

Development Management Sub-Committee Report

Wednesday 17 August 2022

**Application for Planning Permission
179A Canongate, Edinburgh,**

Proposal: Partial demolition of existing buildings and development of purpose-built student accommodation, ancillary uses and associated infrastructure (as amended).

**Item – Committee Decision
Application Number – 22/01647/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because 7 letters of objection have been received and it is recommended for approval. 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 is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and overall is in accordance with the development plan.

It will preserve the character and appearance of the Old Town Conservation Area and will not be detrimental to the architectural character, setting or historical interest of listed buildings.

It will not harm the qualities that justify the inscription of a World Heritage Site or its setting.

The student use is compatible with the mixed character of this city centre area and will not have an adverse impact on the maintenance of a balance community.

The implementation of mitigation measures will safeguard the living environment of future occupiers and in turn prevent limitations on the activities or potential re-development of neighbouring sites. Overall, there will be no unreasonable impact on the amenity of neighbouring residents.

A reduced reliance on car usage is encouraged and promotion of sustainable modes of transport through appropriately designed cycle provision is supported. No specific road or pedestrian safety issues will occur as a result. The proposal minimises environmental resource use and incorporates sustainable features.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

Other material considerations support the presumption to grant planning permission.

SECTION A – Application Background

Site Description

The proposal site is located on the north side of the Canongate, accessed via a path paved in historic setts through an arched opening in Bowling Green Close.

This south side has large, arched timber doors set within historic high-brick boundary walls marking the entrance to the site.

Inside, the path leads to a group of low-lying buildings on the west half including former red brick workshops with pitched slate roofs originally constructed between 1877 and 1893. These formed part of the last development phase of the New Street Gasworks expansion; operational from 1817 to 1906, and are now largely demolished.

The north elevation of the range incorporates a rubble retaining wall which was formerly part of a basement wall fronting the Magdelene Asylum, built in 1806 and demolished around 1870.

There is a small, early 20th century workshop in the east half of the site bordering the main workshops. South of this, is a 1980's three-storey red brick former building with an undercroft parking. This building formed part of previous office use on-site which included refurbishment and conversion of the workshops.

These buildings face an open courtyard comprising the remainder of the site. It is paved in historic setts which lead to the eastern entrance onto Old Tolbooth Wynd, a sloped street connected to Canongate at the top and Calton Road at the bottom.

The site is bordered on four sides by high brick-boundary walls facing the street primarily constructed as part of the site's previous industrial use. The south-east corner of this boundary is a modern addition.

The site's footprint is 974 square metres.

A number of listed buildings are in proximity.

Category A Listed

- Canongate Tolbooth at 163 Canongate, adjoining the south boundary wall of the site (LB reference 27582, listed 14 December 1970) dating from 1591;
- Canongate Parish Church and Churchyard to the east of the site (LB references 26823 and 26836, listed 14 December 1970) dating from 1688-90;

Category B Listed

- tenements at 183-187 and 189-191 Canongate to the south-west of the site (LB references 28434 and 28435, listed on 14 December 1970), dating from the later 17th century and predominantly rebuilt in 1956-7; and

Category C Listed

- tenements at 191-193 and 195-197 Canongate to the south-west of the site (LB references 28436 and 28437, listed on 14 December 1970) dating from the 17th century (rebuilt in 1956) and 1958 respectively.

The surrounding area is mixed use in character, with commercial uses at ground floor level with the upper levels in predominantly residential use.

The New Waverley mixed-use development is under construction on land to the west of the site leading down to Calton Road.

The surrounding area is mixed use in character, typically with commercial and retail uses at ground floor level with the upper levels in predominantly residential use.

The site is located in the Old Town Conservation Area and Old and New Town of Edinburgh World Heritage Site.

Description of the Proposal

Partial demolition of existing buildings and development of purpose-built student accommodation, ancillary uses and associated infrastructure.

The demolition works involve the following:

- remove the roof, inner walls of the U-plan workshop range and demolish the 1980's office building

The proposed purpose built student accommodation includes the following :

- a four-storey building on the west side constructed in light red, pink-hued brick-cladding with sections of light red concrete at lower levels. Three uniform pitched roofs will be formed constructed in a dark standing seam zinc. The existing boundary walls of the partially demolished workshop range will be incorporated at lower levels.

- a two-storey building on the east side of consistent materials to the above with a pitched roof. The retained 20th century former workshop building will be located on its west side, converted internally for residential use and will be of similar height.
- the third building on the east side will mirror the above materials but differ in the orientation of its dual-pitched roof which will face the east.
- retained boundary walls will incorporate arched openings mirroring the style of those existing on the north side. Larger glazed openings will be constructed on the new build elements.
- an open courtyard will be formed on the east side and a second pedestrian access to the east corner leading to Bowling Green Close.

Supporting Information

- Archaeological Assessment
- Bat Surveys
- Daylight, sunlight and privacy information
- Design and Access Statement
- Geotechnical and environmental assessment report
- Flood Risk Assessment and Surface Water Management plan
- Heritage Statement
- Noise Impact Assessment
- Planning Statement
- Structure Feasibility Statement
- Sustainability Form
- Transport Statement
- Verified Photomontages
- Transport Statement

Revised Scheme

- Size of windows on lower floors of the south elevation of proposed four-storey building (south elevation) increased.
- New windows added to west elevation of proposed four-storey building and scale / form of lower ground floor window altered.

Relevant Site History

19/05837/FUL
179A Canongate
Edinburgh

Partial demolition of existing buildings and development of office accommodation and ancillary cafe (as amended).

