

# Development Management Sub-Committee Report

**Wednesday 30 March 2022**

**Application for Planning Permission  
4B East Newington Place, Edinburgh, EH9 1QP**

**Proposal: Demolish existing building and erection of purpose built student accommodation, ancillary uses and associated infrastructure.**

**Item – Committee Decision  
Application Number – 21/06470/FUL  
Ward – B15 - Southside/Newington**

## **Reasons for Referral to Committee**

The application has been referred to the Development Management Sub Committee because ninety-six letters of objection 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 **Granted** subject to the details below.

## **Summary**

The proposal will not harm the setting of nearby listed buildings and it is therefore acceptable with regard to section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal will preserve the character and appearance of the conservation area and therefore is acceptable with regard to Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The principle of student accommodation is acceptable in this location and the development will not result in an excessive concentration of students in the locality. The proposal complies with the adopted Edinburgh Local Development Plan. The proposal also complies with the sustainability principles set out in SPP. There are no material planning reasons to justify refusal. There are no material planning considerations which outweigh this conclusion.

## SECTION A – Application Background

### Site Description

The application site is located on the land at 4B East Newington Place, Newington; a mixed-use neighbourhood located to the south of Edinburgh city centre to the east of the main thoroughfare of Newington Road. It lies within the Southside Conservation area. The application site is 768 m<sup>2</sup>.

The site is currently occupied by a series of single storey garages and workshops. The single storey garages sit on the entirety of the site and are of a steel frame construction with a brick and roughcast render finish.

The site itself is bounded by residential uses to the north, south and west; and student houses and a cemetery to the east.

There is an array of building heights around the site ranging from one storey to five storeys. Generally, the buildings adjacent to the site are two to four storeys high with proportions commensurate with typical Georgian properties. The townhouses on Newington Place that open on to East Newington Place are between four and five storeys in height.

The Site is situated adjacent/in close proximity to several category B listed buildings, the locations of which are shown on the Heritage Asset Plan included in the heritage statement which has been submitted with the application. The listed buildings in question are as follows:

- Category 'B' listed LB27934 31 East Preston Street and Dalkeith Road, Newington Old Burial Ground, including Boundary Walls and Watchtower. The burial ground and its walls are directly to the east of the site.
- Category 'B' listed LB29403 1-3 (Inclusive Nos) East Newington Place, including Boundary Walls. These three buildings are directly across the street from the site, to the north.
- Category 'B' listed LB29406 Newington Road, 39-47 (odd nos) , 53-73 (odd nos) and 4 East Newington Place. These are the buildings to the west and south west of the site.
- Category 'B' listed LB43160 29-33 Newington Road, former Royal Bank of Scotland. These are the buildings to the north west of the site, on the corner of East Newington Place and Newington Road.
- Category 'B' listed LB29405 1-27 (odd nos) , 35, 37 Newington Road and 1, 3 East Preston Street including boundary walls. These are buildings that line Newington Road and East Preston Street to the north-west of the site.

## **Description of the Proposal**

The application is for planning permission for the erection of purpose-built student accommodation, ancillary uses and associated infrastructure. The existing garages and workshops present within the site shall be demolished.

The proposed development will be four-storey in height comprising 64 studio student bedrooms, with the fourth floor of accommodation set within a mansard roof form. External amenity space will include a courtyard at ground floor level, a terrace at first floor level, a lounge room with bi-folding doors providing access to the external courtyard; a gym space, cinema room and three separate study spaces on the first, second and third floors. The development will also have 65 cycle parking spaces in a secure cycle parking room, refuse and recycling stored at ground floor level and associated plant.

The walls of the proposal at its principle elevation will be finished in blond ashlar stone and precast concrete panels. The side elevation of the building facing west shall be finished in render and ashlar stone. The buildings walls which shall face to the rear (south) and to the east shall be finished in grey render. The buildings mansard roof will be finished in slates. It will have black metal framed windows.

## **Supporting Information**

- Design and Access Statement;
- Air Quality Screening Assessment;
- Bat Roost Assessment;
- Daylight and Sunlight Report;
- Drainage Strategy and Flood Risk Assessment;
- Heritage Statement;
- Phase 1 Geo-Environmental Desk Study Report;
- Plant Noise Assessment;
- Road Traffic Noise Impact Assessment;
- Sustainability and Low Carbon Design Statement;
- S1 Sustainability Statement Form;
- Transport Statement;
- Tree Survey Report and Tree Constraints Plans; and
- Written Scheme of Investigation.

