

Development Management Sub Committee

Wednesday 12 January 2022

**Application for Planning Permission 21/03622/FUL
at 265 Morningside Road, Edinburgh, EH10 4RD.
Form ground floor retail unit and 11x flats in upper floors
with associated cycle parking and infrastructure.**

Item number

Report number

Wards

B10 - Morningside

Summary

The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves and enhances the character and appearance of the conservation area and will not harm the setting of nearby listed buildings.

The development complies with the Edinburgh Local Development Plan. The proposal is acceptable in this location and is of an appropriate scale, form and design and introduces a suitable mix of flats into the area. The proposal will have no material impact upon the amenity of local residents and will provide adequate residential accommodation.

While there may be an impact on adjacent trees which currently overhang the site, the benefits of the proposal in delivering new housing and delivering an attractive new building outweigh any adverse impacts to the trees that may arise.

The breach of LDP policy Hou 3 in respect of green space is acceptable in this instance.

Whilst the Roads Authority does not support the stopping up of the footway and therefore recommend the refusal of the application, it has no objections to the principle of the development. The Roads Authority has also confirmed that the stopping up of the footway is not a breach of LDP Policy Tra 9.

The proposal complies with the local development plan and the policy principles of sustainable development set out in Scottish Planning Policy (SPP). There are no other material considerations which outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LDEL01, LDES01, LDES03, LDES04, LDES05, LDES06, LDES13, LEN03, LEN06, LEN09, LEN12, LEN16, LEN21, LHOU01, LHOU02, LHOU03, LHOU04, LRET03, LTRA02, LTRA03, LTRA04, NSG, NSGD02, HES, HESSET, OTH, CRPMON, SPP,

Report

Application for Planning Permission 21/03622/FUL at 265 Morningside Road, Edinburgh, EH10 4RD. Form ground floor retail unit and 11x flats in upper floors with associated cycle parking and infrastructure

Recommendations

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

Background

2.1 Site description

The site is the former Morningside Post Office, located on the east side of Morningside Road between Jordan Lane and Hermitage Terrace. The total site area is 585sqm.

There is currently a 1960's building on the site which is flat roofed, single storey to the front, facing Morningside Road, and two storeys to the rear. The building is set back from the established building line along Morningside Road. The building is externally finished in a mixture of red and grey brick, render and cladding to the side. It is currently boarded up and has been subject to vandalism.

To the north of the site there is a row of single storey retail units fronting on to Morningside Road and the rear gardens of a four storey tenement block on Jordan Lane. The west boundary of the site faces onto Morningside Road where there are 5 storey tenement blocks with retail to the ground floor.

To the east of the site there is a service lane which provides access to the rear of the site and the adjacent Ball Room Sports Bar.

There is a pedestrian lane (Jordan Burn Close) along the south boundary of the site which runs above the culverted Jordan Burn.

The southern boundary of the site is lined with a stone wall. Directly to the south of the site there is a grassed area with some large mature trees. To the south east of the site is the category B listed, former Morningside Braid Church and hall (LB 27655, listed on 14 December 1970). These buildings are now utilised as a nursery and a Pizza Express.

This application site is located within the Morningside Conservation Area.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description of the Proposal

The application is for planning permission for the formation of a largely four storey building created by constructing two to three storeys on top of the existing ground floor retail unit within the site. The ground floor retail unit will also be renovated and extended.

The building line of the existing structure at ground floor level will be extended forward by approximately 3.1 metres so that it lines up with the established building line along the street. The resultant retail area formed will be 247sqm with a back of house space of 135sqm.

The proposed floors above will be utilised as residential accommodation comprising seven flats with one bedroom and four flats with two bedrooms.

The development will have a flat roof and will have a maximum height of approximately 13.5 metres and a depth of around 29 metres.

The proposal will be four storeys to the front and much of the rear. However, it will step down to the rear along its northern boundary.

The majority of the principal elevation of the building will be finished in ashlar stone, with small zinc inserts, whilst the south facing elevation of the new build element will also be finished in ashlar stone as will the north facing elevation that will be visible from Morningside Road. The rear elevation of the proposal will be finished in render and ashlar stone. The existing structure on the site which has a brick/rendered finish to the side and rear will remain but will be fully rendered.

Three of the proposed properties will have access to raised terraces. As the properties will be constructed above an existing retail unit, which extends substantially back into the site, there are no opportunities for green space at the ground level.

The development will be car-parking free with 22 secure cycle spaces for residents, two cycle spaces for staff and one for customers of the shop. The Jordan Burn Close which runs along the south of the site will be retained.

Previous Scheme

The external walls of the proposal were to be finished in a larger percentage of render, whilst non-combustible cladding was also proposed.

Supporting documents

Information submitted in support of application is available to view on the Planning and Building Standards Online Services:

- Flood risk assessment report
- Surface water management report
- Design statement, including daylight assessment

- Planning statement
- Sunlight assessment
- Arboricultural tree report
- Energy strategy report
- Ecology report

3.2 Determining Issues

Due to its proximity to listed buildings and being within a conservation area, the proposed development requires to be assessed against Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"). This report will first consider:

- a) In terms of Section 59 there is a strong presumption against granting planning permission for development which would harm a listed building or its setting. If engaged, the presumption can only be rebutted if the advantages of the scheme in the proposed location are sufficient to outweigh that strong presumption.
- b) In terms of Section 64 there is a strong presumption against granting planning permission for development which would conflict with the objective of preserving or enhancing the character or appearance of the conservation area. If engaged, the presumption can only be rebutted if the advantages of the scheme in the proposed location are sufficient to outweigh that strong presumption.

If the Development complies with Sections 59 and 64 of the 1997 Heritage Act, this report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act).

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

3.3 Assessment

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

- (a) the proposal will have an impact upon the setting of nearby listed buildings;
- (b) the proposals will have an adverse impact on the character and appearance of the conservation area;
- (c) the principle of the proposal is acceptable in this location;

- (d) the proposal is of an acceptable scale, form and design;
- (e) the proposal will provide satisfactory amenity for future residents and will not adversely affect neighbouring amenity;
- (f) the proposal will have a damaging impact upon trees worthy of retention;
- (g) the proposal will have adequate car and cycle parking and will have no impact upon road or pedestrian safety;
- (h) any flooding concerns have been addressed;
- (i) equalities and Human Rights have been addressed;
- (j) there are any other material planning considerations and
- (k) representations raised have been addressed.

a) Impact on setting of listed buildings

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:

"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Historic Environment Scotland's Guidance Note on Managing Change in the Historic Environment: Setting states that setting can be important to the way in which historic structures or places are understood, appreciated and experienced. It can often be integral to a historic asset's cultural significance.

Setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Both tangible and less tangible elements can be important in understanding the setting. Less tangible elements may include function, sensory perceptions or the historical, artistic, literary and scenic associations of places or landscapes.

