

Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Site east of 94 Nicolson Street, Davie Street , Edinburgh.

Proposal: Partial demolition of the existing retail store and construction of flatted dwellings and associated infrastructure.

Item – Committee Decision

Application Number – 22/01355/FUL

Ward – B15 - Southside/Newington

Reasons for Referral to Committee

The application is referred to the Development Management Sub-Committee due to minor infringements with local development plan policy and guidance. 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 in that it will preserve the setting and features of nearby listed buildings and not adversely impact on the character or appearance of the conservation area.

Overall, the development is in accordance with the development plan. The development provides high density housing on a city centre site and will have a positive impact on the character of Davie Street by providing a well-designed in-fill development which responds positively to the character of the surrounding area. The proposals are an acceptable design, scale, height and density are appropriate for the location, and there will be an acceptable level of amenity achieved.

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

There are no material considerations which outweigh the proposals accordance with the Development Plan.

SECTION A – Application Background

Site Description

The site measures 0.17 ha and has a frontage onto Davie Street, to the east of Nicolson Street and the south of West Richmond Street.

The development site is currently occupied by a 6m high single storey building which is in operation as the back of house for a Tesco retail store. This building forms an extension to the retail store which fronts onto Nicolson Street, occupying the ground floor of an existing four storey tenement building. The extent of the site therefore comprises the interior of the perimeter block and frontage onto Davie Street, infilled at ground floor level by the existing retail use.

The properties situated above the retail store onto Nicolson Street are not included within the red line boundary for the planning application.

The single storey building on the site is a finished with an off white render and a single ply white roof. It has a gross floor area of 1638 sq m and contains an enclosed loading bay onto Davie Street, which provides service access to the retail store. The building elevation onto Davie Street is currently a single storey blank façade with a roller shutter access door providing delivery truck access to the internal loading bay which is positioned within the building.

The site is bound to the north by an area of car parking in the centre of the five storey perimeter block and to the south by a two storey mews style building tenement building facing south onto Gibbs Entry, and a four storey tenement building with an internal rear garden facing east onto Simon Square. The Category B listed former Heriot's school building now converted for residential use is located directly opposite the site on Davie Street.

The site and surrounding area has a mixed urban character with dense development form and active frontages onto the main thoroughfares of Nicolson Street and in part on West Richmond Street, with predominantly residential uses located in the secondary streets such as Davie Street, Simon Square and Howden Street.

There are a number of listed buildings located within proximity of the site as follows;

- Apostolic Church, Davie Street and West Richmond Street - Category B listed, 12 December 1974 (reference LB 30009);
- 6 Davie Street, former Heriot's School - Category B listed, 19 July 2001, (reference LB28083);
- 7-15a West Richmond Street and 1-9 Davie Street Category B listed, 12 December 1974 (reference LB29628);
- 78 Nicolson Street and 1-5 West Richmond Street - Category B listed, 12 December 1974 (reference LB29420);
- 80-84 Nicolson Street - Category B listed, 12 December 1974 (reference LB29421);

- 86 - 90 Nicolson Street - Category B listed, 12 December 1974 (reference LB29422)
- 100 - 102 Nicolson Street - Category B listed, 12 December 1974 (reference LB29424);
- 104 Nicolson Street - Category B listed, 12 December 1974 (reference LB29425);
- 106 - 108 Nicolson Street - Category B listed, 12 December 1974 (reference LB29426);
- 110 - 122 Nicolson Street - Category B listed, 12 December 1974 (reference LB29427).

The site is located within the South Side Conservation Area.

Description of the Proposal

The proposal is for the partial demolition and redevelopment of the retail unit at ground floor level and development above of a five storey building which will be utilised as build to rent (BTR) residential accommodation. The redeveloped ground floor will be reinstated for retail back-of-shop use and five storeys of development above (including at roof level) will accommodate 32 flatted dwellings. The retail store delivery bay at ground level will be integrated into the scheme by introducing a new stone façade to match the development above.

The building will follow the established building line along Davie Street on its principal elevation, fronting directly onto the street. To the rear, the elevation is stepped, following a similar pattern to buildings on the opposite side of the block.

Principal access to the residential dwellings will be via a main entrance onto Davie Street. A roller shutter service access door will be reinstated onto the Davie Street frontage to allow for delivery vehicle access into the rear of the retail unit as per the existing servicing arrangement.