Granted
24 March 2020

19/05906/CON
179A Canongate
Edinburgh

Partial demolition of existing buildings.
Granted
24 March 2020

19/00117/FUL
179A Canongate
Edinburgh

Partial demolition of existing buildings and development of Purpose Built Student Accommodation (PBSA) with community space and associated infrastructure
withdrawn
17 June 2019

19/00116/CON
179A Canongate
Edinburgh

Partial demolition of existing buildings.
withdrawn
17 June 2019

18/00523/FUL
179A & 179B Canongate
Edinburgh

Demolition of existing buildings and erection of purpose built student accommodation with Class 3 use at ground floor and associated infrastructure.
withdrawn
1 May 2018

18/00548/CON
179A & 179B Canongate
Edinburgh

Complete Demolition in a Conservation Area.
withdrawn
1 May 2018

Other Relevant Site History

No other relevant site history.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Transport Planning

Historic Environment Scotland

Environmental Protection

Archaeology

Edinburgh World Heritage Site

Economic Development

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

Publicity and Public Engagement

Date of Neighbour Notification: 12 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 April 2022;

Site Notices Date(s): 26 April 2022;

Number of Contributors: 9

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 in the Historic Environment: Setting
- Managing Change in the Historic Environment: Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent

Canongate Tolbooth

The setting of the Tolbooth is defined mainly by its relationship with the Canongate. The historic focal point of the burgh of Canongate at the top of Tolbooth Wynd. It marks the entrance to the former street and is a key identifier of the skyline. It also occupies a highly visible location in longer view from the north.

The submitted views show the development will be almost entirely screened from the Canongate by existing historic built form.

As evidenced in these views, the development will be visible in the immediate context of Tolbooth Wynd looking southwards.

However, its location on the east side will only screen part of a side gable and it will not disrupt views of this historical asset in any way.

In longer view from elevated points on Calton Hill the development is sufficiently spaced from the Tolbooth to avoid any visual interference.

Canongate Parish Church and Churchyard

The setting of this church and churchyard is defined by an atypical open space within the comparatively dense urban characteristics of the Canongate.

The submitted views detail the extent of change that will be visible from the Canongate facing north-west to the Tolbooth side gable and open setting of the Courtyard.

A low section of roof will be seen from this area which will have no material impact on the spacious setting of the courtyard and church gables or existing views through this built form.

Similarly, from within the courtyard facing west stone boundary walls are evident with the existing structures on-site in the foreground.

The view has changed through the New Waverley Development and the step down in height proposed to the boundary adjacent to the Churchyard respects its spacious, open setting.

Tenements on Canongate

The lower scale of buildings and boundary walls at the site allow visibility of tenement properties 183-197 Canongate in longer, elevated views from the north on Calton Hill.

As evidenced in the heritage statement, change has occurred on-site. Historically, the late 19th century gasworks gradually replaced tenement buildings until the works complete expansion.

The evolution of the site has resulted in change to building heights, form and spatial structure. Whilst historical, these changes are evidence the site's relationship with the setting of 183-197 Canongate through time.

In addition, perception of these tenements has altered in longer view from the north through construction of the New Waverley Development.

The proposal largely follows the scale and form of approved office consent reference 19/05837/FUL and the extent of its increased height is shown on submitted verified views.

The proposed development will retain an appropriate level of visibility to the rear elevations of the tenements. The height is largely contained below the roofslope of these building's subsidiary elevation allowing wider appreciation in longer view of the continuous rhythm of its roof slope and clear sight of the Canongate ridge.

Conclusion in relation to the listed building

In light of the above, the proposal will not be to the detriment of the architectural character, historical interest or overall setting of these listed buildings.

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

b) The proposals harm the character or appearance of the conservation area?

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

Demolition and Alterations

The principle of demolition on-site is covered under the concurrent conservation area consent (application reference: 22/01648/CON).

The extent of down takings is consistent with approved office consent (19/05837/FUL) except for a section of historic boundary wall to the north-east corner which will be retained.

This previous application was assessed against current policy and guidance and is a material consideration in the determination of this application.

Only partial demolition is proposed however, the work requires assessment to determine the level of impact on the group of buildings on-site as a whole.

The site's use and buildings have changed since the 18th century. It formed part of the Magdalene Asylum forecourt and tenement back land areas and laterally incorporated into the New Street gasworks. Historic structures remain on-site and the extent of down takings to these is outlined below:

1. post-medieval fabric in remnant form within the existing structures.
2. 1877-1894 - the first phase of the gasworks use of the site and development of the west section of the site with a large meter testing shop (the U-plan workshop range);
3. 1894-1908 - construction of the small workshop and other ancillary buildings within the eastern part of the site, including an open pipe yard;
4. 1980s - erection of the office building and refurbishment and conversion of the existing buildings on site for office use.

A Heritage Statement and Archaeology and Historic Building Assessment have been submitted with the application which has informed assessment as to the historical value of existing structures on-site.

A large degree of intervention is proposed. The 19th century Gladstone Court Workshop and 1980's office building will be demolished which will change the current U-plan spatial structure onsite. As evidenced in supporting information, this current plan form is not original.

The courtyard building has changed significantly through past extensions, replacement roof and presence of internal workshop structures. The 1980s office refurbishment brought further change, which clearly differs from the original historic structure.

The 1980's office building on the east side of the site is a three-storey brick-clad building with undercroft parking. It appears as a replica of former industrial use on-site through its red-brick exterior, pitched roof form and arched openings.