LDP Policy Env 3 (Listed Buildings - Setting) states that development within the curtilage or affecting the setting 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.

It is noted that there are several listed buildings which are located near to the application site. The category B listed, former Morningside Braid Church and hall, No. 1-10 Hermitage Terrace and No. 2 Nile Grove, are also category B listed.

The proposal will be significantly taller than the existing building on the site. However, it will be a tenement building of a broadly similar scale, form and design to the other buildings alongside Morningside Road. The proposal will be located approximately 15 metres from the nearest listed building and will be shielded by the existing trees that lie directly to the south of the site. The main focal points of the former church building are also further away on the corner of Hermitage Terrace and Nile Grove. Given the distance of the proposed building from the listed properties and the level of shielding that is also present around the boundaries of the site, the proposed development will not materially impact upon how the listed buildings are understood or experienced.

The proposal complies with LDP Policy Env 3 and the relevant Historic Environment Scotland's Guidance Note on Managing Change in the Historic Environment.

b) Character and Appearance of 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 Area- Development) states that development within a conservation area or affecting its setting will be permitted which: a) preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area and c) demonstrates high standards of design and utilises materials appropriate to the historic environment.

The Morningside Conservation Area Character Appraisal (MCACA) states *The scale, design and materials of new developments should reinforce and protect those features that give the conservation area its special character. Any development should take into consideration the spatial pattern, scale, proportions and design of traditional properties.*

The application site lies near to the edge of the defined conservation area. The existing building on the site is quite modern, flat roofed and is finished in a mixture of render, red brick and cladding. It currently displays a run down appearance, is boarded up, and does not contribute positively to the character or appearance of the defined conservation area. The building does not follow the established building line along Morningside Road and is slightly set back. It is single storey to the front, two storeys to the rear and extends back almost fully into the site. There are a selection of single storey shop units directly next to the site. This is unusual, as the majority of buildings, especially along this part of Morningside Road are tenements of between 4-5 storeys in height, with retail units on the ground floor and residential flats above.

The existing shopfront is a modern, functional design that has limited contribution to the historic environment. The loss of this element of the building is therefore acceptable

The proposed replacement modern retail frontage is of a design that is appropriate to its retail function and is similar to refurbished shopfronts nearby. In light of this, it would have a neutral impact on the character and appearance of the conservation area.

The proposed residential development would sit above the retail unit to comprise a building that is largely four storeys. It is a design concept that mixes the traditional form of a tenement at the front with traditional materials and the modern use of zinc and Juliet balconies to create a building of its time.

The immediate character of the conservation area is of a high-density, traditional tenement form, with large tenements along Morningside Road and large tenements on corner sites often continuing along the streets that run off Morningside Road. Whilst the proposal broadly replicates the existing tenement form to the front, it also extends out to the back of the site. However, historic mapping shows that there were buildings that extended back into the site along its northern boundary. An old photograph of the site, from approximately the 1960s, also shows that there was a two storey building, with pitched roof, present to the front of the site, whilst a two storey structure with pitched roof carried along its southern boundary. The two storey building along the southern boundary had a frontage that looked out to the south towards Hermitage Terrace. As such development along the northern and southern boundary of the site is a historical characteristic of the site.

The proposal will have a similar roofline height as the ridge of the flat, blank gable elevation of the four storey tenements on Jordan Lane where it meets Morningside Road. The proposal will be lower than the five storey tenements on the east side of the Morningside Road, just further north of Jordan Lane, and lower than the five storey tenements directly across the road from the site to the west. The proposal will have a flat roof. Flat roofs are, however, common to the tenement buildings along Morningside Road. It is also not uncommon for building heights to vary quite dramatically along Morningside Road. For example, at the corner of Canaan Lane, the public house is two storey whilst the directly adjoining tenement block is five storeys.

In regard to materials, the front elevation would be largely constructed in ashlar sandstone which is consistent with the prevalent use of stone on surrounding built forms. The new elements of the south facing elevation shall also be finished in ashlar sandstone, whilst the publicly visible elements of the north facing elevation shall also be finished in ashlar stone. A render finish to elements of the existing building to the side and to the rear, would be finished in a colour to match the stone of adjacent tenements. This finish is evident on prominent gable elevations and new buildings in the surrounding area. In this regard its use is not at odds with the immediate character.

A condition has been recommended for submission of the external materials prior to commencement of the development.

Directly to the south of the site are a selection of trees. These trees make a valuable contribution to the character and appearance of the defined conservation area. However, these trees also severely overhang the site and do not appear to have been adequately maintained in the past. An arboricultural tree report has been submitted that states that the trees can be adequately pruned in order to enable the construction of the development and that these works will not harm the trees or damage the contribution that they make to the defined conservation area. Concerns that the development may adversely impact on these trees are addressed below.

The site as existing does not make a positive contribution to the character of the conservation area. The height and form of the proposed development is compatible with the historic townscape and the design of the proposal has taken into consideration the spatial pattern, scale, proportions and design of the traditional properties within the area. The use of ashlar stone material takes cue from the historic environment whilst clearly being distinguishable as a contemporary addition.

There is no requirement to replicate traditional buildings in the conservation area, the aim is to be able to read the historical and architectural progression of the area by the buildings within it.

In reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the proposals will preserve the character and appearance of the conservation area, therefore complies with LDP Policy Env 6.

c) Principle

Policy Hou 1 (Housing Development) of the adopted Edinburgh Local Development Plan (LDP) states that housing development will be supported on suitable sites in the urban area, provided the proposals are compatible with other policies in the plan.

The proposal site is located in the urban area as designated in the Edinburgh Local Development Plan (LDP). Supporting paragraph 15 of the LDP refers to promoting reuse of previously developed land and reliance on windfall sites to contribute to meeting the city's housing requirement.

LDP strategy directs new housing to sites which best meet a range of assessment criteria including landscape impact, green belt boundaries, accessibility to public transport and infrastructure capacity.

Paragraph 221 of the LDP refers to the city's need for more housing to provide for an increasing population.

The objectives of LDP housing policies are to meet the requirement for additional housing in Edinburgh whilst protecting environmental quality in housing areas, promote sustainable, better balanced communities and ensure provision is made for necessary community facilities.

The application site falls within the defined Morningside/Bruntsfield Town Centre.

Policy Ret 3 (Town Centres) states that planning permission will be granted for retail development within a town centre, subject to a number of criterion.

The Bruntsfield / Morningside Supplementary Guidance contains policies that restrict changes of use from shop use. However, as the existing use is class 1, and the ground floor use would be class 1 the policies of the supplementary guidance do not apply.

The existing post office building and its shopfront, which is dated and is currently boarded up, exhibits a run-down appearance. The proposed new shop will improve the character and appearance of the area, including the public realm.

The proposal complies with LDP Policy Ret 3.

LDP policy Hou 2 (Housing Mix) states that the Council will seek a mix of house types and sizes where practicable to meet a range of housing needs. The application proposes a mix of one and two bedroom flats.

