

Development Management Sub-Committee Report

Wednesday 30 March 2022

**Application for Planning Permission
Proposed Water/Sewage Works and Kiosk 55 Metres North Of 3
Warrender Park Terrace, Edinburgh,**

Proposal: Proposed two MCC kiosks, installation of underground storm water storage tank with ventilation stack, removal of a one tree and associated groundworks (as amended).

**Item – Committee Decision
Application Number – 21/04543/FUL
Ward – B10 - Morningside**

Reasons for Referral to Committee

This application has been referred to the Development Management Sub-Committee because the proposal is considered to be of a high importance and it has been proposed in a very sensitive location.

Recommendation

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

Summary

The proposals will preserve the special character and appearance of The Marchmont, Meadows and Bruntsfield Conservation Area, in compliance with the Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan in terms of use, open space, trees and sustainability. There are no material considerations which indicate that the proposals should be refused. Therefore, the proposals are acceptable.

SECTION A – Application Background

Site Description

The application site is situated off Marchmont Road near to 3 Warrender Park Terrace. The site is wholly contained within the Brunstfield Links public park, which adjoins the larger Meadows public park. The Leamington Walk passes through the north of the site.

The location of the proposed kiosks would be at the side entry to the Links off Warrender Park Terrace.

Across the road of Warrender Park Terrace there is a row of 5-storey tenement buildings which are listed buildings, Category B (LB30648); dated 19.03.1993.

The site is located within Marchmont, Meadows and Bruntsfield Conservation Area.

Description of the Proposal

The application proposes to install underground storm tank storage with two kiosks on the verge of the park. The size of the kiosks is:

- 1 - 3.3 metres long by 0.76 metres wide and 1.7 metres in height;
- 2 - 1.6 metres long by 0.65 metres wide and 1.3 metres in height.

Materials: dark brown wood.

In addition, it has been proposed

- removal of one tree and
- ground reprofiling.

The flooding mechanism at some of the properties in the surrounding area was assessed by Scottish Water to be a result of flows backing up service connections to the properties. This is being caused by the trunk sewer on Marchmont Road and downstream sewers backing up due to hydraulic incapacity in the local network.

Previous Scheme

The original proposal included installation of hammerhead; one large kiosk in a more central position and grass create over a larger area of the Brunstfield Park. Additionally, it has been proposed to lop a large number of mature trees.

Permitted development:

- underground pipework, cable ducts and other apparatus
- Valve chamber (buried)
- 20m diameter PCC segment storage tank (buried)
- Access covers (flush with ground level)
- PCC bifurcation chamber (buried).

The above works are permitted development under Schedule 1, Article 3, Part 1, Class 43A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended). Therefore, no further assessment of this work is required.

Supporting Information

- Supporting Statement
- Tree survey

Relevant Site History

No relevant site history.

Other Relevant Site History

No relevant site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Archaeology

Flood Planning

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

Publicity and Public Engagement

Date of Neighbour Notification: 17 September 2021

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 24 September 2021;

Site Notices Date(s): 21 September 2021;

Number of Contributors: 7

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 representation and
- any other identified material considerations.

Assessment

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

a) The proposals harm the setting of any nearby listed building?

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 proposed kiosks are modest in size and will be situated behind the existing fence and the other street furniture, near the corner with Marchmont Road. The nearest listed buildings to the site are located over 12 metres away on the other side of Warrender Park Terrace. Given the sites distance from these buildings and the limited size of the proposal overall, the development will not harm the setting of the listed buildings.

Therefore, there will be no adverse impact on the setting of nearby listed buildings.

Conclusion in relation to the listed building

The proposal will have no detrimental impact on the setting of 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.

The Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal emphasises the well-proportioned Victorian tenemental perimeter blocks with Baronial detailing and the substantial area of the open parkland formed by the Meadows and Bruntsfield Links.

The height of the kiosks has been significantly reduced and they have been repositioned in order to have a minimum impact on the appearance of the conservation area. They will be read in conjunction with nearby street furniture.

Additionally, the proposed kiosks would have good quality materials, such as dark brown wood cladding. Street furniture is common in the area and this proposal does not harm the character of the conservation area.