However, it is not connected to site's historical or industrial past and is of no specific architectural significance. In this regard, it does make a position contribution to the conservation area character and its demolition is acceptable.

Furthermore, the key aspects of historic fabric on-site would be retained. The historic perimeter walls of ranging height on all four sides and the 20th century workshop building to the north.

In regard to the former, a degree of intervention is proposed by inclusion of openings for windows on lower floors. These alterations are appropriately modest in scale, arranged in a consistent position and their mainly their arched form takes cues from the site's industrial past. The larger opening on the west side of the wall is an acceptable compromise to improve the living environment internally.

Part of the boundary wall to be removed at the south-east corner is a modern addition. Its removal will allow enhanced visibility and use of the reclaimed historical setts in the courtyard area.

New Development

The immediate character of the conservation area is mainly a high-density pattern of development. Partly re-built 17th century tenement buildings are evident on Canongate and spacious grounds of the Church Courtyard sit at odds with this prevalent urban form. More recent development is evident too, including the New Waverley Development to the west of the site.

The site's use, buildings and spatial pattern has changed since the 18th century through forming part of the Magdalene Asylum forecourt and tenement back land areas, laterally incorporated into the New Street gasworks and its most recently office use.

This has altered building heights on-site and more recent change is evident in the surrounding area. Most noticeably to the west where new modern development between four and six storeys tall broadly mirrors the higher density, tight urban context of the historic tenement forms fronting Canongate.

The site is similar spaced to this historic townscape as the southern side of New Waverley Development. However, this site context differs slightly with the open spacious grounds of the Churchyard (east) and mainly lower scale of modern residential development (north).

The scale of development responds appropriately to this context.

Longer views of key characteristics in the Old Town Conservation Area are retained including the Canongate Ridge and Tolbooth.

Its height to the eastern side continues the general scale of modern development. However, crucially its height is lower, responding to the downward slope on the Canongate to the east.

Its height enables longer views of the tenement roofscapes to be retained with a clear, visual separation between the old and new development in the skyline.

Furthermore, the step down in scale to the east of the site avoids interfering with the spacious setting of the churchyard and provides an appropriate middling scale to lower modern development to the north.

Its uniform angular pitched roof form takes cues from historic building forms nearby in a similar manner to recent modern development.

The use of red brick is appropriate on this site, as it takes reference from the site's industrial past and the historical structures retained. The use of modern, high-quality materials are appropriate in providing contrast between the old and new aspects of the development. These materials are evident on new development to the west of the site.

Historic Environment Scotland has raised no objections.

Conclusion in relation to the conservation area

The proposal is of an appropriate design, scale and form that will preserve the character and appearance of the conservation area.

Therefore, it 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 Design policies Des 1, Des 2, Des 3, Des 4, Des 5, Des 6, Des 7, Des 8
- LDP Historic Environment policies Env 1, Env 3, Env 5, Env 6, Env 8, Env 9, Env 16, Env 21
- LDP Housing policy Hou 8
- LDP Transport policies Tra 2, Tra 3, Tra 4

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6.

Listed Building and Conservation Area

Policy Env 3 refers to development only being permitted where it is not detrimental to the architectural character, appearance or historic interest of the listed building or its setting.

Policy Env 5 - refers to the demolition of unlisted buildings in conservation areas that make positive contributions only being supportable in exceptional circumstances.

Demolition of any building in a conservation area, will generally only be supportable where a replacement building that enhances or preserves the character of the area is approved.

Policy Env 6 - refers to development preserving the character or appearance of the conservation area.

These aspects have been assessed through section a) of the report.

World Heritage Site

Policy Env 1 - refers to development which would harm the qualities that justify the inscription of the Old and New Towns, or would have a detrimental impact on a site's setting not being permitted.

The Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site is defined as the remarkable juxtaposition of two clearly articulated urban planning phenomena: the contrast between the organic medieval Old Town and the planned Georgian New Town which provides a clarity of urban structure unrivalled in Europe.

From elevated views on Calton Hill the development will be proportionate to the scale and massing of buildings in the townscape. This will enable views of the Canongate Ridge to be retained and no adverse impact on the skyline.

It will restore a middle layer of townscape, historically present on-site before the gasworks.

Historic fabric on-site will be retained and restored taking appropriate cues from the site's former industrial character.

The new development is a modern intervention, however its scale, form, materials and detailing is compatible to the surrounding context having no adverse impact on close or distance viewpoints within the Old and New Towns.

Edinburgh World Heritage do not object to the proposals. They refer to changes from the approved consent not materially increasing external impact on aspects of Outstanding Universal Value.

Comment is made on the student use not taking advantage of opportunity to increase the sustainability of the local community.

Whilst student occupation is likely to be more transient than some uses, the site is presently unoccupied. In this regard, it does not currently contribute to these aspects.

The proposal brings a new use to the building and its occupation for residential use will help support local facilities nearby. The student use will not be harmful to the mix of uses evident in the Old Town.

The development will therefore cause no harm to the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site, in compliance with LDP Policy Env 1.

Principle

Policy Hou 8 - refers to permission being granted for purpose built student accommodation where:

- a) its location is appropriate in terms of access to university or college facilities by walking, cycling or public transport.
- b) states it will not result in an excessive concentration of student accommodation to an extent that would be detrimental to the balance of communities, or established character and residential amenity.

Student Housing Guidance offers further guidance to inform acceptability of student accommodation with specific criteria (a to d) identified.