The application complies with LDP Policy Hou 2.

LDP Policy Hou 4 (Density) seeks an appropriate density of development having regard to its characteristics and those of the surrounding area, the need to create an attractive residential environment, accessibility and its impact upon local facilities.

The site is surrounded primarily by residential uses in the form of large tenement buildings with commercial uses at the ground floor. There is an existing high-density form of development characteristic on Morningside Road through tenement buildings to the north and west of the site. The proposed development will not materially alter the existing density of the area. The site has access to public transport links to the city centre and residential development in this location will help to support local facilities and commercial uses in the wider area.

As such, introducing a development of this density is considered compatible with the density of residential development evident in the area, contributing to the viability of the local area.

Furthermore, the proposal has the potential to contribute to a requirement in the LDP for additional housing within the city. The re-use of previously developed land is promoted, and it is recognised the proposal is a brownfield site within an established residential area.

As such, introducing a development of this density is considered compatible with the high density of the surrounding townscape and contributing to the viability of the local area.

LDP Policy Hou 3 (Private Greenspace) states planning permission will be granted for development that makes adequate provision for green space to meet the needs of future residents.

Supporting paragraph 226 states that exceptions to these requirements may be justifiable if there are good reasons why this cannot happen, for example where justified by the policy on density.

Although the proposal does not comply with LDP Policy Hou 3 (Private Greenspace in Housing Development), the breach is justifiable in this instance due to the constrained nature of the brownfield site and the proposal complies with the other relevant policies in the adopted LDP.

The proposal complies with LDP Policies Hou 1, Hou 2 and Hou 4 and the breach of Policy Hou 3 is acceptable.

d) 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 3 (Development Design - 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.

LDP Policy Des 4 (Design- impact on Setting) 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 Des 7 (Layout Design) requires new development to have a comprehensive and integrated approach to the layout whilst enhancing site connectivity.

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.

Policy Des 13 (Shopfronts) states that planning permission will be granted for alterations to shopfronts which are improvements on what already exists and relate sensitively and harmoniously to the building as a whole.

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

The building takes its cues from existing development in the street but achieves a building of a contemporary design and form.

The proposed four storey element of the building which shall be nearest to the Jordan Lane tenements will have a similar height and depth to the other tenements along Morningside Road. The four storey element of the building will, however, extend further back to the south of the site, fully utilising what is essentially a corner plot with Hermitage Terrace. As the historic photographs and maps show buildings have historically been constructed back into this site.

The south facing elevation will be seen during the winter months when the trees along the boundary are not covered in leaves. The main entrance to the building will be from the south elevation and it shall have a range of windows, feature glazing and it will be externally finished in ashlar stone. The proposal is also chamfered at the southern corner so that the existing stone pier can still be read and the 2 metre access along its southern boundary will be fully retained.

Originally the external walls of the building were to be finished in a mixture of render, cladding and stone. This has now been amended so that the principal and side elevations which are publicly visible are now finished in stone. The sides of the existing building are largely finished in render as are some of the buildings to the rear of the site. The materials are appropriate in the surrounding context.

The principal elevation of the building will not have bay windows. However, it is noted that there are many other examples of tenement buildings along Morningside Road that do not have bay windows and instead have a simple, yet attractive, principal frontage, similar to that proposed. The use of Juliet balconies adds detailing to the west and south elevations and the extent of glazing at ground floor will help to retain an active street frontage. The development will have a range of raised terraces which shall provide additional amenity space for residents whilst enabling the existing retail unit to be retained. Jordan Burn Close to the south of the site will be retained to permit access to the rear and to the Sports bar.

The existing built environment surrounding the site is high quality and of a settled townscape character. The development proposed is modern but respectful of the surrounding area and it will be finished in high quality materials.

The density of development is acceptable given the immediate character of Morningside Road and would not result in overdevelopment of the site. The location is highly sustainable and it makes the best use of a brownfield site in a built up area.

Overall, the design is high quality, contemporary architecture and the development will be a positive addition to the street and the area in compliance with LDP design policies.

Overall, the proposal complies with LDP Policies Des 1, Des 3, Des 4, Des 7, Des 13, Hou 4 and the Edinburgh Design Guidance.

d) Residential amenity

LDP Policy Des 5 states that planning permission will be granted for development where the amenity of neighbouring developments is not adversely affected.

The Edinburgh Design Guidance confirms that the pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances. In assessing this, the Council will look at each case individually and assess the practicalities of achieving privacy against the need for development.

Neighbouring Amenity

The windows to the front of the building will overlook Morningside Road and will be set back slightly further than the established window to window distances between the tenements along Morningside Road. There will be no windows in the north elevation of the proposal. It is noted that there will be roof terraces to the first and third storey of the building, however these areas will overlook the communal garden area of the flats to the north which are already directly overlooked by the tenements themselves. The agent has confirmed that the green roofs shall only be accessible for maintenance. The windows of the tenement flats on Jordan Lane will be approximately 14-15 metres away from the proposed terraces which is an adequate separation distance in order to ensure privacy.

The raised terraces will also be located approximately 15-17 metres away from the private garden to the rear of No. 4 Jordan Lane. The nearest raised terrace will also be approximately 15 metres from the nearest windows on the Ball Room club (No. 3 Jordan Lane), whilst the window to window distance between the windows to the rear of the proposal and those to the front of the Ball Room club will be roughly 18 metres. No. 3a Jordan Lane is located above the Ball Room Club. The building has one window which faces towards the site, the other upper level windows face to the south and east. The Scottish Assessors Association confirms that the current legal use of No. 3a is an office. The Council's Street Naming and Numbering department have also stated that according to the Corporate Address Gazeteer, No. 3a is a commercial property.

The smallest window to window distance between the proposal and the nearby nursery building will be approximately 14 metres. However, these windows will be at an acute angle and screened to a degree when the trees have their leaves. The windows in the south elevation will overlook the nursery's outdoor area. However, it is noted that this nursery play area is to the front of the nursery building and is already highly open and visible, as the pavement and road run nearby. During the summer months when it is most likely that this outdoor area shall be utilised, these windows will also be obscured by the nearby trees.

The Edinburgh Design Guidance states that when there is concern about potential levels of daylight, the Council will refer to the Building Research Establishment (BRE) Guide, Site Layout Planning for Daylight and Sunlight - A Guide to good practice. This shows how to measure daylight and sunlight.

The applicant carried out a daylight analysis. As the 25 degree method indicated that some windows to the Jordan Lane tenements may not receive adequate daylight, a further analysis was carried out using the Skylight Indicator to calculate the Vertical Sky Component. This method is more accurate for non-continuous or complex obstructions than the simplified 25 degree method.