## **Relevant Site History**

21/06471/CON  
4B East Newington Place  
Edinburgh  
EH9 1QP  
Demolish the existing building.

## **Other Relevant Site History**

No other relevant site history.

## **Pre-Application process**

Pre-application discussions took place on this application.

## **Consultation Engagement**

Roads Authority

Environmental Protection

Scottish Water

Flood Planning

Archaeology

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

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 20 December 2021

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 7 January 2022;

**Site Notices Date(s):** 23 December 2021;

**Number of Contributors:** 96

## **Section B - Assessment**

### **Determining Issues**

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

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

This report will then consider the proposed development under Sections 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 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 listed building and its setting?**

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

- Managing Change Setting

The Managing Change guidance states 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.

Where development is proposed it is important to:

- identify the historic assets that might be affected
- define the setting of each historic asset
- assess the impact of any new development on this

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

The Site is situated adjacent/in close proximity to several category B listed buildings, the locations of which are shown on the Heritage Asset Plan included in the heritage statement which has been submitted with the application.

The burial ground is secluded and enclosed by high boundary walls. There are examples of tall quite modern buildings which have been constructed in the area surrounding the graveyard and there are also the traditional tenements on South Oxford Street. The graveyard is a private and secluded area where the focus is on the buildings within the site and the gravestones that are present.

The construction of the development will not impact upon the understanding and appreciation of the listed buildings and the burial grounds.

East Newington Place has a mixture of different architectural styles. There is the quite large modern flatted development at the top of the street, whilst there are also a range of single and two storey structures also located near to the listed building. The existing garages on the site do not contribute to the setting of the listed building. The proposed new building will be more respectful of the setting of these buildings as it will be of a higher quality design and will better reflect the height, scale massing and rhythm which is present in many of the buildings in the surrounding area, including the buildings in nearby side streets.

Much of the setting of the buildings on Newington Road is derived from what can be seen from the road. The proposed building will be of lower height than the listed buildings which front Newington Road and will be located down a side street. The development would not impact on the ability to appreciate and understand the elements of these buildings settings that contribute to their special interest.

### **Conclusion in relation to the listed building**

The proposal will have no detrimental effect on the setting of nearby and adjacent B listed buildings. The proposal therefore is acceptable with regard to section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

#### **b) The proposals harm the character or appearance of the conservation area.**

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

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

The Southside Conservation Area Character Appraisal statement of significance states *The South Side is one of the most historically and architecturally important parts of Edinburgh with a rich mixture of stages of development and an abundance of heritage interest. In 1766, Edinburgh made its first ambitious expansion beyond the city walls with the development of the architecturally unified George Square. The construction of North Bridge in 1772, followed by South Bridge in 1788 was a major factor in the continuing development of the area. In the fifties and sixties, the South Side was changed by slum clearance programmes and the expansion plans of the University. Large parts of the area were also blighted by uncertainty over road proposals. The designation of the South Side Conservation Area in 1975 reversed the wave of demolition, resulted in the regeneration of the area and the retention of much of its historic identity. Despite the many changes to the South Side; the history, architectural heritage and mix of communities in the area make it one of the most significant parts of the city.*

*It further states Building heights vary across the area from two-and-a-half to five storeys, with an average height of four storeys. As with the rest of the South Side, all buildings erected up to the Second World War are of stone construction with pitched slated roofs. More recent buildings, from the 1980s onwards, tend to use a blockwork or a harled finish. Brick buildings are not so common in this area, as in the rest of the Conservation Area. However, the triangular block formed by Sciennes and Causewayside has been fully redeveloped with brick finished flats.*

*In terms of more recent developments These include infill schemes on Causewayside and Sciennes, Blackwood Crescent, East Newington Place. The more recent residential schemes are generally harmonious in scale and massing*

The existing garage buildings on the site do not contribute to the character or appearance of the defined conservation area. They have a white rendered wall finish with large metal doors with a mixture of flat and pitched roofs. Some are slated, whilst another roof appears to be covered in corrugated concrete asbestos.

