applicant is encouraged to provide appropriate waste management facilities within the application boundary, as alluded to on the application forms.

## **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**

Pre-application discussions took place on this application.

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

The application was advertised on 13 March 2020 and 155 comments were received: 22 objecting and 133 supporting. These included comments from Portobello Amenity Society.

A full assessment of the representations can be found in the main report in the Assessment section.

## **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**

The site lies within the urban area of the Edinburgh Local Development Plan. It is designated as lying within Portobello conservation area.

**Date registered**

4 March 2020

**Drawing numbers/Scheme**

1-4,

**David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Jennifer Zochowska, Senior Planning Officer

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**Links - Policies**

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**Relevant Policies:**

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

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

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

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

## **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** 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

## **Other Relevant policy guidance**

**The Portobello Conservation Area Character Appraisal** emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high quality architecture, and the predominant use of traditional building materials

# Appendix 1

## Application for Planning Permission 20/01069/FUL

At 15A - 15B Bath Street Lane, Edinburgh,

The application is for temporary (3 years) permission for a building site type modular unit that will be used as an office and workshop and will be positioned adjacent to the existing Bike Shop showroom within our enclosed yard.

### Consultations

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#### Roads Authority Issues

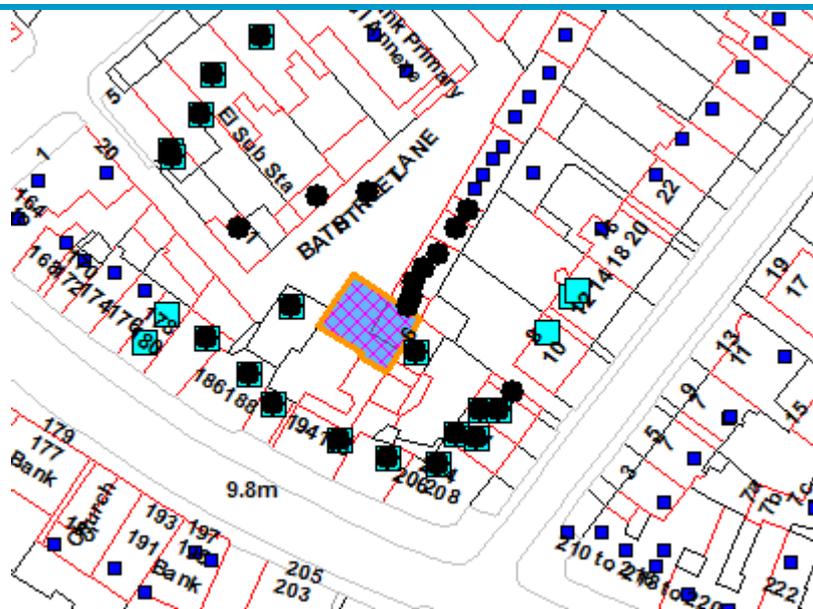
*No objections to the application.*

*Note:*

*The proposed visitor cycle parking spaces are not in the red line boundary.*

### Location Plan

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