The BRE Guide states that if the Vertical Sky Component is 27% or above then enough skylight should reach the window of the existing building. Any reduction below this level should be kept to a minimum. Five windows from the rear elevation of the Jordan Lane tenement most likely to be impacted by the proposal, were reviewed. Windows 1, 3, 4 and 5 showed a VSC comfortably above 27% while only window, No. 2, showed a VSC of marginally below 27% at 26.5%. With this window falling only marginally below the recommended 27% VSC, the analysis shows that the proposed development will not have an unacceptable impact on the daylight to the existing buildings on Jordan Lane.

Much of Morningside Road has large tenement flats on each side, an established distance apart. These flats will impact, to a degree, on the levels of daylight that each receives. The proposal will follow the established building line and will be four storeys in height like many of the existing tenements. Any potential impact that the development may in terms of potential loss of daylight to existing tenements on Morningside Road will be similar to that caused by other existing tenements which already face each other.

The Edinburgh Design Guidance (EDG) sets out the requirements for assessing sunlight impacts.

The BRE guidance suggests that a higher degree of obstruction in terms of loss of sunlight may be unavoidable if new developments are to match the height and proportions of existing buildings in built up locations.

Due to the established high density nature of the surrounding area, the applicant has produced a sun path analysis as recommended in the Edinburgh Design Guidance. This breaks down the various garden areas, most likely to be affected, that are to the north/north east of the site, into gardens 1, 2, 3 and 4.

The sunlight assessment produced shows that 50% of all of these four garden areas will still receive more than two hours of sunlight on March 21st.

The proposal will have a very marginal impact upon sunlight levels to garden No.4. It will only cause a 4% reduction in sunlight levels to the garden at 17:00hrs, apart from that it will have no impact upon the levels of sunlight garden 4 will receive.

For garden No.3, the sunlight assessment shows that the development will only cause a 2% reduction in sunlight levels at 15:00 hrs and a 4% reduction at 16:00hrs. Out with these hours, the proposal will have no impact upon the levels of sunlight garden 3 will receive.

For garden No.2, the proposal will cause no impact to existing levels of sunlight between sunrise and 07:00hrs.but will vary for later hours, However, 50% or more of the garden space will still receive sunlight between the hours of 08:00 and 14:00hrs.

Garden No.1, is a corner site, which is largely grassed. It appears that the commercial buildings on Morningside Road may also have access to the garden and there are some commercial devices present within the grounds. The garden is quite large having an area of approximately 150sqm.

No. 1 Jordan Lane, a four storey tenement, is located approximately 14-15 metres to the north of the application site and is directly to the north of garden No. 1, whilst the existing commercial units are located directly to the west of the garden. Unusually for a corner garden in such a built up area, the directly neighbouring commercial buildings on Morningside Road, which lead south towards the site, are single storey, unlike the five storey tenements which are present across the street. The existing building on the site, which lies to the south of this garden area, is also unusual in terms of it also being single storey to the front of the site.

The gardens of corner sites in the surrounding area are regularly bookended by large tenement buildings and are often quite severely overshadowed.

Looking at the sun path analysis, the element of the proposed build that will cause additional overshadowing to garden No. 1, is of a height and proportion that is similar to existing nearby tenements and would be expected along Morningside Road. There will be no or marginal impact on this garden from sunrise to 10:00 but there will be negative impacts from then.

From this time onwards the proposal will negatively impact upon the areas of the garden which shall receive sunlight. Between 12:00- 13:00 hrs the proposal will reduce the sunlight to the garden by 40%. It is, however, noted that 31% of the garden will still receive sunlight at midday and the communal garden area is relatively substantial.

Over 46sqm of garden ground will still receive sunlight at this time. From 14:00 onwards the impact of the proposed development begins to reduce as the single storey commercial properties to the west of the site begin to overshadow the site.

It is also important to note that the levels of sunlight to which garden No. 1 will receive will also be in excess of these figures during the summer months, when the garden is most likely to be utilised.

The sunlight analysis shows that half of the area of garden 1 will be capable of receiving potential sunlight for more than two hours during the spring equinox.

Overall, reasonable levels of sunlight and daylight shall be maintained to neighbouring properties and that there would not be an adverse effect on neighbouring amenity overall.

The planning service does not control the potential for noise and disruption associated with the construction of a build. The use of the site as flats will not materially impact upon existing residents in terms of potential noise and disruption.

Private views are not protected. However, the immediate outlook of the foreground of what can be seen from within a building may be. This means that new development that blocks out the immediate outlook of a dwelling must be avoided. The windows to the rear of the tenements on Jordan Lane will still look out onto the communal garden ground which has an approximate depth of 14-15 metres. The proposal will not impact upon the immediate outlook of the dwellings.

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

Amenity for future occupiers

LDP Policy Des 5 states that planning permission will be granted for development where it is demonstrated that future occupiers will have acceptable levels of amenity.

It is noted that seven of the proposed flats are dual aspect. The four that are not will still have large windows that will either face to the east or the west. It is not unusual within tenement properties to only have one aspect. It is noted that at sometimes in the year the nearby trees will restrict daylight levels to a degree, however the properties which are to be sited nearest to the trees will be dual aspect. The windows nearest the trees will provide light largely to bedrooms and the trees are deciduous. Overall, the properties will receive adequate levels of daylight while views will also be good.

The Edinburgh Design guidance establishes minimum floor space standards for new residential properties. These are: 52 sqm for a two bedroom property and 66sqm for a two bedroom property. The proposal exceeds these standards.

LDP Policy Hou 3 (Private Greenspace in Housing Development) states that planning permission will be granted for development that makes adequate provision for green space to meet the needs of future residents. In flatted developments where communal provision will be necessary, this will be based on a standard of 10 square metres per flat. A minimum of 20% of the total site area should be useable greenspace.

The existing commercial building will be retained, and it extends back into the site. As a result, no communal ground floor green space is proposed within the development. However, two of the flats proposed within the first floor will have roof terraces, whilst one third floor flat will also have a roof terrace. It is also acknowledged that the flats will be within walking distance of high quality outdoor areas, like the Braidburn Valley Park and the Hermitage of Braid. The site also lies on major public transport routes which means it will be easy for future occupants to get to other high quality green spaces

On balance the breach of LDP Policy Hou 3 is acceptable in this instance.

Environmental Protection was consulted as part of the assessment of the application. They have recommended additional conditions in regard to the submitted plant and floor specifications to be installed prior to first use of the development.

The applicant has demonstrated that noise from the ground floor retail unit and plant can be contained to within acceptable thresholds. These matters are controlled under separate legislation to planning therefore conditions have not been recommended in respect to these matters. An informative has been included in respect to plant noise meeting the NR25 criteria, whilst the floor specifications would be considered as part of any subsequent building warrant application

The proposal complies with LDP Policy Des 5.

f) Impact on trees and ecology

LDP Policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact on a tree protected by a tree preservation order or on any other tree worthy of retention.

It is noted that there are eight trees directly to the south of the site located behind the boundary wall and one large tree within the garden grounds to the north east.

