

Development Management Sub-Committee Report

Wednesday 30 March 2022

**Application for Planning Permission
6 Bangholm Terrace, Edinburgh, EH3 5QN.**

Proposal: Construction of a new dwelling in a gap site between two tenement gables.

**Item – Committee Decision
Application Number – 21/05811/FUL
Ward – B05 - Inverleith**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub Committee because twenty-one letters of support were received. Consequently, under the Council's Scheme of Delegation the application must be determined by the Development Management Sub Committee.

Recommendation

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

Summary

The proposal will not preserve or enhance the character or appearance of the conservation area. The proposal therefore is not acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal does not comply with adopted Edinburgh Local Development Plan policy Env 6, Hou 1, Des 1, Des 3 or Des 4. Insufficient information has been provided to show that the proposal complies with LDP policy Env 21. The proposal will not protect or enhance the historic environment. The proposal therefore does not comply with Paragraph 29 of SPP. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site relates to land at No. 6 Bangholm Terrace, Edinburgh.

The site lies between two, 4 storey traditional stone tenement blocks. It is currently utilised as a side garden area for No. 6, located behind a traditional stone wall. The site also contains a single flat roofed garage which is directly attached to the neighbouring tenement. The street displays a strong tenemental character. The site lies within the Inverleith Conservation Area.

There is a communal garden area to the rear (north-west) of the site, which contains a number of large mature trees. To the south-east is the pavement and road and beyond that the playing fields of Heriot's Rugby Club.

The area of the site is stated at 69 sqm.

Description of the Proposal

The application is for planning permission for the erection of a two storey dwelling within the garden grounds of the property.

The proposal is to remove the existing flat roofed garage and wall and construct a two storey, flat roofed one bedroom property with a total internal floor area of 55 sqm. The principal elevation of the building will be finished in sandstone, with dark stained timber screens. The side elevations shall be finished in render and timber screens, whilst the rear elevation will be finished in render and will utilise the stone from the existing wall to the front of the site, which shall be demolished.

The main element of the building will be sited in line with the tenement buildings but its depth will be less at approximately 6.2 metres. The ground floor will span the width of the gap between the two tenement blocks, approximately 7.8 metres, however the second floor will be narrower and will be set off the existing walls on each side. It will have a width of roughly 5.9 metres. The height of dwelling will be approximately 5.7 metres.

The roof of the proposal will be covered in sedum. The dwelling will be sited behind a new hedge and railings. The proposal will have a small courtyard to the rear, with a timber fence along the boundary and small garden area to the front. No. 6 will also retain a small garden area to the front.

Supporting Information

- Conservation Statement.
- Design Statement
- Surface Water Management Plan
- Ecology report
- Sunlight and daylight study
- Existing drainage and tree distance plan

Relevant Site History

20/04643/FUL
6 Bangholm Terrace
Edinburgh
EH3 5QN

Removal of existing single garage structure and garden walls to north and south of site and erection of new dwelling house in gap site between tenements.

withdrawn

25 January 2021

Other Relevant Site History

No other relevant site history.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Infrastructure, Structures & Flood Prevention

Environmental Protection

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

Publicity and Public Engagement

Date of Neighbour Notification: 4 November 2021

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 12 November 2021;

Site Notices Date(s): 9 November 2021;

Number of Contributors: 46

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

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

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

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

Assessment

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

a) The proposals harm the character or appearance of the conservation area.

The application site falls within the Inverleith 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."

Statement of significance contained within the Inverleith Conservation Area Character Appraisal states that *Inverleith Conservation Area is characterised by landscaped open spaces, surrounded by development dating principally from the early 19th to the mid-20th century. The quality and variety of spaces for recreational and sporting use, with their cumulative scenic qualities and views across the city, are the area's most significant feature. High quality, primarily residential buildings in a restricted palette of traditional, natural materials, laid out in a street pattern, density and form reflecting the adjacent open spaces, complement the scenic characteristics*

In terms of townscape the Character Appraisal states *Another pressure on the setting of open spaces is the erection of contemporary flat roof flatted developments on or adjacent to existing playing fields, such as on Bangholm Terrace, Kinnear Road and Fettes Avenue. These types of developments contrast with the traditional appearance of the area and there may be continuing pressure for such development proposals, justified on the basis that they represent a significant improvement from the existing site. This justification could have a negative cumulative effect on the character and setting when viewing development proposals after completion.*

The street is dominated by traditional stone tenements which line the majority of one side of the street. There is a more modern flatted block at the end of the street, which has a flat roof. However, whilst this existing flatted block is a modern intervention it seeks to replicate the character of the street by maintaining the tenemental massing.