- a) relates to sharing a boundary or separated only by a road to a main university or college campus
- b) outwith criteria a) student housing will generally be supportable on sites less than 0.25 ha, with consideration given to its cumulative impact and on area's character
- c) is for sites outwith criteria a) and b)
- d) to the delivery of a mix type of accommodation being provided.

The guidance also refers to there being a greater potential for community imbalance where the student population is dominant, exceeding 50%.

Location of student housing

The site has appropriate access to educational facilities via a range of sustainable transport modes.

For example, on foot University of Edinburgh buildings on the south side of Canongate can be accessed via a footway from the entrance at Tolbooth Wynd which links to a zebra crossing. To the south, university buildings on St John's Street, Holyrood Road and Pleasance are between a 3-to-10-minute walk.

Bus stops are in close proximity on Canongate. The Lothian 35 service is located here linking to University of Edinburgh on Forrest Road Napier University at Sighthill and Heriot-Watt University with journey times between 10 to 45 minutes. In addition, a range of bus services are accessible on North Bridge.

The National Cycle Network (NCN) Route 1 can be accessed at the Innocent Railway Path and Meadows to the south and west.

The site has appropriate access to educational facilities via a range of sustainable transport modes.

Concentration of student housing

Based on 2011 census, the student population comprised of approximately 40 % of the total population in a ten-minute walking distance from the site.

Since then, an additional 2,516 student beds have been consented and are operational in this area.

In addition to students, there are a large number of transient uses nearby including hotels and short term lets. It is not possible to be definitive on the proportion of the population that is transient however a relatively high number of visitors may be expected in this city centre location.

This proposal has the potential to marginally increase the percentage of students in the area by around 0.5 %. This would not constitute an excessive concentration.

In light of this, the proposals will not result in an excessive cumulative impact on the concentration of students in the locality to the degree that would be detrimental to maintenance of a balanced community.

The area contains a mix of uses, and the proposal will not be detrimental to the established character or residential amenity.

The proposal is for solely studio rooms therefore does not meet criteria d) of the student housing guidance.

The ground floor includes an open courtyard with seated areas / planters, internal amenity space, two study rooms, a cinema and gym.

The design therefore provides communal amenity space which is of a proportionate scale and quality to encourage interaction between students.

The applicant has also stated the rooms are being targeted at post graduate students who generally have a preference for studio bedrooms. In addition, that due to the site constraints including retained heritage assets there is a requirement for a high level of design efficiency which mitigates against a cluster arrangement.

In this regard, a departure from criteria d) of the guidance is acceptable in this instance.

Design

Policy Des 1 refers to development creating or contributing to a sense of place based on positive characteristics of the surrounding area.

Policy Des 3 refers to development incorporating existing characteristics and features worthy of retention on site and surrounding area.

Policy Des 4 sets out criteria for development to have a positive impact on the character of the wider townscape and landscape. These include:

- a) height and form
- b) scale and proportions
- c) position of buildings and other features on site
- d) materials and detailing

Policy Des 7 refers to development having a comprehensive and integrated approach to layout of buildings to ensure ease of movement (cycling, walking) within the site and appropriate access to sustainable modes of transport. Open space should be incorporated, and regard had to access for people with limited mobility or special needs.

Policy Des 8 refers to permission being granted for external spaces that have been designed as an integral part of the whole.

The design takes cues from the site's former light industrial character in terms of materials and detailing. It will mainly be constructed in varying shades of light red brick to complement existing brick on-site from previous industrial use. Prefabricated concrete on lower levels will be of similar shade and works well as a simple contrast.

The dark metal roof and windows mirrors use of more modern materials on new development to the west.

The design incorporates existing, positive characteristics of the site with retention of boundary walls and workshop building. The concept draws from the site's historical context with arched window openings at lower levels and pitched roof forms.

The scale relates to the mainly high-density townscape character. It responds appropriately to the immediate historical environment; its height is lower than historic tenements to the north and steps down to the east where the Kirkyard's open courtyard is adjacent.

The layout encourages ease of movement. Level access will be provided for the open courtyard at ground floor, linked to main facilities and site entrances.

An opening will be created to the southern side of the site, linking Gladstone's Court to Tolbooth Wynd. This will connect to new routes to the west created by the New Waverley Development enhancing the site's permeability.

The open courtyard will re-use existing historical setts providing continuity with the surrounding hard landscaping of the historic Old Town. Soft landscaping and seated areas will help enhance the useability and attractiveness of this space.

In light of the above, the design concept draws upon positive characteristics of the site and its surroundings. Its response to scale, form and position is appropriate to the townscape character and will help create a sense of place.

Overall, it complies with LDP policy Des 1, Des 3, Des 4, Des 7 and Des 8.

Sustainability

Policy Des 6 states permission will be granted for new development where it is demonstrated that:

- a) current carbon dioxide emissions targets have been met
- b) features are incorporated to reduce or minimise environmental resource use.

A sustainability statement has been submitted including a signed carbon reduction declaration to confirm the development will comply with current carbon dioxide emissions targets.

In addition, low and zero carbon emitting equipment is incorporated including Air Source Heat Pumps and cycle storage to encourage use of a sustainable transport mode.

The proposal therefore complies with LDP policy Des 6.

Amenity

Policy Des 2 - states permission will not be granted for development which will compromise the effective development of adjacent land.

Policy Des 5 - sets out criteria for ensuring occupants have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

Furthermore, EDG states that private views are not protected however immediate outlook of the foreground of what can be seen from within a building may be.

In regard to privacy, the guidance states that the pattern of development in an area will help to define appropriate distances between buildings and privacy distances. There may be higher expectations for separation in suburban areas than in historic areas such as the Old Town.