The applicant has submitted an arboricultural tree report. It states that the trees are all either category A or B apart from one tree which is category C. They are of high value and all but one has good life expectancy. The report states, however, that they have not been actively managed, with five of the trees having evidence of being pollarded at around 5-8 metres many years ago. The trees have now developed large, spreading crowns which now overhang the site by 2-8 metres and the public highway as well as touching the existing building in places.

The arboricultural report states that root growth into the site is highly unlikely as they will have been contained by boundary walls, ground level changes and the existing building on the site. As such there is no requirement for specific tree protection measures in this case. It states that it is only pruning of the trees that will be required.

The arboricultural report states that *pruning back to the boundary up to a height of 16 metres can readily be achieved without the need for major surgery andthese works will be commensurate with normal arboricultural maintenance and will not adversely affect the health and wellbeing of the trees.*

The applicant's arboriculturalist confirmed again that the pruning he has recommended, if professionally executed, will not adversely affect the health or amenity value of the trees.

The Council's arboriculturalist was consulted as part of the assessment of the application and confirmed the group of trees to the south of the development is a highly valuable landscape feature formed of high-quality mature trees with many years of potential lifespan remaining. Concerns were raised particularly in relation to the fact that the trees would have to be continually pruned back in order to ensure that they would not impact upon the quality of light the properties would receive. The Council's arboriculturalist is of the view that the impact of the pruning required has been underplayed by the tree report - it would be heavy pruning which would imbalance the crowns of the trees and structurally compromise them. The juxtaposition would create constant pressure for the trees to be cut and potentially removed.

There is therefore a difference of opinion between the applicant's professional arboriculturalist and the Council's professional arboriculturalist.

In regards to concerns relating to overshadowing, it is noted that the six flats that will have windows that face the trees are all dual aspect. As such these properties will not solely rely on the windows which face towards the trees for light. The majority of windows which face the trees are also to provide light to bedrooms and there is around 3m to the boundary. It will not always be desirable to have full south facing sunlight entering bedrooms. The trees to the south of the site are deciduous and will only provide a degree of screening to these windows during certain times of the year. The trees to the south of the site will continue to be protected. If, in the future, further works to the trees were requested then permission from the Council would be required as they lie within the defined conservation area. A judgement can then be made whether to serve a Tree Preservation Order or not.

It is noted that the branches of the nearby trees already severely overhang the application site. In terms of future maintenance and for safety, the tree's branches will need to be pruned and regularly maintained, regardless of whether the application is approved, and the building constructed.

In conclusion with regard to policy Env 12, as is usual with the redevelopment of brownfield sites, there are always competing constraints on development. In this case, a balanced judgement has to be made between the redevelopment of an unsightly site and its replacement with a high quality development providing homes with the potential loss of some of the trees. In these situations, it is often the case that there is no certainty what the outcome will be until some years later and therefore a decision has to be taken as to what weight to give each material planning consideration. In weighing these factors up, the merits of the scheme including the removal of a building which negatively impacts on the conservation area and its replacement with high quality flats which make a positive contribution to the area, coupled with assurances from the applicant's arboriculturalist, outweigh the concerns that the development will potentially lead to the loss of these trees. The benefits in this case outweigh any potential disbenefits.

LDP policy Env 16 (Species Protection) states that planning permission will not be granted for development that would have an adverse impact on species protected under European or UK law.

A bat survey was submitted with the application. The Council's ecologist has no objections to the proposal.

The proposal complies with LDP Policy Env 16.

g) Road Safety, car and bike storage

LDP Policy Tra 2 (Private Car Parking) 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.

LDP Policy Tra 3 (Private Cycle Parking) states that planning permission will be granted for development where the proposed cycle parking and storage facilities comply with the standards set out in Council guidance.

LDP Policy Tra 4 (Design of off street car and cycle parking) states the considerations that will be taken into account where off street car parking is considered to be acceptable.

LDP Policy Tra 9 (Cycle and Footpath Network) states that planning permission will not be granted for development which would:

- a) prevent the implementation of proposed cycle paths/ footpaths shown in the proposals map
- b) be detrimental to a path that forms part of the core paths network or prejudice the continuity of the off road network generally
- c) obstruct or adversely affect a public right of way or other route with access rights unless satisfactory provision is made for its replacement.

No car parking spaces are proposed. The site is identified within the Edinburgh Design Guidance Parking Standards as being within Zone 2. The standards identify that residential properties within this area should have a maximum car parking provision of one space per dwelling. There is no minimum parking provision. Lower provision will be pursued subject to consideration of factors including the site's accessibility to public transport, local amenities, schools and places of employment.

The site is accessible by public transport. Bus Services are located nearby including on Morningside Road, Balcarres Street and Cluny Gardens. These bus stops are in close walking distance of the site with pedestrian footways along these routes. In regard to the LDP Transport policies, a car-parking free development is appropriate in this well-served location as the site which is accessible by sustainable modes of transport, well-connected to a range of commercial and other services.

The development proposes, 22 secure cycle parking spaces, two spaces for employees and one for visiting customers.

A secure cycle parking building is proposed to the rear of the site. The unit will have a private locked access door and shall be lit internally and externally. Bike storage shall be single storey Sheffield cycle stands within the unit. The unit shall be overlooked to a degree by the proposed flats and by the existing sports bar which is to the rear of the site.

The Roads Authority was consulted as part of the assessment of the application. It has confirmed that it has no objections to the principle of the development. However, the proposal requires the stopping up of part of the adopted footway to allow the building to come forward to the building line. The Council as Roads Authority does not support the principle of the removal of the footway nor any such stopping up and as such the Roads Authority recommend the refusal of the application. However, there are no statutory policies that would preclude this.

Moving the proposed building forward will mean that the structure will respect the established building line along Morningside Road. The area of pavement in front of the current building is a dead area that does not provide an amenity gain to the surrounding area. It is relatively small and is terminated to the north by the directly neighbouring retail unit, which follows the established building line and to the south by the historic wall which lines the southern boundary of the site. The proposed building is chamfered to permit easy access to the Jordan Burn Close and for the pier to be read. The photographs of the site also show that this element of the site was historically positioned behind a brick wall and was not part of the pavement. It will not prevent the implementation of any new proposed footpath, or prejudice the continuity of the off road network.

The Roads Authority has also confirmed that the proposal complies with LDP Policy Tra 9 as it will not affect an off road route.

In order to implement the grant of planning permission it will be necessary to pursue a stopping up order under section 207 of the Town and Country Planning (Scotland) Act 1997.

The proposal complies with LDP policies Tra 2, Tra 3, Tra 4 and Tra 9.

h) Flooding

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

The Scottish Environmental Protection Agency (SEPA) flood maps indicate that the site falls within an area of high risk of surface water flooding, but of no specific risk in terms of river or coastal flooding.

A Surface Water Management Plan and Flood Risk Assessment were submitted with the application.