The proposed building will be four storeys in height, which as the Conservation Area Character Appraisal notes is a characteristic height for the area. It will be lower in height than the prominent buildings that line Newington Road nearby, whilst also being taller than the three-storey building that is directly next to the site and which is located further down the street. The proposal will have its top storey finished in slates. This will have a similar appearance to a mansard roof which is a feature which is present on the nearby tenements on South Oxford Street. The nearby tenements on South Oxford Street are also located within a side street and are five storeys in height. The proposed building height and roof form is therefore appropriate.

The walls of the proposal to its principal elevation will largely be finished in blond ashlar stone, whilst its lower elements shall be finished in concrete panels. The applicant has explained that an acid etched finish is proposed to the panels which shall give them a slightly textured stone like finish. The applicant states that the panels will provide a high quality of construction which compared to render will be more durable and will have lower maintenance requirements. In support of the use of the concrete panels it has been shown that they have been utilised on the new Boroughmuir High School building. The rear of the proposal shall be finished in render which is utilised on several buildings within the street. The roof of the proposal shall be finished in slates. The windows proposed will be dark metal framed. Dummy windows are proposed on the west elevation to provide some articulation without causing privacy issues.

A condition has been applied that further details of the proposed external finishing materials must be provided for the written approval of the Planning Authority prior to works commencing on site.

It is noted that there will be a plant area constructed on top of the building. However, the applicant has provided visualisations that show that this plant area will be very difficult to see from East Newington Place or Salisbury Road. The only area in which the plant "box" may be readily visible would be from the cemetery, which is quiet and heavily walled.

## **Conclusion in relation to the conservation area**

Overall, the proposal will preserve and enhance the character and appearance of the defined conservation area and it therefore is acceptable with regard to section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

### **c) 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 3, Env 4, Env 6, Env 8, Env 9, Env 12, Env 16 and Env 21.
- LDP Design policies Des 1, Des 3, Des 4, Des 5
- LDP Employment policy, Emp 9
- LDP Housing policy Hou 1 and Hou 8
- LDP Transport policies Tra 2, Tra 3 and Tra 4.

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

#### Impact on setting of Listed Building

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

As discussed in section (a), the proposal will have no detrimental affect on the setting of nearby and adjacent B listed buildings. The development therefore complies with LDP policy Env 3.

#### Impact on character and appearance of the 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 discussed in section (b), the proposal will preserve and enhance the character of the defined conservation area. It complies with LDP policy Env 6.



## Principle

### *Student Accommodation*

LDP Policy Hou 8 (Student Accommodation) supports purpose-built student accommodation where:

- a) The location is appropriate in terms of access to university and college facilities by walking, cycling or public transport, and
- b) where the proposal will not result in an excessive concentration of student accommodation (including that in the private rented sector) to an extent that would be detrimental to the maintenance of balanced communities or to the established character and residential amenity of the locality.

The supporting non-statutory SHG provides additional locational and design guidance

### *Location*

The site lies in proximity to some of the facilities of Edinburgh University by walking, cycling and public transport. It is an approximate ten minute walk or a five minute cycle to the Edinburgh University buildings at George Square. Buses regularly run along Newington Road which is a major traffic corridor. It is a highly sustainable brownfield location. Consequently, the proposal accords with the requirements of criterion (a) of Hou 8.

### *Concentration*

The Edinburgh Student Housing Guidance states that

*Where the student population is dominant, exceeding 50% of the population, there will be a greater potential imbalance within the community, however this cannot solely be controlled through purpose build student accommodation.*

However, it is acknowledged that whether or not student concentrations are above 50% of the population is very difficult to measure with any kind of certainty. Neither the guidance, nor the adopted LDP, gives a definition of "the locality" in relation to criteria B of LDP policy Hou 8. Also the Council's only real source of information of where students live (outwith purpose built accommodation) is from the 2011 census which is now over 10 years old.

An analysis of data zones within 800 metres of the site indicate that students made up 46% of the resident population of these areas in 2011. If consented student housing schemes, since 2011, are added to these figures then students currently make up a maximum of 50% of the population of areas within a 10 minute walk of the application site.

However, it must be noted that there is no guarantee that the student population is currently 50% of the resident population, within 800 metres of the site, as the Planning Service has no certainty that new accommodation built adds to the student population rather than displaces it from non- purpose built accommodation within the area. Indeed one of the key reasons behind purpose built student housing is to take demand away so that flats and houses can be utilised for "normal" residential purposes.

As Paragraph 235 of the LDP states that *It is preferable in principal that student needs are met as far as possible in purpose built and managed schemes rather than the widespread conversion of family housing*

It can therefore be deduced that some percentage of students that would otherwise have been in rented accommodation will now choose to stay in purpose built student accommodation instead.