In regard to daylight, the EDG states that the the amount of daylight reaching an external wall is measured by the Vertical Sky Component (VSC). The Council requires this to be more than 27% VSC or 0.8 of its former value.

Future Occupiers

Noise

The Agent of Change Principle clearly places the responsibility for mitigating any detrimental impact from noise on neighbours with those carrying out the new development or operations. The Planning Advice Note on Noise (PAN 1/2011) advocates a pragmatic approach to the location of new development within the vicinity of existing noise generating uses.

The Agent of Change Principle is now enshrined in section 41A of the 1997 Act where:

a development that is the subject of an application for planning permission is a noise sensitive development if residents or occupiers of the development are likely to be affected by significant noise from existing activity in the vicinity of the development and requires that the planning authority must, when considering under section 37 whether to grant planning permission for a noise sensitive development subject to conditions, take proper account of whether the development includes sufficient measures to mitigate, minimise or manage the effect of noise between the development and any existing cultural venues or facilities including in particular, but not limited to live music venues or dwellings or businesses in the vicinity of the development, and

may not, as a condition of granting planning permission for a noise-sensitive development, impose on a noise source additional costs relating to acoustic design measures to mitigate, minimise or manage the effects of noise".

Environmental Protection has raised concern with regard to potential impact of noise from external condensing units and live music events to the rear of the Tolbooth Tavern public house. In addition, the potential for odours from the pub's extraction system to impact on student's living environment.

A Noise Impact Assessment (NIA) has been submitted to assess impact from these noise sources on habitable windows of the student development.

Rooms along the south and partly east side of the building (28 out of 76) may be impacted by their proximity to the public house. Noise from these sources could result in noise levels in excess of Environmental Protection noise criteria of NR25 with open windows.

To address plant noise, the applicant has been in dialogue with the public house and has proposed replacing the existing condensing units with units of similar size or smaller in the same external location using the same internal routing system. The modern units would be of a design to comply with the relevant noise criteria.

Under Section 41A of the above act, there is an obligation that additional costs shall not be placed on the noise source in regard to acoustic design measures. A suitably negatively worded condition has therefore been applied for the applicant to carry out these replacement works prior to commencement of development on the site subject to this application.

Openings on the south and part of the east side may only be able to achieve internal ambient noise levels with a closed window approach.

In regard to live music, the NIA states that these events from the public house typically occur a limited number of times per year, currently four.

The frequency of these events cannot be controlled under planning.

However, it is recognised there is an existing proximity between the public house and residential property on the Canongate. In addition, the site is in a city centre location where it may be expected there would be a reasonable level of ambient noise from nearby uses.

In these circumstances, it is reasonable and pragmatic to accept an alternate means of mitigation to achieve suitable internal noise levels in these rooms whilst these events take place.

The NIA recommends mechanical means of ventilation to be installed in the affected rooms and specification for standard double glazing to achieve acceptable noise levels internally.

This would allow windows to be shut during these events and rooms to be adequately ventilated by this alternate means.

A condition is therefore recommended, for full details of these mitigation measures as identified in the NIA report to be submitted and approved by the Local Planning Authority. The approved measures shall thereafter be implemented and operational prior to first use of the affected rooms.

Overall, subject to these details as required by condition, noise from adjacent uses could be mitigated to ensure satisfactory occupier amenity.

Daylight and Sunlight

A daylight analysis has been submitted to assess the levels of light achieved within each habitable room. To achieve the standards of the 'no-skyline' method as set out in the BRE guide, daylight should be able to penetrate at least half-way into each room.

The analysis states 83% of the rooms (63 of 76) will accord with the standards set out in the Edinburgh Design Guidance. Full compliance with the EDG is challenging given the dense site characteristics where taller buildings are in proximity to the south and west.

Rooms that fall below the standard are generally of a good size and have been designed so that the main habitable space with desks are near the window to receive daylight. In addition, the communal amenity and study space at ground floor provide a good level of alternative habitable living space with outlook onto the open courtyard.

The revised scheme has improved levels of daylight internally with the size, number and form of windows on the south and west elevations altered.

The level of compliance with the Edinburgh Design Guidance is acceptable based on the surrounding tight urban context. The design of the development as a whole achieves a reasonable living environment for future occupiers.

The open courtyard provides some external amenity space and the site lies in close proximity to large areas of greenspace including Holyrood Park and Calton Hill.

Privacy and Outlook

In regard to privacy and outlook it is unreasonable to expect development to achieve distances similar to that found in suburban areas on this tightly constrained site.

As per the above, window to window distances vary from 5 m west to 10 m south with greater distances achieved to the north. The design seeks to minimise direct views between windows and as per the guidance a closer relationship between windows may be expected in historic areas such as the Old Town.

Given the context of the site, the level of outlook and privacy afforded to future occupiers is acceptable.

Other Matters

Environmental Protection have also raised the matter of potential for odours from the pub's extraction system to impact on student's living environment.

The pub's fan grille is located near to the existing condenser unit at ground floor. There is an existing proximity between the grille and residential windows on Canongate to the rear and it is not anticipated that its location would give rise to any unreasonable impact on future occupier's living environment. Implementation of the aforementioned mitigation measures will ensure a satisfactory living environment can be achieved internally.

Environmental Protection have also recommended an informative in regard to the applicant developing a Construction Environmental Management Plan to limit impact on neighbouring residential property during construction activity. These matters would be controlled under legislation separate to planning therefore this informative has not been applied.