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.

Conclusion in relation to the conservation area

With reference to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposals preserve the character and appearance of the conservation area.

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:

- o LDP Design quality and Context policy Des 1
- o LDP Environment policy Env 3, Env 6, Env 9, Env 12, Env 18 and Env 21.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policy Env 6.

Impact on setting of Listed Buildings

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.

The proposal will have no detrimental impact on the setting of listed buildings. The development complies with LDP policy Env 3.

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

The proposal will preserve the character or appearance of the defined conservation area. It therefore does comply with LDP policy Env 6.

Principle and Open Space

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.

The proposed development would be located within Bruntsfield Links, an area of Open Space Bruntsfield Links, and the nearby Meadows, provide an essential greenspace in the heart of the city. It is located within a densely developed established residential area and, therefore, serves a significant local population.

The proposal seeks to resolve internal flooding and remove 11 properties from the Sewer Flooding Register and three associated external flooding events (EFOS) within this cluster. The installation of a storm tank storage volume of 2,840m³ would be located underground with just a small access cover that would be visible on the ground level. All the construction would be undertaken with engineering equipment which will minimize any damage to the grounds of the Bruntsfield Links.

LDP policy Env 18 states proposals involving the loss of open space will not be permitted unless it is demonstrated that it meets criteria (a-e) where applicable. Criteria include the impact on the quality or character of the local environment, the proportion of the area, its amenity value, impact on wider networks, biodiversity value, local benefit or community use.

In terms of policy Env 18, the only visible signs of the development are two kiosk and four access covers that would be situated in line with the ground level and cover with small part of artificial grass. The rest of the development would be located under the ground level and the park would be restored to its original condition.

The location of the proposed kiosk would be at the side entry to the Links of the Warrender Park Terrace which will allow for an easy and direct access for maintenance purposes but also this location would have a minimal visual impact on the Links as a whole.

The proposed development, which is the subject of this application, would result in the temporary loss of an area of open space during the construction period. However, the proposed land around the new storm tank and kiosk will be reprofiled and reseeded/grassed. Therefore, a temporary loss of an Open Space in these circumstances it is justified.

The proposal will therefore not adversely impact on open space, and therefore comply with LDP policy Env 18.

Trees

LDP Policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or any other tree or woodland worthy of retention. Where permission is granted, appropriate replacement planting will be required to offset the loss.

As it has been indicated on the submitted drawings, only one small rowan tree is required to be felled as part of the development. However, on further discussion with the applicant it has been agreed the tree would be replanted before completion of work. In addition, compensatory planting has been agreed between Scottish Water and Parks, Greenspace and Cemeteries.

All the trees around the Bruntsfield Links and the Meadows are protected, therefore, conditions for tree protection measures have been added.

The proposal is a minor infringement of LDP policy Env 12 as it will result in loss of a tree worthy of retention. However, implementation of compensatory tree planting over and above that being removed, means that overall, there will be benefits in terms of trees.

Flood Planning

LDP Policy Env 21 (Flood Prevention) states that planning permission will not be granted for development that would increase a flood risk or be at a risk of flooding itself, impeded the flow of flood water or be prejudice to existing or planned flood defence systems.

Flood Planning has been consulted and raised no objections.

Archaeology

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

The city archaeologist was consulted and advised that due to the construction of facility there could be the potential of disturbing significant remains, not only in relation to the medieval to modern day history of Edinburgh but potentially also containing environmental evidence dating back to early prehistory. It is recommended therefore that a suitable programme of archaeological works is undertaken prior to/during development in order to record and excavate any significant archaeological deposits uncovered.

The appropriate condition has been recommended.

Conclusion in relation to the Development Plan

Overall, the proposals comply with the Local Development Plan, with the use of appropriate conditions, and with particular respect to the trees and the impact on the character and amenity of the area.

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 proposal complies with Paragraph 29 of 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:

material considerations

- Negative impact on the conservation area - this has been addressed in section b) of the report
- Potential overshadowing - the kiosks have been reduced in size and moved to different place; there would be no overshadowing or daylight issue.

non-material considerations

- Commercial value of the property - not a material consideration.
- Disruption during and after construction - this cannot be materially assessed as part of the planning application.