The surface water from the site is proposed to be discharged into the nearby culvert. A full CCTV survey of the culvert was not possible as there was a blockage found within it. Flood Planning has confirmed that it has no objections to the proposal subject to the blockage being removed prior to work commencing on site and a report submitted for the written approval of the Council, once the full survey of the culvert has been carried out, highlighting if there are any repairs or maintenance required. The report must also confirm in writing that the proposed surface water discharge rate into the culvert will not pose a flood risk.

The Scottish Environmental Protection Agency (SEPA) were also consulted as part of the assessment of the application. It confirmed that it had no objections.

An informative has been applied that a Controlled Activities Regulations (CAR) License may be required for works to and in the vicinity of the culvert. It is recommended the applicant contacts SEPA for guidance on this matter.

Scottish Water confirmed that they have no objections.

Subject to the submission and approval of this information as required by condition, the proposal has been designed to mitigate potential flood risk and accords with LDP Policy Env 21.

i) Equalities and Human Rights

A ramped access is provided to the entrance of the flats and to the rear of the building. The agent has confirmed that the design is in accordance with the Scottish Building Regulations which do not require a lift to residential properties which are not more than four storeys in height and do not have a floor level at more than 10m above the entrance floor level.

Zero car parking spaces are acceptable as the majority of properties along Morningside Road do not have access to parking spaces. There are good public transport links in close proximity to the site.

j) Other material considerations

Scottish Planning Policy (SPP)

The SPP introduces a presumption in favour of development that contributes to sustainable development and sets out 13 principles to guide policy and decisions:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;

- supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- supporting climate change mitigation and adaptation including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- reducing waste, facilitating its management and promoting resource recovery; and
- avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

The development proposes an appropriate and sustainable land use which will support the local economy and protect the historic environment. The scheme makes good use of the land available, and the design will create a sense of place. The site is within walking distance or a short bus journey of high quality greenspace areas. The proposal includes measures to assist with climate change mitigation, including zero car parking, ample cycle parking and solar panels on the roof of the building.

The proposed development therefore complies with the 13 SPP principles.

Waste

Waste Services was consulted as part of the assessment of the application. It stated that it would look into incorporating the development into the new on-street bin provision as part of the communal bin review. Environmental Protection raised no concerns in relation to the positioning of the bins in relation to the retail unit.

k) Public comments

Material Representations - Objections

- Parking and Road Safety- This is addressed in section 3.3g
- Loss of sunlight/daylight and overshadowing. - This is addressed in section 3.3e
- Loss of privacy- This is addressed in section 3.3e
- Design, scale and materials inappropriate - This is addressed in section 3.3d
- Impact upon Conservation Area - This is addressed in section 3.3c
- Overdevelopment of the site - This is addressed in section 3.3c and d

- Disruption and noise - This is addressed in section 3.3e
- Amenity for future occupants- This is addressed in section 3.3e
- Flooding concerns- This is addressed in section 3.3h
- Waste provision and location of bins- This is addressed in section 3.3i
- Impact on ecology- This is addressed in section 3.3f
- The proposal will impact upon the Sports Bar and harm the mental health of individuals that utilise it- The proposal will not impact upon the function of the Sports Bar or the ability of patrons to use it.
- Does not comply with the agent of change- The NIA submitted shows that the occupants of the development will not be affected by the Sports Bar.
- Concerns about air pollution- Environmental Protection did not object to the application.
- Post office is an eyesore and is dilapidated, this will improve the street scene and the nearby area- This is addressed in section 3.3c
- New housing is needed and its good to see the retail element retained- This is addressed in section 3.3a
- Neighbour notification carried out incorrectly- Neighbour notification has been carried out in accordance with legislation.

Non Material Objection

- Control/access over the path and lane to rear - These are civil issues between interested parties.
- Construction noise- This is not controlled by the Planning Service.
- Safety of building over the burn- This will be assessed by Building Standards under the required warrant for the development.
- Could be let out as Air BNB- That would require a further application for planning permission.
- lack of contributions and affordable housing- No financial contributions have been identified. Due to the number of flats proposed within this individual site, no affordable housing is required on site.
- No requirement for another retail unit, impact on trade. - This is not a material planning consideration.

Community Council Comments

The Morningside Community Council objects to the application.

- Overdevelopment of the site- This is addressed in section 3.3c
- Impact on setting of listed building- This is addressed in section 3.3b
- Impact on neighbouring amenity- This is addressed in section 3.3e
- Inappropriate design- This is addressed in section 3.3d.
- Residents should not eligible for Residents' Parking Permits.- Residents will have to apply for permits. An informative has been applied in this regard.
- Loss of pavement is unacceptable- This is addressed in section 3.3g.
- Impact on protected trees- This is addressed in section 3.3f
- Concerns about bin storage and collection- This is addressed in section 3.3i
- Flats are not accessible to wheelchairs- The applicant has confirmed that the development meets the requirements of the building standards regulations. Accessibility will also be assessed through the building warrant process.
- No affordable housing proposed- No financial contributions have been identified. Due to the number of flats proposed within this individual site, no affordable housing is required on site.

Material Representations - Support

- Character and appearance of conservation area, will improve areas visual amenity - This is addressed in section 3.3c and d
- Development is sustainable, good use of brownfield, vacant land- This is addressed in section 3.3a
- Good design, appropriate scale, height and form for area - This is addressed in section 3.3c and d
- Good to see the retail element is to be retained, will protect the Morningside Town Centre- This is addressed in section 3.3a.
- More parking provision required - This is addressed in section 3.3g
- More housing is required within the area - This is addressed in section 3.3a

- Impact on traffic and parking - This is addressed in section 3.3g.
- Will bring more jobs to the area- This is addressed in section 3.3a

Non Material Representations - Support

- Alleged campaign to provide letters of objection - This is not a material planning consideration.

Material Neutral Comment

- Parking and access- This is addressed in section 3.3g
- Scale and size, design of building and landscaping- This is addressed in section 3.3d
- Good use of site, sustainable-This is addressed in section 3.3 a

Conclusion

The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves and enhances the character and appearance of the conservation area and will not harm the setting of nearby listed buildings.

The development complies with the Edinburgh Local Development Plan. The proposal is acceptable in this location and is of an appropriate scale, form and design and introduces a suitable mix of flats into the area. The proposal will have no material impact upon the amenity of local residents and will provide adequate residential accommodation.

While there may be an impact on adjacent trees which currently overhang the site, the benefits of the proposal in delivering new housing and delivering an attractive new building outweigh any adverse impacts to the trees that may arise.

The breach of LDP policy Hou 3 in respect of green space is acceptable in this instance.

Whilst the Roads Authority does not support the stopping up of the footway and therefore recommend the refusal of the application, it has no objections to the principle of the development. The Roads Authority has also confirmed that the stopping up of the footway is not a breach of LDP Policy Tra 9.