Given the site's historic use, a contaminated land condition has been recommended in order to ensure the site is safe and stable for the student use.

Neighbouring Occupiers

In regard to daylight, the EDG states is measured by the Vertical Sky Component (VSC). The council requires this to be 27 % or 0.8 of the former value of daylight.

82% of adjacent windows accord with Vertical Sky Component (VSC) criteria with values of either 0.8 or 27 % achieved.

Windows (15) to the rear of residential property on Canongate fall below the target with resultant values of between 0.67 and 0.79. This degree of impact and level of infringement from the guidance is acceptable based on the high-density characteristics of the townscape.

The additional windows (22) below the target are on the east side of the New Waverley development. The proposal is of lesser height than this facing building and the relationship between these built forms is similar to existing buildings nearby. Openings on this side of this adjacent site are reliant on daylight from their position facing neighbouring land. Given this proximity and the tight urban context the lesser levels of daylight should not unreasonably restrain or compromise this re-development.

In regard to sunlight, some shade will be cast from the development onto the garden space of 18 Tolbooth Wynd. This will be a modest proportion of the overall garden and adequate levels of sunlight will be maintained at the spring equinox in accordance with BRE guidance. No other gardens will be impacted upon.

In regard to privacy, there will be a close relationship (5 m) between new windows on the west side and the facing New Waverley development.

This distance is consistent with the previous office consent where it was accepted based on the tight historic urban context. Windows have generally been positioned to minimise direct, facing overlooking between openings.

Furthermore, openings on this side of the adjacent development are positioned on its site's boundary, reliant primarily on light through facing adjacent land. In this context, it is considered reasonable that their position and proximity to the site should not compromise the effective re-development of this adjacent land.

To the south, the retained distance of 10 m to the rear of Canongate properties is acceptable based on the tight spatial character of the area. To the north, windows do not directly face openings on nearest residential property on Tolbooth Wynd. Distances to all other properties at this side will not result in any material loss of privacy.

Noise

In regard to noise, the student development is compatible with residential uses nearby.

It is recognised that the transient nature of students and additional activity may bring a greater likelihood of noise to the area than that of more permanent residents. However, the site is located in the city-centre where a degree of existing ambient noise can reasonably be expected from day and night-time activity. It is not anticipated that noise from the use will result in any unreasonable impact on neighbouring residents.

Transport

Cycle Parking

Policy Tra 3 states permission will be granted where proposed cycle parking and storage complies with standards in Council Guidance.

Edinburgh Design Guidance states student flats should have a minimum cycle provision of 1 space per 1 bed.

Policy Tra 4 refers to design considerations for cycle parking including its location nearer to building entrances than car parking and considerations of council guidance.

EDG states long-stay provision will be required in residential development where focus should be on location, security and weather protection. Short stay should be convenient and accessible - near entrances with preferably step free access.

The cycle fact sheet states that for larger flatted developments long and short stay provision should be provided.

For long-stay cycle parking, a combination of cycle parking and bicycle types will be required. A maximum of 80 % cycle parking should be one type. At least 20 % should be suitable for non-standard bicycles.

It is noted this aspect of the guidance does not refer specifically to student development however these design principles still apply.

The proposal includes 76 long-stay cycle spaces internally at ground floor which complies with Edinburgh Design Guidance standards of one space per one bed.

A range of cycle parking is proposed internally including 40 two-tier cycle racks and 8 Sheffield stands with 20 racks above.

The internal Sheffield cycle stands allow for storage of non-standard bikes including adapted cycles including cycles, tandems, cargo cycles and trailers. Upper tier cycle storage will be hydraulic assisted to ensure ease of use for a range of users.

The design and mix of cycle types complies with guidance in the council's factsheet for flatted developments.

In addition, provision for 10 short-stay cycle spaces is included via 5 Sheffield stands in the open courtyard at ground floor. It's design and location near the building and site entrances is appropriate for its primary use for visitors to the accommodation.

The proposal encourages use of sustainable transport through appropriately designed cycle provision which complies with LDP policy Tra 3 and Tra 4.

Car Parking

Policy Tra 2 states permission will be granted for development where car parking provision complies with and does not exceed parking levels set out in council guidance. Lower provision will be pursued subject to consideration of various factors.

EDG states for student accommodation in Zone 1 there is a maximum car parking provision of 1 space per 20 beds. There is no minimum provision.

No car parking is proposed which is acceptable in this city centre location where the site has good levels of access to public transport, education and local amenities. A transport statement has been submitted where it is anticipated that trips will mainly be by walking.

The proposal discourages reliance on private car use through no car parking provision in a sustainable location which complies with LDP policy Tra 2.

Road and pedestrian safety

Representation has raised the matter of potential safety issues in regard to the new access to the south of the site. This layout is consistent with the previous office consent (reference:19/05837/FUL) on-site. Transport officers have been consulted on the proposal and have raised no objections.

In light of this, no specific road or pedestrian safety issues will occur as a result.

Archaeology

LDP policy Env 8 states development will not be permitted which would adversely affect important archaeological remains.

LDP policy Env 9 states development will not be granted that will have a significant impact on archaeological features.

The site is located within the historic core of the medieval burgh of Canongate established in the 12th century. The current building comprises various phases of construction with the boundary walls possibly dating back to the post-medieval period (17th/18th centuries).

There are a number of historic buildings including foundations of the Georgian Magdalene Asylum and surviving elements of the Victorian gas-works buildings.

The City Archaeologist has been consulted on the proposal and has referred to the site being of significant archaeological interest.