It must also be acknowledged that there have been 39 applications granted to provide new residential housing within 800 metres of the site, either through new builds, conversions or through changes of use, since 2011, which has resulted in 193 new permanent residential dwellings within the area.

These developments will have significantly reduced the maximum percentage of students within the area.

Overall, on balance, using the data available, it is unlikely that students make up more than 50% of the population of the area within 800 metres of the site.

It is also acknowledged that criteria (b) of The Edinburgh Student Housing Guidance states that *student housing will generally be supported on sites with less than 0.25ha developable area. Consideration should be given to the cumulative impact of student housing, and other land uses which contribute to a transient population, where these uses will have a detrimental impact on character.*

The application site measures approximately 0.077 hectares and therefore the non-statutory guidance generally supports small scale student housing proposals like this.

Overall, the proposed student accommodation would not result in an excessive concentration of student housing which would be of detriment to character of the area and the site is suitably accessible to university and college facilities by active travel and public transport. The proposal accords with LDP policy Hou 8.

### *Housing*

The non-statutory Student Housing Guidance (SHG) sets out requirements for purpose-built student accommodation and criterion (c) requires sites with 0.25ha or greater developable area, which do not share a boundary with a main university or college campus, to provide a proportion of housing as part of the development. This is to be calculated at 50% of the gross new build residential floor area.

The SHG defines developable area as "the application site area, less any areas of existing highway retained within the boundary"

As the developable site is less than 0.25 hectares, there is no requirement for housing within the site.

### *Mix of housing*

Criterion (d) of the Student Housing Guidance states that student accommodation should comprise a mix of type of accommodation, including cluster units, to meet varying needs of students. The application proposes only studio beds, which is a breach in criteria (d) of the guidance.

The Planning Statement submitted states that the applicant is targeting the proposed accommodation at post-graduate students who tend to have a preference for studio bedrooms, as opposed to bedrooms within cluster units. They state that also included within the proposed accommodation mix are accessible units, which are in short supply in the city. The proposed also includes communal amenity areas, both internal and external, which will encourage social activity between residents.

It is also acknowledged that there are recently approved examples of student accommodation developments where only studios were proposed, two examples are the developments at Haymarket Yards (21/04413/FUL) and 65 London Road (20/03478/FUL).

The existing University of Edinburgh student accommodation on East Newington Place, in addition to that at the Pollock Halls complex, comprise cluster unit-type accommodation. The provision of 64 studio bedrooms within the proposed development will add to the mix of type of accommodation for students within the area.

It should also be noted that the Student Housing Guidance is non-statutory guidance. Whilst it is a material consideration but it is not part of the development plan and therefore has less weight than the statutory provisions of the LDP, specifically Policy Hou 8.

Overall, the proposed development complies with Policy Hou 8 and all other criterion within the Student Housing Guidance. The non-conformity with the non statutory guidance is justified in this instance.

### *Conclusion*

The principle of the proposed development is in accordance with LDP policy Hou 8. Whilst the application does not accord with part d), the breach in the non-statutory Student Housing Guidance is acceptable in this instance.

### Scale, form and 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 site currently contains a variety of large garages, which cover almost the entirety of the site. They do not appear to be in good condition and they do not contribute to the visual amenity of the street or the surrounding area. However as these buildings are located within the defined conservation area, conservation area consent is required for their demolition. An application for conservation area consent (21/06471/CON) has been submitted.

The proposed garages will be demolished and a new four storey block constructed in their place. The footprint of the new building will take up less of the site than the existing structures. The existing garages on the site are located right up to the pavement, the proposed student accommodation block will also follow this building line.

It is acknowledged that the proposed building will be taller than the two storey townhouses which are present on the other side of the street, however, the eaves height of the proposed building will match that of the modern flats directly to the east of the site, whilst the eaves and ridge height will step down from the prominent buildings on Newington Road. It is further noted that there are other examples of tall buildings present within the side streets nearby. There are examples of five storey blocks of flats with mansard roofs directly to the north east of the site at South Oxford Street.

It is noted that there will be a plant room located on top of the proposed building. This will be to house the air source heat pumps that are proposed for the building. The applicant has provided visualisations that show that the plant room will not be readily visible from public elevations and that it will be coloured dark grey to blend in with the proposed roof slates.