The proposal complies with the local development plan and the policy principles of sustainable development set out in Scottish Planning Policy (SPP). There are no other material considerations which outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Conditions: -

1. 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. Details of the coursing of stonework are also to be provided and approved prior to the commencement of work on site.
2. Glazing requirements as shown on approved drawings 07c, 08c & 10c should be installed prior to occupation of the development.
3. No Development Shall take place until the blockage in the culvert identified in Appendix 2 of the submitted Drainage Strategy reference P1470, dated September 2021, is removed and a full CCTV culvert survey completed and submitted for the written approval of the planning authority.

The survey shall ascertain whether additional repairs and maintenance are required. The condition must be adequate as to not reduce the capacity of the culvert and to allow flow and not pose a flood risk as a result of the proposed surface water discharge rate. The CCTV survey will also identify structural defects and confirm whether repairs are required.

In the event works are required, the construction of the building shall not take place until those works have been carried out.

Reasons:-

1. To protect and enhance the character and appearance of the conservation area.
2. In the interests of residential amenity
3. In the interests of flood management.

Informatives

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
4.
 - a. The applicant should consider the provision of car club vehicles in the vicinity of the site in support of the proposed zero car parking and low car ownership;
 - b. The applicant should consider developing a Travel Plan including provision of pedal cycles (inc. electric cycles), public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport;
 - c. The applicant should be advised that, 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

https://democracy.edinburgh.gov.uk/Data/Transport%20and%20Environment%20Committee/20130604/Agenda/item_77_-_controlled_parking_zone_amendments_to_residents_permits_eligibility.pdf (Category D - New Build)

5. The maximum permitted plant noise specification details as measured from 1 metre and shown on approved drawing No. 12 shall comply with NR25.
6. During excavation and construction if any tree roots over 25mm diameter or large bundles of fine roots are discovered within the site then a suitably qualified arboriculturist should be contacted and the roots inspected to clarify whether the works shall harm these trees. A written report of any findings following this inspection should be submitted to the Planning Authority to agree mitigation measures.
7. There is potential that a Controlled Activities Regulations (CAR) License for works to / within the vicinity of the culvert is required. It is therefore recommended that the applicant contacts SEPA for guidance on this matter and also refers to https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf. It should be noted that the guidance it states 'removal of structures is a controlled activity'. Section 6 of the guidance covers Engineering Activities, and Table 5 from page 49 gives the level of authorisation that is applicable.
8. Any pruning should be carried out by a professional tree surgeon to BS 3998:2010.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

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 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

7.1 The sustainability impact has been assessed as follows:

This application meets the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

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 received 122 objection comments, including one from the Morningside Community Council, 29 support comments and one neutral comment. The points raised are addressed in section 3.3 of the report.

Background reading / external references

- 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**

Urban area

Date registered

7 July 2021

Drawing numbers/Scheme

01,02,03a,04a,05,06a,07c,08c,09c,10c,11,12,

Scheme 2

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Robert McIntosh, Planning Officer

E-mail: robert.mcintosh@edinburgh.gov.uk

Links - Policies

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

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) identifies the circumstances in which developer contributions will be required.

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 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) supports development where it is demonstrated that existing and potential features have been incorporated into the design.

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 Des 6 (Sustainable Buildings) sets criteria for assessing the sustainability of new development.

LDP Policy Des 13 (Shopfronts) sets criteria for assessing shopfront alterations and advertising proposals.

LDP Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

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

LDP Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

LDP Policy Env 12 (Trees) sets out tree protection requirements for new development.

LDP Policy Env 16 (Species Protection) sets out species protection requirements for new development.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

LDP Policy Hou 1 (Housing Development) sets criteria for assessing the principle of housing proposals.

LDP Policy Hou 2 (Housing Mix) requires provision of a mix of house types and sizes in new housing developments to meet a range of housing needs.

LDP Policy Hou 3 (Private Green Space in Housing Development) sets out the requirements for the provision of private green space in housing development.

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

LDP Policy Ret 3 (Town Centres) sets criteria for assessing retail development in or on the edge of town centres.

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 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.

Relevant Government Guidance on Historic Environment.

Managing Change in the Historic Environment: Setting sets out Government guidance on the principles that apply to developments affecting the setting of historic assets or places.

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.

Scottish Planning Policy (SPP) - The SPP sets out Scottish Government policy on nationally important land use matters and includes subject specific policies on: economic development, town centres and retailing, housing, rural development, coastal planning, fish farming, historic environment, landscape and natural heritage, open space and physical activity, green belts, transport, renewable energy, flooding and drainage, waste management, minerals, on-shore oil and gas, surface coal mining and communications infrastructure.

Appendix 1

Application for Planning Permission 21/03622/FUL at 265 Morningside Road, Edinburgh, EH10 4RD. Form ground floor retail unit and 11x flats in upper floors with associated cycle parking and infrastructure.

Consultations

Waste Services

We will look at incorporating both the developments into the new on-street bin provision as part of the communal bin review.

Ecology

Having considered the finding of the report, I am satisfied that bats are not a constrain to development. Therefore, there is no objection to this application in relation to policy Env 16 Species protection.

Archaeology

Further to your consultation request I would like to make the following comments and recommendations concerning this application to form ground floor retail unit and 11x flats in upper floors with associated cycle parking and infrastructure.

The application site lies on the southern side of the historic Georgian and Victorian suburb of Morningside which developed out from the 17th century estate of the same name. A main focus for the early development was and is Morningside Road which forms the main high street. The Road which running southwards from Edinburgh across the Burghmuir is medieval in date but may date back to the Roman Period. The southern boundary of the site is formed by now canalised Egypt Burn. The current late 60's former post office replaced an earlier building running along the northern boundary of the site which dated back to before 1837.

As such the site is of archaeological potential. However, the current scheme will retain the footprint of the current building which directly overlies the site of the early 19th century one. Accordingly, as the remains if this historic structure are unlikely to be significantly disturbed by this scheme it is considered that these proposals will not have a significant archaeological impact and that there are no known archaeological implications.

Roads Authority

Full Response

The application should be refused.

Reasons:

Whilst there is no objection to the principle of development on the site, the proposed development requires the stopping up of part of the adopted footway. The Council as roads authority does not support the removal of the footway nor any such stopping up.

Note:

In addition to the above issue, the applicant should be required to address the following:

- 1.The applicant should consider the provision of car club vehicles in the vicinity of the site in support of the proposed zero car parking and low car ownership;
- 2.The applicant should consider developing a Travel Plan including provision of pedal cycles (inc. electric cycles), public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport;
- 3.The applicant should be advised that, 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 https://democracy.edinburgh.gov.uk/Data/Transport%20and%20Environment%20Committee/20130604/Agenda/item_77_-_controlled_parking_zone_amendments_to_residents_permits_eligibility.pdf (Category D - New Build)

Flooding

Thank you for forwarding the responses. This satisfies our previous consultation comments. We have the following comment relating to this application.