No objections have been raised to the works subject to submission and approval for a programme of archaeological works (excavation, historic building recording, public engagement, interpretation, analysis & reporting, publication).

This condition has therefore been recommended in the interests of safeguarding archaeological heritage on-site in accordance with LDP policy Env 8 and Env 9.

Flooding

LDP policy Env 21 states permission will not be granted for development that would increase flood risk.

As identified in the SEPA online flood maps, the site is located near to an area with a medium surface water risk and contains no specific river or coastal flood risk.

The applicant has submitted a surface water management plan and flood risk assessment which have been reviewed by flooding officers.

It is proposed that the existing Scottish Water sewer is diverted or replaced to the southern side of the site and surface water connected to this.

No objections have been received from the Council's Flood Prevention Team subject to Scottish Water's acceptance of the surface water discharge rate and proposed sewer diversion.

The Scottish Water response has confirmed there is capacity to service the development.

The applicant has confirmed that Scottish Water approval of these matters' forms part of the technical audit post consent and an informative has been included in regard to this.

Overall, the proposal has been designed to mitigate potential flood risk and accords with LDP Policy Env 21.

Biodiversity

LDP policy Env 16 states permission will not be granted for development that would have an adverse impact on protected species.

Due to the location and characteristics of the site bats are the only protected species applicable.

A preliminary roost assessment and bat surveys have been submitted. No evidence of bat roosts has been identified therefore it is considered bats are not a constraint to the development.

The surveys recommend that if work has not begun by the next bat activity period an updated survey should be undertaken. In addition, that checks for nesting birds should be undertaken should work be carried out over during nesting bird season.

The applicant should be mindful of these aspects and informatives have been recommended in regard to these matters.

In light of the above, the proposal complies with LDP policy Env 16.

Waste

The applicant has confirmed refuse from the development will be subject to commercial collection and separate agreement would be required out with this planning consent on this matter.

Conclusion in relation to the Development Plan

The proposal complies with the Edinburgh Local Development Plan.

It will preserve the character and appearance of the Old Town Conservation Area and will not be detrimental to the architectural character, setting or historical interest of listed buildings

It will not harm the qualities that justify the inscription of a World Heritage Site or its setting.

The student use is compatible with mixed character of this city centre area and will not have an adverse impact on maintenance of a balance community.

The implementation of mitigation measures will safeguard the living environment of future occupiers and in turn prevent limitations on the activities or potential re-development of neighbouring sites. Overall, there will be no unreasonable impact on the amenity of neighbouring residents.

A reduced reliance on car usage is encouraged and promotion of sustainable modes of transport through appropriately designed cycle provision is supported. No specific road or pedestrian safety issues will occur as a result. The proposal minimises environmental resource use and incorporates sustainable features.

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.

It is a sustainable land use, appropriately located in walking distance to education facilities, local amenities and public transport. The design encourages walking through the site and improves its connectivity.

The scale, form and design protect the historic environment and adjacent historic assets.

Mitigation measures are incorporated to protect the amenity of future occupiers and safeguard adjacent development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet 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

Under Section 149 - Public Sector Equality Duty of the Equality Act 2010, a public authority must have due regard to the need to advance equality of opportunity between persons who share a protected characteristic and persons who do not. Protected characteristics include disability and age.

The layout of the site is accessible for a range of future occupiers.

The upper ground floor will be excavated to form a consistent level with courtyard access via Old Tolbooth Wynd. Key facilities and the lift are near building entrances ensuring access to upper floors for all users without requirement to use stairs.

The new, additional pedestrian route to the south-east corner will be stepped only. The applicant has highlighted the existing challenges of the site with the floor level at Gladstone Court an approximate 1.5 m higher than the main courtyard adjacent to Old Tolbooth Wynd.

The steps are necessary to resolve the change in level between Gladstone's Court and the main part of the public space without compromising the size, quality or historic value of this open setted space.

Overall, the building design and external layout provides a significant betterment from the existing level of accessibility on-site.

Due regard has been given to section 149 of the Equalities Act 2010. The proposal complies with the provisions of the Equality Act 2010.

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

Nine objections (including the Old Town Community Council) and 3 neutral comments (inc. Cockburn Association) have been received.

A summary of these representations is provided below:

material considerations

Adverse impact on composition of area: Addressed

- Impact on listed buildings: Addressed in section a)
- Impact on character and appearance of the Conservation Area: Addressed in section b)
- Impact on longer views of historic assets: Addressed in section a) and b) - Conservation Area and Listed Buildings
- Pedestrian access and safety: Addressed in section c) - Transport
- Impact of students on local community: Addressed in section c) - Land Use
- Impact on residential amenity (noise, privacy, private views Calton Hill) - Addressed in section c) Amenity
- Impact on waste: Addressed in
- Proposals are contrary to relevant policy and guidance: Addressed through the above report

non-material considerations

- Potential future use of building
- Alternative scheme for residential
- Use of building in summer months
- Need for student housing
- Previous applications

Conclusion in relation to identified material considerations

It is located in a sustainable location as it is accessible by bus services in close walking distance to the site.

The scale, form and design protect the historic environment and the amenity of existing development.

The design has regard to improving the site's accessibility for all users.

In light of the above, the proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and overall is in accordance with the development plan.

It will preserve the character and appearance of the Old Town Conservation Area and will not be detrimental to the architectural character, setting or historical interest of listed buildings.

It will not harm the qualities that justify the inscription of a World Heritage Site or its setting.