The existing buildings on the site are finished in render with a mix of pitched and flat roofs. The modern flats to the top of the street have a render finish to their walls. The majority of the publicly visible elevations of the proposed development will be finished in traditional materials like natural stone and slates. An element of modern, but still high quality materials shall also be utilised in the form of acid etched concrete panels. Concrete panels have already been approved on other buildings within the city which lie within conservation areas and compared to render, which is already common within the street, it is more hard wearing and is closer in appearance to stone.

Overall the scale, form and design of the proposal is acceptable and it will have a positive impact on its surroundings.

The proposal complies with policy Des 1, Des 3 and Des 4 of the adopted LDP.

#### Neighbouring amenity

Policy Des 5 (Development Design - Amenity) states that development will be permitted where the amenity of neighbouring development is not adversely affected.

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

In terms of window to window distances, the distance between the principle elevation of the proposed student accommodation building and the town houses directly across the road will be approximately 14.5 metres.

The Edinburgh Design Guidance (EDG) states that the pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances.

The majority of the windows within the development address the street and face on to East Newington Place. Within this street there is a distance of 14.1 metres which is acceptable within this urban context.

There are a limited number of student rooms on each floor which are orientated towards the rear elevation of properties on Newington Road. These windows are located approximately 9 metres from the boundary of the site and a further 18 metres to any neighbouring window. The rear gardens of these properties already have a degree of overlooking due to the layout of the gardens.

A sunlight and daylight assessment as well as an overshadowing analysis has been submitted as part of the application.

The information submitted states that daylight and sunlight calculations have been undertaken in accordance with the Edinburgh Design Guidance, the 'BRE guide' and also on BS8206-2: 2008 to which the BRE guide refers.

The assessment looked at the impact that the proposal would have on the windows of eleven nearby properties.

The assessment confirms that all of the windows and/or rooms within ten of the eleven assessed properties will fully attain the targeted levels of daylight. Only one room to one of the assessed properties does not fully attain the BRE target level. This room attains an Average Daylight Factor (ADF) of 1.46% which is only very slightly below the BRE target of 1.5%. Overall, it is felt that the results relating to daylight are acceptable for a development within a built-up city centre location. Only one of the assessed rooms falls below the target levels and, in this instance the shortfall is limited to just 0.04%.

In terms of assessing sunlight levels, only windows which are oriented within 90 degrees of due south are analysed against the Probable Sunlight Hours (PSH) criterion. Windows which are not oriented within 90 degrees of due south are exempt from analysis as they are considered not to have a reasonable expectation of direct sunlight. The five properties assessed under the sunlight assessment were No. 1-No. 3 and No. 5 and No. 7 East Newington Place.

The results of this analysis indicates that all of the windows to four of the five assessed properties will continue to enjoy levels of sunlight in full accordance with the recommendations set out in the BRE guide and only one window in one property will not.

The report does state, however, that this window only slightly fails the BRE recommendations during the winter and this window would receive excellent levels of sunlight during the summer months.

The overshadowing assessment provided shows that adequate levels of sunlight (levels in compliance with BRE guidance) will be received to the gardens of the properties at No. 1-3 East Newington Place, which are directly across from the application site. It also shows that adequate levels of sunlight will still be received within the gardens of the recently constructed single storey property across the street which was approved under 19/01473/FUL.

It shows that the gardens of the properties at No. 35 and No. 37 Newington Road already do not meet BRE guidance in order to appear adequately sunlit. These gardens appear to be a lower ground floor level. The assessment shows that the proposal will have no impact upon the existing levels of sunlight that the garden belonging to No. 35 receives. It does note that the proposal will have an impact upon the levels of sunlight received by the garden of No. 37. However, this will be to a relatively small north-eastern part of the garden ground, which the assessment states whilst carrying out their assessment, this relatively small area of garden ground did not appear to be utilised for seating or amenity activity. The report submitted shows that the garden areas of No. 35 and No. 37 will receive far greater levels of light during the summer when gardens are more likely to be utilised.

A Noise Impact Assessment (NIA) was submitted as part of the application. Environmental Protection recommended that the NIA be updated to ensure that all internal plant, substation and indoor facilities like the proposed gym were also covered. However, the proposed building will be detached and the plant will have to meet NR45 noise levels, the substation NR20 noise levels and the gym NR15 noise levels. The proposed building will also be subject to building warrant requirements in terms of noise and insulation properties.