The site currently has an attractive stone wall in line with its principal elevation. The flat roofed garage within the site is an incongruous intervention, however, it is low lying and does not significantly impact upon the character or appearance of the defined conservation area. It also does not significantly impact upon the gap space which is present between the two tenement buildings as it is of limited width.

Given the quality of the stone to the gables of the tenement buildings and the fact that there are a number of windows present within these gables, it is clear that this gap, between the buildings, was an intentional part of the original street design. The street overall displays a strong traditional tenemental character.

The proposal will be a modern intervention to the site. It will necessitate the removal of the attractive stone wall which will be harmful to the character of the street as will the infilling of the gap between the two tenements. Whilst the principle elevation of the proposal shall be partially finished in stone, it will also be finished in a number of other materials which are not characteristic of the conservation area, like dark stained timber and render.

The proposed development will also have a flat roof and it will not match the height, fenestration or design of the directly neighbouring tenements. The development will appear squeezed into the gap site and it will appear as overdevelopment of the existing side garden. Overall, it will be an incongruous addition to the largely traditional streetscene. It will not preserve or enhance the character and appearance of the defined conservation area.

Conclusion in relation to the conservation area

The proposal will not preserve or enhance the character or appearance of the conservation area. The proposal therefore does not comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan.

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 6, Env 12, Env 16 and Env 21.
- LDP Design policies Des 1, Des 3, Des 4,
- LDP Housing policies Hou 1, Hou 2, Hou 3 and Hou 4.
- LDP Transport policies Tra2 and Tra 3

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

Conservation Area

LDP policy Env 6 (Conservation Areas- Development) states that *Development within a conservation area 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 to the character of the area; and*
- (c) demonstrates high standards of design and utilises materials appropriate to the historic environment*

As detailed in section (a) of the report, the proposal will not preserve and enhance the character or appearance of the defined conservation area and it is not consistent with the relevant conservation area character appraisal. It does not demonstrate high standards of design and does not utilise materials appropriate to the historic environment. It therefore does not comply with LDP policy Env 6.

Principle of Land Use.

Policy Hou 1 (Housing Development) in the Edinburgh Local Development Plan (LDP) states that priority will be given to the delivery of the housing land supply. Criteria (d) of policy Hou 1 permits housing on suitable sites in the urban area, provided that the proposals are compatible with other policies in the plan. The application site is in the urban area of the LDP and the street and surrounding area is largely residential in character. However, full compliance with Policy Hou 1 is dependent on compliance with other policies of the LDP. The proposal does not comply with all policies contained within the LDP.

The proposal does not comply with LDP policy Hou 1. The development is not acceptable in principle.

LDP policy Hou 2 (Housing mix) states that the Council will seek a mix of house types and sizes when practical, to meet a range of housing needs.

The proposal will provide additional accommodation for a small family and complies with LDP policy Hou 2.

Design

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. Permission will not be granted for proposals that are inappropriate in design or for proposals that would be damaging to the character or appearance of the 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.

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

The proposals design is not based on an overall design concept that draws upon positive characteristics of the surrounding area. It would introduce an incongruous development to a largely traditional street scene.

The proposed development is two storeys in height with a flat roof, however, the directly neighbouring tenements are four storeys in height with a pitched roof. The proposed buildings floor to ceiling heights are also much lower than the directly neighbouring four storey tenements and this would produce a visual mismatch in terms of the buildings fenestration.

The tenement buildings have a depth of approximately 13 metres and have large communal garden spaces. In comparison the proposed building only has a depth of roughly 6 metres and will appear squeezed into the gap site. It will read as overdevelopment of what should remain a small side garden. Whilst the principle elevation of the proposal shall be partially finished in stone, it will also be finished in a number of other materials, like dark stained timber and render which are not characteristic of the wider townscape.

The proposal is not based on an overall design concept that draws upon the positive characteristics of the surrounding area and it does not demonstrate that existing characteristics and features worthy of retention on the site and in the surrounding area, have been identified, incorporated and enhanced through its design. The development will not have a positive impact on its surroundings as its height and form, scale and proportions, materials and detailing are inappropriate for this traditional streetscene.

The proposal does not comply with LDP policy Des 1, Des 3 or Des 4.

Roads and Access

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 parking levels set out in Council Guidance.

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

No off street car parking is proposed. This complies with parking standards. The Roads Authority were consulted as part of the assessment of the application. They have confirmed that they have no objections. The proposal includes space for the secure storage of bikes.