The principal elevation to Davie Street will be finished primarily with blonde sandstone, with buff brick integrated around the set back entrance way. A tenemental style fenestration pattern is proposed. The stonework on the delivery bay façade will include recesses in the elevation and the introduction of louvres at ground and first floor level in order to articulate the frontage and integrate this section of the elevation with the fenestration pattern above.

The rear elevation to the courtyard area will be finished with an orange/ pink traditional harling. Window detailing will include off-white pre-cast window surrounds and light bronze window frames and balconies. The building will have a double pitched roof design, which will be finished with bronze metal cladding.

A housing mix of seven studio units, 22 one-bedroom apartments and three three-bed apartments is proposed.

The development includes 25% affordable housing which will be provided on site. The affordable housing strategy has been revised during the application assessment period with the scheme initially proposing an off-site financial contribution approach to affordable housing.

The revised scheme proposes on-site provision which will include eight affordable housing units (25% of total housing provision) which will comprise seven one-bedroom apartments and one three-bedroom apartment. These will be delivered as intermediate rent affordable properties.

Terraced open space will be provided on the rear (west) and gable (south) elevations of the building at first and fourth floor levels. This will comprise a mix of private garden terraces for five properties at first floor level and an area of communal terraced space at fifth floor level for the remaining properties. 166 sq. m of communal open space is proposed (9.8% of the total site area). The terraces will include patio space, areas of lawn and raised planting beds. Lighting will be integrated into the terraced gardens.

The building fronts directly onto Davie Street and improvements are proposed to the existing public realm along the Davie Street frontage.

The building is accessed via a set of double doors which will be level to Davie Street. A lift is provided which includes access to upper floors and all levels of mobility have access to each flat and each garden, including the communal terrace garden. The flats are all on a single level and are designed in accordance with Scottish Building Regulations to ensure that they provide the necessary manoeuvring space for all users.

Zero vehicular parking is proposed on the site. 60 cycle parking spaces are proposed which will be located at ground floor level with access via the main entrance. These are all single storey design to avoid the requirement for users to lift cycles into place. The cycle parking includes space for non-standard bikes at the end of each run of parking and electric charging points for e-bikes.

A refuse store is provided at ground floor level with dedicated level access provided directly into the storage area.

An air source heating system is proposed to provide residents with heating and hot water. This will be located on the fifth floor adjacent to the communal roof terrace.

Supporting Information

- Design and Access Statement
- Townscape and Visual Impact Assessment
- Affordable Housing Statement (as amended)
- Noise Impact Assessment (as amended)
- Landscape Strategy
- Drainage Assessment
- Preliminary Ecological Appraisal and Bat Survey
- Transport Statement
- S1 Sustainability Form
- Open Space Audit

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning site history.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Transport

Environmental Protection

Archaeology

Flooding

Waste

Communities and Families

Scottish Water

Southside Community Council

Affordable Housing

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

Publicity and Public Engagement

Date of Neighbour Notification: 2 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 8 April 2022;

Site Notices Date(s): 5 April 2022;

Number of Contributors: 2

Section B - Assessment

Determining Issues

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

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

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

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

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

Assessment

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

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

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

Managing Change - Setting

Listed Buildings and 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.

Setting extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.

The perimeter block within which the proposed development would be located comprises a number of listed buildings. There are further listed buildings located directly across the street from the proposed development site at the former Apostolic Church on the corner of Davie Street and West Richmond Street (Category B listed) and 6 Davie Street (former Heriot's School - Category B listed).

The site forms part of a perimeter block which is characterised by tenement building form. The proposed development will replace an incongruous single storey building frontage with a replacement tenement frontage, which is in keeping with the historic building pattern.

The height, form and massing of the proposed development is appropriate to this setting and does not impact adversely on the character of the nearby listed properties. The architectural detailing of the building's elevations has been kept fairly simple in their appearance and respond positively to the surrounding built form.

The choice of external materials and detailed architectural features of the building are appropriate to the site's context and reflect the heritage character of the local area. Where more contemporary materials have been introduced, such as the bronze roof panel and dormer features, these are integrated into a dual pitch roof, which is a feature found in the adjacent Category B listed tenement block at 1-9 Davie Street. On balance, the introduction of contemporary features alongside the traditional building form and largely traditional palette is considered to be acceptable in this location and are not considered to detract from the setting of the nearby listed buildings.