The student use is compatible with mixed character of this city centre area and will not have an adverse impact on maintenance of a balance community.

The implementation of mitigation measures will safeguard the living environment of future occupiers and in turn prevent limitations on the activities or potential re-development of neighbouring sites. Overall, there will be no unreasonable impact on the amenity of neighbouring residents.

A reduced reliance on car usage is encouraged and promotion of sustainable modes of transport through appropriately designed cycle provision is supported. No specific road or pedestrian safety issues will occur as a result. The proposal minimises environmental resource use and incorporates sustainable features.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

Other material considerations support the presumption to grant planning permission.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions:-

1. No development shall start on site until:
 - a) details for replacement condensing unit/s on the west facade of the Tolbooth Tavern, as identified in the submitted Noise Impact Assessment Report reference 22102-R01-G, dated 8 June 2022, have been submitted by the applicant and approved in writing by the Local Planning Authority and
 - b) the existing condensing unit/s have been removed and replaced with the approved condensing unit/s by the applicant as per the details set out in section a.
2. Prior to the commencement of development full details and specification of the proposed ventilation strategy and glazing identified in the submitted Noise Impact Assessment Report, reference 22102-R01-G, dated 8 June 2022, shall be submitted to and approved by the Local Planning Authority.

The approved details shall be implemented and operational prior to occupation of all affected rooms identified in the above report.

3. (a) A site survey (including initial desk study as a minimum) must be carried out to demonstrate that, 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 remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning authority.

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 to the Planning authority prior to occupation of the development.

4. No demolition or development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, historic building recording, public engagement, interpretation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
5. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.

6. A schedule of stonework/brickwork repairs, including the reconfiguration/formation of window surrounds, shall be submitted to and approved in writing by the Planning Authority before duntaking work commences on site.

Reasons:-

1. In order to ensure the adequate implementation of details to safeguard the living environment of future occupiers and to safeguard the operations of nearby uses.
2. In order to ensure the adequate implementation of details to safeguard the living environment of future occupiers and prevent limitations on the activities of nearby uses.
3. In order to ensure the site is made safe for the proposed use.
4. In order to safeguard the interests of archaeological heritage.
5. In order to enable the planning authority to consider this/these matter/s in detail.
6. In order to safeguard the character of the conservation area.

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. In accordance with the Council's City Mobility Plan policy, the applicant should consider developing a Travel Plan including provision of a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport.
5. Any works affecting adopted road must be carried out under permit and in accordance with the specifications. See Road Occupation Permits

:

http://www.edinburgh.gov.uk/downloads/file/1263/apply_for_permission_to_create_or_alter_a_driveway_or_other_access_point.

6. Works should be undertaken between October to February outwith the nesting bird season. If this is not possible, a nesting bird check should be undertaken by a suitably qualified ecologist prior to works commencing and declared clear of nesting birds before work starts.
7. The applicant is required to gain Scottish Water's approval as part of the post development technical audit.
8. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 31 March 2022

Drawing Numbers/Scheme

01-08, 09 B, 10 A- 13 A, 14-25, 26 B, 28 A

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lewis McWilliam, Planning Officer
E-mail:lewis.mcwilliam@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Transport Planning
COMMENT: No objections.
DATE: 21 April 2022

NAME: Historic Environment Scotland
COMMENT: No objections.
DATE: 4 May 2022

NAME: Environmental Protection
COMMENT: Objects to the proposal due to a poor living environment for some future occupiers.
DATE: 29 July 2022

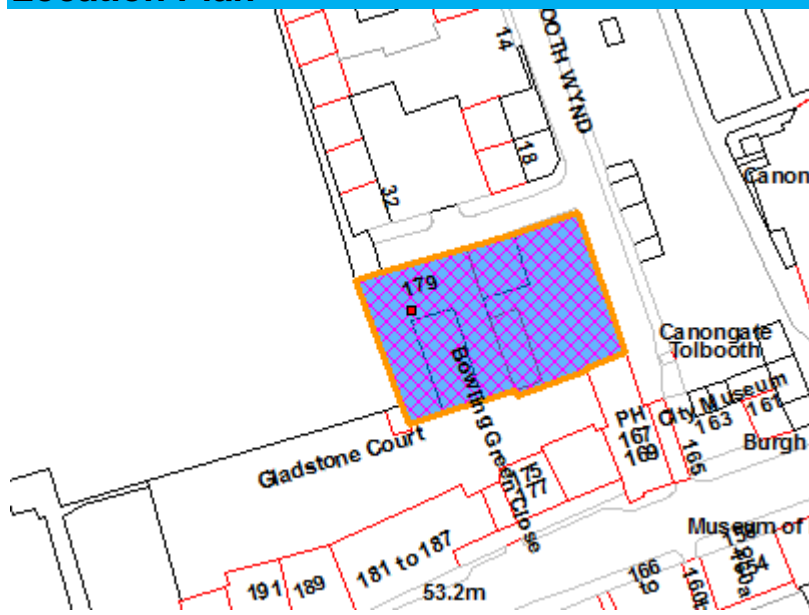
NAME: Archaeology
COMMENT: No objections subject to condition for a programme of archaeological works to be submitted.
DATE: 28 April 2022

NAME: Edinburgh World Heritage Site
COMMENT: No objections.
DATE: 21 July 2022

NAME: Economic Development
COMMENT: No objections raised. The economic impact of the redevelopment is not expected to be significant either way.
DATE: 21 April 2022

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

Location Plan



© Crown Copyright and database right 2014. All rights reserved. Ordnance Survey License number 100023420