Overall, on balance, the proposal will not have a material impact upon the amenity of neighbouring developments.

The proposal complies with LDP Policy Des 5 in terms of neighbouring amenity and LDP Policy Hou 7.

#### Amenity for future occupiers

LDP policy Des 5 states that planning permission will be granted for development where it is demonstrated that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

The Student Housing Guidance states that student accommodation should be of a high quality with adequate amenity to contribute to healthy and sustainable lifestyles.

The Edinburgh Design Guidance also applies to student accommodation with regard to daylight, sunlight, privacy and outlook.

The proposed development proposes a total of 64 units. The majority will have a floor space of between 18- 20 square metres, whilst several will be between 23-24 square metres. The average floor space within the development will be 20 square metres.

Each unit includes adequate cooking and storage facilities for each resident. The units will be single aspect.

The development will have three study spaces, a lounge, gym and cinema room as well as a 97 square metre south facing courtyard. A few of the proposed rooms will also have access to a raised courtyard. There are also a number of high quality greenspaces which are available within walking distance.

Overall, on balance it is felt that the size of the rooms proposed are satisfactory.

A Daylight Distribution (DD) analysis was carried out which indicates that all of the sixty four assessed rooms within the proposed development (100%) will enjoy levels of direct sky visibility in full accordance with Edinburgh Design Guidance. The results of the analysis indicate that eleven of the twelve windows assessed (92%), which face or are within 90 degree of south, will attain levels of sunlight in full accordance with the recommendations set out in the BRE guide.

The levels of sunlight which shall be received by future occupants will be acceptable for a development within a built-up city centre location with only one of the assessed windows falling below the target levels. This minor shortfall is, however, offset by the excellent levels of sunlight available within the south facing dedicated external amenity area.

The proposed level of amenity for residents is, overall, acceptable with residents having access to shared managed outdoor space. Rooms while largely uniform in size have broadly adequate space and facilities along with the majority of them having a good outlook within established separation distances.

A Noise Impact Assessment (NIA) was submitted as part of the application. Environmental Protection recommended that the NIA be updated to ensure that all internal plant, the substation and indoor facilities like the proposed gym were also covered. However, the plant, substation and gym will all have to meet NR noise levels.

The proposal generally complies with policy Des 5, in terms of occupant amenity, and the relevant guidance.

Given the nature of the current use of the site a condition relating to ground contamination investigation has been applied to ensure the safety of future residents.

## Trees

LDP policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact upon a tree protected by a Tree Preservation Order (TPO).

It is noted that there is a wide selection of trees which are present to the rear of the site. However, there are no trees within the site itself and no trees are proposed to be removed.

The applicant has submitted an arboricultural tree survey. This shows that the trees in question are either category B or category C. It explains that the existing garage on the site will have ensured that there will be no root intrusion within the site.

The arboriculturalist has also confirmed that there are only minor overhanging parts of the trees that will be required to be trimmed back to the boundary line. The pruning will not have a significant adverse impact on tree physiology or any conservation area amenity value.

The proposal complies with LDP policy Env 12.

### Protected Species

Policy Env 16 (Species Protection) ensures development will not have an adverse impact on species protected under European or UK law.

A Bat Survey was submitted with the application. This has been reviewed by the Council's Ecology Officer who has confirmed that the proposal will cause no harm to protected species.

The application therefore complies with LDP policy Env 16.

### Transport

Policy Tra 2 states that planning permission will be granted for development where proposed car parking provision complies with and does not exceed the parking levels set out in Council guidance.

Policy Tra 3 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.

Policy Tra 4 states that cycle parking should be provided closer to building entrances than general car parking spaces and be designed in accordance with the standards set out in council guidance.

The development is proposed as car free, with no parking proposed on site.

100% cycle parking is proposed in a secure, under cover and accessible location. The plans submitted show that whilst some two storey racks are proposed these are automated, whilst single storey racks will also be provided which could provide space for non standard cycles.

The Roads Authority were consulted as part of the assessment of the application. It confirmed that it had no objections.

The proposal complies with LDP policy Tra 2 and 3.

### Flood Protection

Policy Env 21 (Flood Protection) seeks to ensure development does not result in increased flood risk or be at risk of flooding by demonstrating sustainable drainage measures.



It is noted that there is an area within 50 metres of the site that has a low risk of surface water flooding.