Conclusion in relation to identified material considerations

The proposals are in compliance with the other material considerations that have been identified above and the material objections raised do not outweigh the recommendation to grant planning permission.

Overall conclusion

The proposals will preserve the special character and appearance of The Marchmont, Meadows and Bruntsfield Conservation Area, in compliance with the Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan in terms of use, open space, trees and sustainability. There are no material considerations which indicate that the proposals should be refused. Therefore, the proposals are acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following :-

Conditions :-

1. Prior to the commencement of development, a landscaping scheme shall be submitted to and agreed with the planning authority. The agreed landscaping scheme will be implemented in full within 12 months of the commencement of the approved development.
2. No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis & reporting) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

3. Prior to the commencement of development, a Tree Protection Plan showing protective barriers and other measures to protect trees around and within the application site will be submitted to and agreed with the planning authority. Any Tree Protection Plan agreed must be implemented in full prior to the commencement of development and not altered or removed unless with the agreement of the planning authority.
4. Details of materials to be submitted and approved by the Council as planning authority prior to the installation of the MCC kiosks.
5. As per drawing DOA0024560-SN-DRA-0E (2A) only one tree shall be removed, and no disturbance or excavation will take place within the Root Protection Area of any tree except for the trenchless technology as specified in the drawing.

Reasons :-

1. In order to safeguard trees.
2. In order to safeguard visual amenity.
3. In order to safeguard trees.
4. In order to safeguard the interests of archaeological heritage.
5. In order to ensure that the approved landscaping works are properly established on 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.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 14 September 2021

Drawing Numbers/Scheme

01,02A-04A,05-07,08A

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Weronika Myslowiecka, Planning Officer
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Summary of Consultation Responses

NAME: Archaeology

COMMENT: The site occurs within the limits of the medieval Burghmuir an area of archaeological significance. Construction of the facility may therefore have the potential of disturbing significant remains, not only in relation to the medieval to modern day history of Edinburgh but potentially also containing environmental evidence dating back to early prehistory. It is recommended therefore that a suitable programme of archaeological works is undertaken prior to/during development in order to record and excavate any significant archaeological deposits uncovered.

It is recommended that the following condition is attached:

'No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis & reporting) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

DATE: 22 February 2022

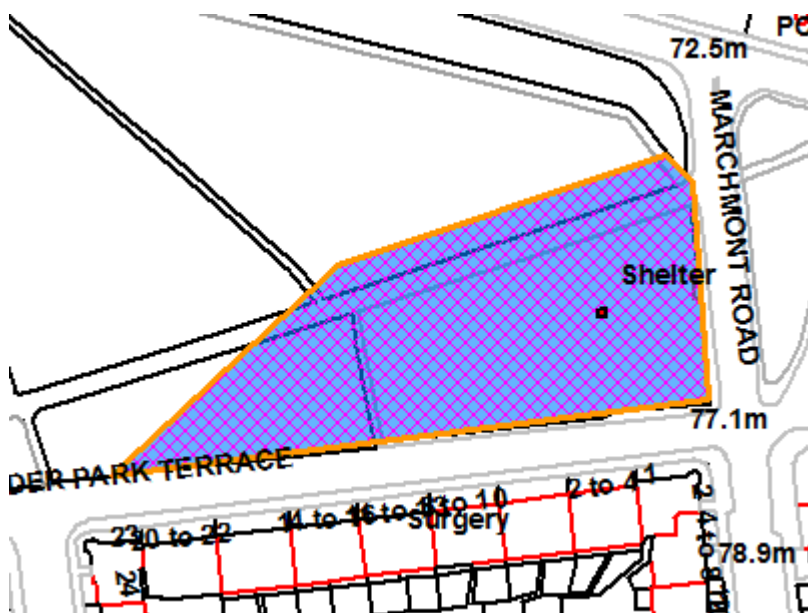
NAME: Flood Planning

COMMENT: No objection.

DATE: 14 March 2022

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

Location Plan



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