Conclusion in relation to the listed buildings

Section 59 (1) the Planning (Listed Buildings and Conservation Areas) (Scotland) (Act) states that the proposals are required to preserve the setting of the listed building including any special architectural or historic interests it possesses. The ability to experience, understand and appreciate the special interest of the listed buildings would not be harmed by the proposed development. The application, therefore, complies with Section 59 of the Act.

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 site is located within the South Side Conservation Area. The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

The site is set within a perimeter block which is largely characteristic of the wider conservation area on its western and northern elevations, with retail units positioned under residential tenements along the Nicolson Street and West Richmond Street frontages of the block. Davie Street occupies a secondary street position with the block, and historically, the site's frontage onto Davie Street was a full height residential tenement block, which provided a strong tenemental frontage along the street. This was subsequently demolished during the 20th century and the supermarket development across the interior of the perimeter block was developed in the early 1980s.

The historic demolition of urban form in Davie Street means that currently the Davie Street frontage of the perimeter block has a mixed character, with a traditional tenement block on the corner of Davie Street and West Richmond Street positioned next to the single storey blank elevation of the retail service bay. There are also modern tenement blocks positioned at Simon Square, to the west of the site.

Opposite the site, the former Heriot's School building and Life Church sit as standalone features on the streetscape.

The infill of the interior of the perimeter block is relatively atypical of the conservation area, and in this instance the single storage frontage onto Davie Street does not make a positive contribution to the surrounding streetscape. The proposed development will significantly improve the quality of this ground floor elevation through the introduction of traditional materials and appropriate detailing in the form of recesses and louvres at ground and first floor levels. The addition of a new entrance to the flatted block will also activate this frontage by providing a new entrance to the building for residents. The retained service access bay is integrated into the building in a sensitive manner, with detailed stonework to echo the proposed fenestration pattern of the building.

The proposed scale and massing of the building allows the existing eaves line to the Davie Street frontage to be continued on from the adjacent building at 1-9 Davie Street which provides a consistency between the building and adjacent built form. The building steps down into the rear of the site, and whilst it sits deeper into the block than the adjacent building, this is offset by the already compromised interior of the block which is fully occupied by the retail unit at ground floor level.

The palette of materials proposed for the scheme is predominantly traditional in appearance and sensitive to the character of the conservation area. The mix of buff stone to the principal elevation and traditional peach/ pink harling to the rear is characteristic of the conservation area and is appropriate. The introduction of buff brick detailing around the main entrance way and bronze roof cladding, whilst not traditional to the character of the conservation area is considered acceptable given that this provides definition and interest to the entrance and roofscape and sits within a context of mixed building materials along Davie Street.

The applicant has undertaken a Townscape and Visual Impact Assessment which considers the impacts of the development on the character of the South Side Conservation Area. This concludes that the development will have a moderate/ minor adverse and not significant impact during the construction period, and a moderate/ minor beneficial and not significant impact during operation. The findings of this assessment are considered to be acceptable.

Conclusion in relation to the conservation area

The scale, massing and detailing of the proposed development is considered to improve the appearance from the existing building and make a positive contribution to the character of the conservation area and complies with Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan?

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

- LDP Environment policy Env 6
- LDP Environment policy Env 3
- LDP Housing policies Hou 1, Hou 2, Hou 3, Hou 4, Hou 6
- LDP Design policies Des 1, Des 3, Des 4, Des 5, Des 6, Des 7 and Des 8

- LDP Transport Policies Tra 2, Tra 3, Tra 4
- LDP Environment policies Env 9, Env 16, Env 21, Env 22

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering the above policies. Supplementary Guidance set out in Developer Contributions and Infrastructure Delivery is also a material consideration.

Principle of Development

The site lies within the urban area of the adopted Edinburgh Local Development Plan where policy Hou 1 Housing Development states that priority will be given to the delivery of the housing land supply and relevant infrastructure providing proposals are compatible with other policies in the plan. It is in a sustainable location with excellent accessibility to local amenities and public transport.

The proposal is for a build to rent (BTR) scheme which is considered a mainstream housing form therefore all relevant LDP policies and guidance apply, including those relating to design, housing mix, transport, amenity and open space. The principle of housing in this location is therefore acceptable providing other policy criteria can be met.