The applicant has provided a Flood Risk Assessment (FRA) and Surface Water Management Plan (SWMP) demonstrating that the development provides suitable drainage and flood protection. These measures have been confirmed as acceptable by the Council's Flood Protection Officers.

The proposal complies with LDP policy Env 21.

### Archaeology

LDP Policy Env 9 (Development of Sites of Archaeological Significance) states that planning permission will be granted for development on sites of known or suspected archaeological significance if it can be concluded that no significant archaeological features are likely to be affected by the development.

LDP Policy Env 8 (Protection of Important Remains) states that the development will not be permitted which would damage or destroy non designated archaeological remains which the Council considers should be preserved in situ.

A historical building recording and architectural evaluation report was submitted with the application.

The proposal broadly complies with LDP policy Env 8 and Env 9 as long as a condition relating to the requirement for a historic building survey is applied to the consent, if granted.

### Developer Contributions

LDP policy Del 1 - (Developer Contributions and Infrastructure Delivery) states that proposal will be required to contribute to the following infrastructure provision where relevant and necessary to mitigate any negative additional impact (either on a individual or cumulative basis) and where commensurate to the scale of the proposed development.

No contributions identified.

### **Conclusion in relation to the Development Plan**

The development complies with the relevant policies contained within the adopted Edinburgh Local Development Plan. There are no material justifications that would justify refusal.

**d) 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 application site is positioned in a highly sustainable location, with good access to active travel and public transport. It is also the re-use of a brownfield site. The existing buildings within the site are garages with weak roofs and would not be suitable for conversion. The use of the site, in an area which shall enable students to walk or cycle to classes shall help minimise any carbon produced through the construction of the development.

The proposal complies with the relevant sustainability principles set out in SPP.

The proposal complies with Paragraph 29 of the SPP.

## 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

A summary of the representations is provided below:

### *Southside Community Council- Material Objections*

- The proposal does not preserve or enhance the character and appearance of the defined conservation area- Addressed in section b
- It will have a significant impact upon the listed buildings opposite- Addressed in section a
- Excessive number of students in area, does not comply with LDP policy Hou 8 and Student Housing Guidance- Addressed in section c
- Concerns relating to noise/disruption-Addressed in section c
- Impact on traffic/road safety-Addressed in section c
- Loss of privacy -Addressed in section c

- Impact on ecology-Addressed in section c
- Visually intrusive on viewpoints- The proposal will not harm key views of the city.
- Does not comply with Cityplan 2030-Addressed in section c

#### *Southside Community Council- Non Material Objections*

- The development may lead to the development of gardens to the south of the site- This would require a further application for planning permission.

#### *material considerations*

- Principle of student housing and overprovision in the area - addressed in section c;
- Does not comply with student housing guidance - addressed in section c
- Impact on listed buildings-addressed in section a
- Does not comply with Cityplan 2030- addressed in section c
- Need for the provision of family and affordable housing
- Road and pedestrian safety concerns -addressed in section c
- Impact upon visual amenity of the area and the conservation area - addressed in Section b& c
- Demolition of the existing building - addressed in section c
- Overdevelopment and poor scale, massing and design - addressed in section c
- Noise impacts from students - addressed in section c
- Impact on amenity, privacy, outlook, overshadowing, daylight and sunlight to neighbouring properties and garden - addressed in Section c.
- Impact on parking - addressed in Section c.
- Impact on trees - addressed in Section c.
- Risk of flooding - addressed in Section c.
- Impact on wildlife - addressed in Section c.
- Impact upon services- addressed in Section c.
- The building is not carbon neutral; building should be rebuilt-- addressed in section d.
- Insufficient neighbour notification carried out - The neighbour notification process has been carried out correctly.

#### *non-material considerations*

- Students keep anti-social hours
- Development could become short-term lets - this would require further planning applications.
- Does not contribute to council tax
- Numbers of students will decrease with coronavirus
- Would set a precedent. Every application is considered on its individual merits.
- Impact on house values

## **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 harm the setting of nearby listed buildings and it is therefore acceptable with regard to section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal will preserve the character and appearance of the conservation area and therefore is acceptable with regard to Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The principle of student accommodation is acceptable in this location and the development will not result in an excessive concentration of students in the locality. The proposal complies with the adopted Edinburgh Local Development Plan. The proposal also complies with the sustainability principles set out in SPP. There are no material planning reasons to justify refusal. There are no material planning considerations which outweigh this conclusion.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following.