Amenity

LDP policy Hou 3 (Private Green Space in Housing Developments) states that planning permission will be granted for development which makes adequate provision for green space to meet the needs of future residents.

LDP policy Des 5 (Development Design Amenity) states that Planning permission will be granted for development where it is demonstrated that:

(a) The amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

Amenity of Neighbours

The main windows in the front elevation of the proposal will overlook the road and the rugby pitch at a similar distance as the existing properties. Only one very small upper level window is proposed in the side elevations of the dwelling and it is offset from the existing windows in the gable elevation of the tenement properties. No windows are proposed to the rear only a door which shall lead to the small courtyard which shall be screened.

No material loss of privacy to neighbouring properties shall occur as a result of the proposal.

The sunlight and daylight analysis submitted show that the proposal will impact upon light levels of one relatively small ground floor window which is located within the gable elevation of the nearby tenement. The Edinburgh Design Guidance states that daylight to gables and side windows is generally not protected. However, the windows of the existing tenements are long established and could have been designed to provide light to habitable spaces. Regardless, it is not felt that the potential loss of light to one single ground floor window in the gable elevation of a property would materially impact the levels of light the neighbouring dwelling receives overall. It is also likely that the level of light this window receives is already limited to a degree as it is sited on the ground floor between two large tenements.

The communal green area to the rear of the site is large. It is also north facing. The daylight and sunlight analysis shows that this communal area will still receive adequate levels of light if the proposal was constructed.

The proposal complies with LDP policy Des 5.

Amenity of occupiers

The supporting information states that the internal floor area of the proposed flat will be 55 sqm, which is in excess of the minimum 52 sqm set out in the Edinburgh Design Guidance. The proposed property will have windows to the front elevation. The property will also have one small thin window in the side elevation of the proposal. The windows to the front elevation will be large and shall be south facing. The proposal will provide an adequate living environment for future occupiers and complies with LDP policy Des 5.

The plans submitted show that the development will have a garden area to the front. The property will also have a courtyard to the rear but this will be extremely small at only 1.4 metres by 2.1 metres approximately and will be utilised partially for the siting of a rain water harvester. The area to the garden area to the front of the property is shown as being a mixture of gravel and planting, however, 20% of the total site area could be useable greenspace.

The agent has confirmed that the current owner of No. 6 will still retain rights to use the communal green space to the rear of the existing flats, however, this has been contended. This, however, is a civil matter between interested parties. Even if the current owners had no right to utilise the rear communal garden, No.6 would still have an element of garden to the front and it is located within walking distance of several high quality green spaces.

The proposal complies with LDP policy Hou 3.

Trees and Biodiversity.

LDP 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 (TPO) or on any other tree or woodland worthy of retention.

The agent has provided a plan that shows that there are no trees within 12 metres of the site.

The proposal will not harm any trees and it complies with LDP policy Env 12.

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

A bat survey was submitted as part of the application. The Councils Ecologist was consulted and confirmed that she had no objections.

The proposal complies with LDP policy Env 16.

Flooding

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

The Scottish Environmental Protection Agency (SEPA) flood maps show that there is a medium risk of surface water flooding within a 50 metre radius of the site.

A surface water management plan has been submitted. However, this was submitted at a late date and has not yet been assessed by Flood Planning.

Insufficient information has been provided to show that the application complies with LDP policy Env 21.

Conclusion in relation to the Development Plan

The proposal does not comply with LDP policy Env 6, Hou 1, Des 1, Des 3 or Des 4. Insufficient information has been provided to show that the proposal complies with LDP policy Env 21.

c) There are any other material considerations which must be addressed.

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal will not protect or enhance the historic environment. It will also be overdevelopment of the site and insufficient information has been provided to adequately take account of potential flood risk.

The proposal therefore does not comply with Paragraph 29 of SPP and is not sustainable development.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

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

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

Public representations

21 letters of objection and 25 letters of support were received in relation to the application.

A summary of the representations is provided below:

material considerations objections

- Impact on amenity, loss of sunlight/daylight, privacy.
- Inappropriate scale, form and design, contrary to Des 1, Des 3 and Des 4
- Will not preserve or enhance the character and appearance of the defined conservation area. Contrary to Env 6.
- Flooding and drainage concerns
- Road/pedestrian safety and parking
- Impact on listed buildings- The nearest listed buildings are located over 50 metres away from the site. The proposal will have no impact upon the setting of listed buildings.