Listed Buildings

The impact on neighbouring listed buildings has been assessed in section (a) above and complies with LDP Policy Env 3.

Character and appearance of the conservation area

This has been assessed in section (a) above and the proposals comply with LDP Policy Env 6.

Design context, height, scale and materials

Context

LDP Design Policies Des 1 to Des 8 set a requirement for proposals to be based on an overall design concept which draws on the positive characteristics of the surrounding area with the need for a high quality of design which is appropriate in terms of height, scale and form, layout, and materials.

LDP Policy Des 1 supports new development whose design contributes towards a sense of place and picks up on the positive characteristics of the area. Davie Street is a secondary street in the hierarchy of the local area and the surrounding built environment is densely developed and urban in character with a mix of building materials, styles and quality. Historically the site had been occupied by a tenement building, prior to its redevelopment during the 20th Century.

The site at present is occupied by a single storey utilitarian commercial building which does not make a positive contribution to the appearance of the street. The proposed building will replace this with a tenemental style building which reinstates the traditional built form of Davie Street. This will repair the urban fabric on Davie Street, in a form which is appropriate to the surrounding context.

The development will create a strong frontage onto Davie Street and reinstates a building height which is reflective of the original tenemental form of the perimeter block and provides an improved scale from the existing single storey servicing bay.

The positioning of the building directly onto the street frontage provides a clear separation between built form and public realm. The re-introduction of residential use to the site will encourage a greater level of activity at street level and will provide an opportunity for additional natural surveillance of the street. The applicant will seek to ensure a Secure by Design rating for the development.

Height, scale and massing

LDP Policy Des 4 seeks to ensure that new development is compatible in terms of height and form in addition to scale and proportions. Building heights in the local area are largely between four and six storeys in height, albeit with some lower level built form included in the mix.

The proposed development will repair the urban fabric by introducing a tenemental form albeit at the upper end of contextual heights at six storeys. This is considered to be appropriate to the local context, given the dense pattern of development that is prevalent in this part of the city.

The proposed double pitch roof detailing is present in surrounding built form and is appropriate. The incorporation of accommodation in the roof space at fifth floor level using contemporary dormer detailing allows for further density to be achieved on the site and provides an appropriate fit in relation to overall height and scale of the built form.

The massing of the building extends further into the site than the adjacent buildings on Davie Street. It is noted that the ground floor of the site and therefore the perimeter block is already infilled by the ground floor retail use, and this infill of ground floor level will be redeveloped and retained as part of the proposed scheme. There is a nearby example of residential development within the perimeter block at Haddon's Court to the south of the site which has been accommodated effectively into the urban form.

The proposed depth of the building's footprint enables the development to incorporate terraced open space to the rear which will provide amenity value to new residents which would otherwise be difficult to provide due to the constrained infill nature of the site. Sunlight and daylight assessments have been included which demonstrate that the impact of the building form in this regard will be acceptable to surrounding properties.

To the rear, the building form steps down, which reduces the mass of the building on this elevation. It is considered that the overall scale of the perimeter block is sufficient to accommodate the depth of the proposed building.

Materials and detailing

Davie Street is a secondary route in the urban street hierarchy. There are a mix of building materials on the street frontage at present, including traditional stone, painted stone, render and brick. The existing blank render frontage of this site does not make a positive contribution to the overall appearance of the street.

The principal elevation of the building will be finished predominantly with natural buff coloured sandstone and the building will largely read as a stone building on the street frontage. This will provide an improved setting for the nearby listed buildings and will enhance the overall appearance of the street.

The entrance to the building is recessed and finished with a projecting brick detailing. The brick will be in a similar buff tone to the sandstone and will be located around the entranceway only. This brickwork adds an element of interest to the elevation and helps to define the entrance within the building frontage, improving its legibility to users.

The addition of recess and louvre detailing to the frontage of the service delivery bay helps to integrate this functional part of the building frontage effectively with the active entrance way and window pattern on the storeys above. This introduction of activity at ground level and an improved architectural detailing will significantly improve the appearance of the street frontage from the existing blank render elevation. It is considered to be a significant improvement on the existing plain rendered frontage and has a positive impact on the character of the street.

A simple window pattern is proposed for the principal elevation which provides a good balance between solid and void and sits comfortably with the existing tenemental forms which flank the site. Three rows of windows will include projecting pre-cast jambs around the windows which provides a subtle variation in the frontage and reflects the character of the adjacent tenement building at 1-9 Davie Street to the north.