Prior to construction, the applicant should clear the blockage from the Jordan Burn and confirm that the condition is sufficient to accommodate the development.

SEPA

1. We have no objection to this application on the grounds of flood risk.
2. The site is outwith, albeit adjacent to the SEPA surface water flood map extent. You can view the SEPA Flood Maps and find out more about them at [Flood Maps | SEPA - Flood Maps | SEPA](#)
3. A small culverted watercourse (the 'Jordan Burn') flows along the north of the site boundary. The SEPA Flood Maps do not cover small watercourses (catchments <3km²) but they can still cause flooding. We do not hold information on observed flooding in this location and we are pleased that contact has been made with CEC Flood Risk Management Team for further advice on flood risk in this area, we note no records of flooding have been observed.

4. We welcome the provision of a Flood Risk Assessment for the site (ref: P14790, Goodson Associates Revised FRA, August 2021). We are satisfied that the recommendations from the FRA have been taken into account in the design of the site and development has been limited to land which is unlikely to flood based on all information we hold.

5. Through a comparison of the existing versus proposed plans, we note that there are no proposed changes to land use vulnerability on the basement and ground floor levels. A pedestrian access way will remain over the location of the culverted watercourse on the ground level. The residential flatted development is located on the stories above ground floor level and we are satisfied that the proposal will not introduce highly vulnerable receptors immediately on top of the culverted watercourse that is to remain active. We would not support highly vulnerable (residential) development on the basement or ground floor level due to the increased susceptibility of such site users in the event of a flood. The proposal may however restrict future access to this small reach of the culverted watercourse, though we note from the culvert survey that no manholes have been identified within the site boundary so we are not aware of access currently being available at the site.

6. For information, safe access/egress by emergency vehicles and surface water management are matters under the remit of the local Flood Risk Management Authority at City of Edinburgh Council. It is therefore for City of Edinburgh Council to comment on the acceptability of the proposed flood mitigation measures.

Environmental Protection

I refer to the above and would advise that Environmental Protection has no objections to the proposed development.

The application proposes the erection of 11 flats above a ground floor retail premises. A retail premises is situated to the north. To the east of the site there is a service lane which serves the Post Office and the adjacent snooker club. A restaurant is also situated to the south-east. A number of residential properties surround the site on Morningside Road and Jordan Lane.

A Noise Impact Assessment (NIA) has been provided in support of the application. Habitable rooms facing west on to Morningside Road and south on to the pedestrian lane will have windows fitted with acoustically enhanced double glazing. A condition is therefore recommended below to that effect.

The NIA advises that noise from the nearby snooker club stems from patrons talking as they enter and exit the premises and occasionally from patrons sitting within the external seating area. The NIA advises that the noise level from the measured snooker club activity will be in line with the local authority criteria during the day-time current operating hours of the snooker club. However the predicted levels may exceed the local authority's criteria within the proposed properties when assessed against an open window attenuation during the night-time period. The NIA advises that:

1. The main context is that there are existing residential properties already adjacent to the Snooker Club. As far as we are aware the club has operated from this location for many years without causing noise disturbance to the existing residential properties.
2. The closest proposed property will also be subject to road traffic noise and be likely to utilize the specified acoustic glazing outlined within the report which would reduce the internal noise level by an additional -12dB in line with the local authority's criteria when closed.
3. The noise emanating from the seating area and entrance car park of the snooker club is typical of street noise in the area. There is no music noise which is more likely to give rise to complaints.
4. The flats have been designed with living rooms on the eastern most side, keeping sleeping accommodation/bedrooms as far away as possible from any potential noise from the snooker club.

Based on these reasons, the snooker club is unlikely to significantly impact upon the proposed properties and it is also unlikely that the proposed housing will impact upon the operations of the snooker club any more than already exists from surrounding residential premises. Environmental Protection has not received any noise complaints associated with the snooker club affecting existing residential properties and so the club appears to manage noise well. So for this reason, it is accepted that potentially detrimental amenity impacts associated with the snooker club are unlikely to be exacerbated by this application.

The NIA has also considered noise from proposed plant and the proposed ground floor commercial premises. In this regard, a maximum permitted noise specification has been recommended for plant noise and a separating floor specification recommended to address operational noise. The details of which have been recommended within a condition below.

Air Quality

Morningside Road can be very congested with road traffic and is a major thoroughfare route into and out of south Edinburgh to the city centre. The applicant therefore proposes a car free development which is supported by Environmental Protection. However, in contrast, the application proposes to utilise gas as a means of water and spatial heating for the units. Gas only serves to increase background NO₂ levels within an area already affected by high levels of the pollutant and so it is disappointing to see gas boilers being proposed within this new city development. Environmental Protection therefore does not support this aspect of the development.

However, on balance, Environmental Protection does not object to the application subject to the following conditions:

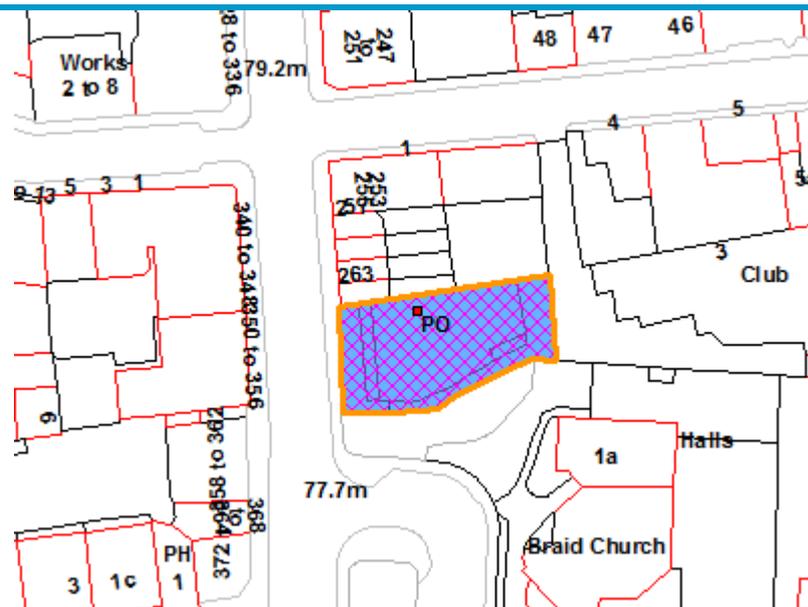
Conditions

1. Glazing requirements as shown on drawing 2930(PL)08, 09 & 10 and dated June 2021 should be installed prior to occupation of the development.

2. The maximum permitted plant noise specification details as measured from 1 metre and shown on drawing 2930 (PL) 13 A and dated October 2021 shall be implemented for proposed plant prior to the use hereby approved being taken up.

3. The separating floor specification as shown on drawing 2930 (PL) 13 A and dated October 2021 shall be implemented prior to the use hereby approved being taken up.

Location Plan



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