These material considerations have been assessed in sections a, b and c.

non-material considerations objections

- At odds with titles and burdens, in breach of Tenement Act 2004- Not a material planning consideration
- Will block views- Views are not protected
- Will cause subsidence- This would be considered under the required building warrant
- Noise and disruption during build- This is not a material planning consideration
- No.6 has no access to the rear garden- This is a civil matter.
- Could be a short term let- This would require the submission of an application for a change of use
- Street furniture re-location required- This would require the consent of the Roads Authority

material considerations support

- Appropriate scale, form and design. Complies with Des 1. Des 3 and Des 4.
- Will preserve or enhance the character and appearance of the defined conservation area. Complies with Env 6.
- Good use of a sustainable brownfield site
- Good for biodiversity
- Design is friendly for disabled occupants

These considerations have been noted.

Conclusion in relation to identified material considerations

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

Overall conclusion

The proposal will not preserve or enhance the character or appearance of the conservation area. The proposal therefore is not acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal does not comply with adopted Edinburgh Local Development Plan policy Env 6, Hou 1, Des 1, Des 3 or Des 4. Insufficient information has been provided to show that the proposal complies with LDP policy Env 21. The proposal will not protect or enhance the historic environment. The proposal therefore does not comply with Paragraph 29 of SPP. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons:-

1. The proposal does not comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it does not preserve or enhance the character of the conservation area.
2. The proposal is contrary to the adopted Local Development Plan Policy Hou 1 in respect of Housing Development, as it does not comply with all of the relevant policies contained within the plan.
3. The proposal is contrary to the adopted Local Development Plan Policy Env 6 in respect of Conservation Areas-Development, as it will not preserve or enhance the special character or appearance of the conservation area.
4. The proposal is contrary to the adopted Local Development Plan Policy Des 1 in respect of Design Quality and Context, as the development is inappropriate design damaging to the character and appearance of the area around it.
5. The proposal is contrary to the adopted Local Development Plan Policy Des 3 in respect of Development Design- Incorporating and enhancing existing and potential features, as it will result in the loss of the existing stone wall and sense of space between the two tenement buildings.
6. The proposal is contrary to the adopted Local Development Plan Policy Des 4 in respect of Development Design- Impact on Setting, as the street has a settled townscape character and the proposal does not have similar characteristics to the surrounding buildings and urban grain.
7. The proposal is contrary to the adopted Local Development Plan Policy Env 21 in respect of Flooding, as insufficient information has been provided to show that the proposal will not increase a flood risk or be at risk of flooding itself.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 1 November 2021

Drawing Numbers/Scheme

01,02,03a,04,05

Scheme 2

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

Contact: Robert McIntosh, Planning Officer
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Appendix 1

Summary of Consultation Responses

NAME: Infrastructure, Structures & Flood Prevention

COMMENT: No response currently received.

DATE: 4 March 2022

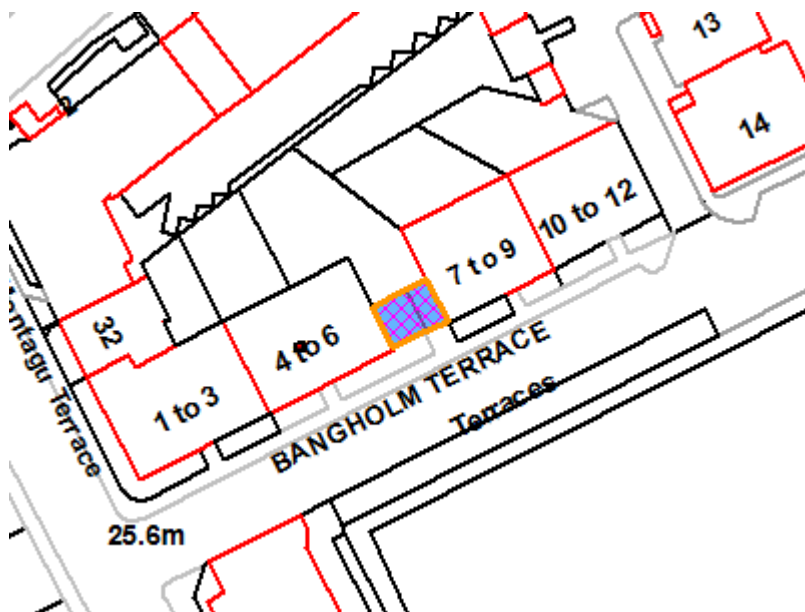
NAME: Environmental Protection

COMMENT: Environmental Protection offers no objection to the application

DATE: 4 March 2022

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

Location Plan



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