The rear elevation of the proposed building is stepped with two angled faces and is finished with an orange/ pink traditional harling. There are a variety of window sizes, material finishes and colours within the existing elevations of the rear courtyard of the elevation within the perimeter block and the proposed development will make a positive contribution to the appearance of the internal elevations. Simple window detailing will be provided on this elevation which is characteristic of the rear elevations within the surrounding block.

The bronze panelling on the roof and dormers at fifth floor level introduces a contemporary material into the building's appearance. These materials have been used alongside a traditional double pitched roof which is characteristic of the area. There is a mixture of building materials present along Davie Street and on balance the introduction of this material is considered to add visual interest to the overall appearance of the building and is acceptable.

Overall, the mix of materials used provides a well-balanced appearance which is relates successfully with the adjacent tenemental properties and provides an improved level of visual coherence along the street frontage. A condition will be added to the consent to ensure that materials are approved prior to construction on site.

The proposals comply with the Local Development Plan and are acceptable.

Residential Amenity

Existing residents

LDP Policy Des 5 Amenity seeks to ensure that new development meets the needs of the users and occupiers, with consideration given to impacts on neighbouring properties to ensure no unreasonable noise impact or loss of daylight, sunlight or privacy.

Daylight, sunlight, privacy and outlook

The impact of the development on daylight and sunlight availability to the neighbouring properties, as well as the quality of daylight and sunlight to the proposed development, have been assessed against the Edinburgh Design Guidance.

The applicant has provided an assessment of the impact of development on daylight to neighbouring properties using a Vertical Sky Component (VSC) Assessment. The VSC assessment identifies that four windows situated on the gable of 1 Simon Square will be adversely impacted by the development, however as these windows are positioned on the gable, the Edinburgh Design Guidance notes that these are not generally protected. No other windows to existing properties will be affected. The impact is therefore considered to be acceptable.

New occupiers

Daylight, sunlight, privacy and outlook

The applicant has undertaken a no-skyline assessment to assess daylight into the apartment windows. This identifies that 97% of windows will receive an acceptable amount of daylight. Two rooms fail to meet the acceptable threshold, however these are both bedrooms which are positioned on the gable elevation of the building. On balance, given the relatively constrained nature of the development on an infill site in a densely developed perimeter block, this non-compliance is considered to be minor and acceptable.

Open space on site is provided in a shared rooftop terrace at fifth floor level and five private terrace areas at first floor level. A sunlight assessment has been provided which identifies that the communal terrace and four of the five private terrace areas will receive in excess of the recommended amount of sunlight (i.e., 50% of open space will receive two hours of sunlight on the 21st March). The remaining private terrace area marginally fails to meet the required level of sunlight (achieving 45% of open space to receive two hours of sunlight). This is a minor infringement of the guidance and is considered to be acceptable in this instance.

With regard to privacy and outlook, the Edinburgh Design Guidance states that the pattern of development in an area will help to define appropriate distances between buildings and privacy distances. The site is in a densely developed area of the city where closer proximity between buildings is part of the urban fabric. It is considered that the positioning of the building is appropriate in this context.

The Edinburgh Design Guidance expects that no more than 50% of the total units should be single aspect, although it justifies a limited increase in single aspect units for Build to Rent developments. 53% of the proposed apartment will be dual aspect which meets this criterion and is acceptable.

Size and mix of accommodation

The development proposes three apartments which are three-bedroom in size, 22 one-bedroom apartments and seven studio apartments. This falls short of the recommendations as set out in the Edinburgh Design Guidance for the provision of family accommodation, with 9% of the housing provision meeting this threshold.

The applicant has noted that there is a prevalence of student accommodation in both purpose built and private rental markets in the local area. This is identified in the Student Housing Guidance 2016 and is due to the area's proximity to Edinburgh University campus buildings.

The proposed development is a Build to Rent (BTR) scheme, which seeks to deliver housing that target the general rental market. Policy Hou 2 of the LDP notes that regard must be had to the character of the surrounding area and its accessibility in relation to determining an acceptable housing mix. The built-up character of the area and city centre location of the site is well suited to young professionals and couples, whom the applicant has identified as the intended market for this development. The proposed housing mix has therefore been designed to provide rental accommodation at a targeted unit size for this sector of the community.