### **Conditions :-**

1. Sample/s of the proposed shall be submitted to and approved in writing by the Planning Authority before work commences on site.
2. i) Prior to the commencement of construction works on site:
  - a) A site survey (including intrusive investigation where necessary) must be carried out to establish, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and
  - b) Where necessary, a detailed schedule of any required remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning Authority.
- ii) Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided for the approval of the Planning Authority.

3. Prior to work commencing on site further details of the proposed screening/obscure glazing to be erected around the sides of the raised terrace shall be submitted for the written approval of the Planning Service. The approved screening/obscure glazing shall be installed prior to the occupation of the development.
4. The trees on the site or near to the site shall be protected during the construction period by the erection of fencing, in accordance with BS 5837:2012 " Trees in relation to design, demolition and construction".
5. No demolition/ development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, conservation, excavation, interpretation, recording and analysis, publication and public engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

**Reasons:-**

1. In the interests of amenity.
2. In order to ensure the safety of future residents.
3. In the interests of amenity.
4. In order to safeguard protected trees.
5. In order to protect the archaeological interest within the site.

**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. It is recommended that all tree works and pruning area is carried out in accordance with BS 3998:2010, Tree Works: Recommendations.

5. It is recommended that construction exclusion zones are built around the nearby trees by retaining part of the existing boundary walls.
- 6.a 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.
- b. The applicant should be advised that, as the development is student housing, they will not be eligible for residential parking permits 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](https://democracy.edinburgh.gov.uk/Data/Transport%20and%20Environment%20Committee/20130604/Agenda/item_77_-_controlled_parking_zone_amendments_to_residents_permits_eligibility.pdf) (Category F - All student housing).

### **Background Reading/External References**

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

### **Further Information - Local Development Plan**

**Date Registered: 9 December 2021**

### **Drawing Numbers/Scheme**

01-14, 15a, 16-19. 20a, 21-23

Scheme 2

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

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## Appendix 1

### Summary of Consultation Responses

NAME: Roads Authority

COMMENT: No objections. It was noted that the applicant should provide more spaces for non standard sized bikes.

DATE: 8 March 2022

NAME: Environmental Protection

COMMENT: The submitted NIA should also include the proposed plant and gym within the building to ensure that it does not impact upon the residents of the building.

Recommended that a site investigation condition should also be applied.

DATE: 8 March 2022

NAME: Scottish Water

COMMENT: No objections.

DATE: 8 March 2022

NAME: Flood Planning

COMMENT: No objections.

DATE: 8 March 2022

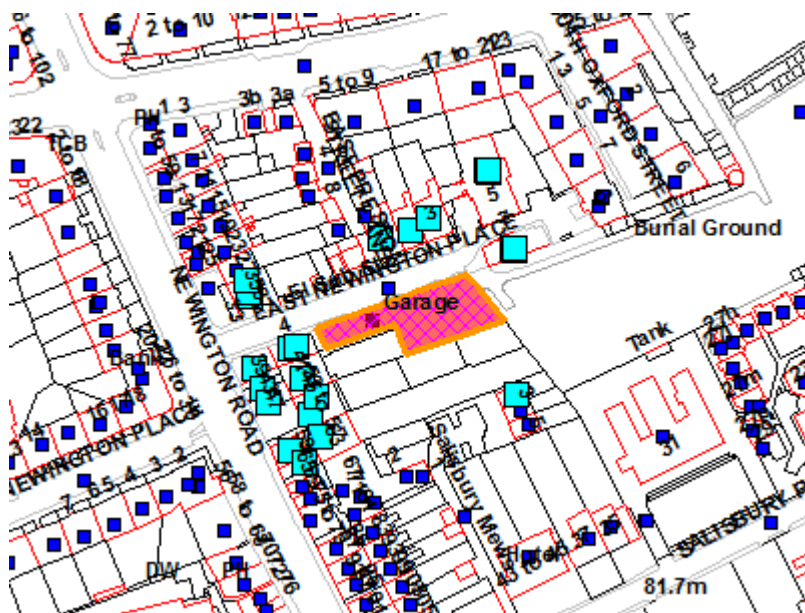
NAME: Archaeology

COMMENT: No objections subject to the inclusion of a condition relating to site surveys and monitoring

DATE: 8 March 2022

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

### Location Plan



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