The aspiration to encourage this sector of the rental market into the local area is not considered to be at odds with the current characteristics of the area, and the addition of mainstream rental properties provides an opportunity to further diversify the overall community mix in an area which is known to have a high proportion of students.

It is also noted that the application site is brownfield in nature and provides a windfall opportunity to provide residential development in a sustainable location within the city. Whilst it is recognised that the scheme does not meet the standards set out in the Edinburgh Design Guidance in relation to family housing provision, it is noted that the proposed development is relatively small in scale, providing 32 apartments in total in a densely populated area of the city which already offers a mix of accommodation type, size and tenure options for residents. Were the applicant to provide a full 20% provision of three bedroom apartments, only a further three apartments of this size would be created. This is considered to be a minor shortfall when considered in this context.

On balance, given the mixed residential character of the surrounding area, targeted mainstream rental market of the scheme, the site's sustainable location and modest scale of proposed development, it is considered that the approach set out provides a reasonable opportunity to provide private rented accommodation with a view to contributing to a balanced community. This shortfall is considered to be acceptable in this context.

Noise

Planning Advice Note on Noise (PAN 1/2011) promotes a pragmatic approach to the location of new development within the vicinity of existing noise generating uses.

The development proposal for this site seeks to combine redevelopment of the site for residential use alongside a valued existing service delivery bay which serves the existing Tesco supermarket at 94 Nicolson Street. Careful consideration has been given to the relationship between these two uses. The applicant has provided a Noise Impact Assessment (NIA) which considers the impact of the existing noise sources on the amenity of existing and future residents. The NIA identifies that the key sources of noise for consideration are the existing delivery bay and supermarket operational noise (loading/ vehicle movement etc) and existing road traffic noise from Davie Street/ Simon Square.

The NIA provides an assessment of the noise levels generated from the above noted sources and sets out a mitigation strategy based around a proposal for the new delivery bay. The newly constructed delivery bay will be completely enclosed and ventilated with two open louvres located at ground floor level. The noise mitigation strategy requires the installation of several components including an acoustically rated roller shutter door and an appropriate specification of the open-air louvres. It also assumes that a closed window with mechanical ventilation with heat recovery (MVHR) system will be utilised to mitigate noise to residents in the flats above the service delivery bay.

Environmental Protection has reviewed the NIA submitted by the applicant and has objected to this application on the basis that the new residential properties located above the refurbished service delivery bay would be adversely impacted by ongoing retail servicing operations. Of particular concern is noise generated by delivery vehicles lining up to reverse into the loading bay in the context of their proximity to the proposed apartments, noise from unloading product cages from vehicles and low level vibrations from engine rumble. Noise from roof top air source heat pumps and refrigeration plant for the existing supermarket will also require to be mitigated.

In terms of the considerations of Policy Des 5 (Amenity), Planning is required to consider whether or not a development will result in existing or new residents being adversely affected by noise. It is noted that the existing service delivery bay is located within close proximity of the residential properties at 1-3 Simon Square at present. Vehicles will currently line up in front of the properties at ground and first floor level in order to reverse into the loading bay. There is no record of any noise complaints from residents of these properties in relation to the existing service vehicle arrangement.

The new service delivery bay will provide an improved acoustic position insofar as it will be fully enclosed during loading/ unloading periods and will integrate mitigation measures into its construction which will seek to minimise noise impact. It is also noted that the noise from supermarket loading is already part of the established noise climate in the local area, and one contributing factor in an otherwise busy city location which is also subject to noise generated from on-street traffic exacerbated by the cobbled nature of Davie Street and Simon Square. The impact of the development is therefore not considered to impact adversely on existing residents.

In relation to new residents, from a planning perspective it is recognised that the retention of the service delivery bay underneath the proposed residential properties provides a challenging position with regards to noise matters. On balance, it is considered that the applicant has set out a noise mitigation strategy which seeks to deliver the best possible solution for this location which can allow the ground floor retail premises to continue to benefit from its internal service delivery bay, whilst also providing a high quality residential development on a brownfield site. In this regard, the development will contribute to the Council's sustainable housing objectives and have a positive impact on the character and appearance of Davie Street, whilst supporting ongoing commercial operations on the site.

Environmental Protection does not support the application on the principle of noise concerns, however, has noted that should the application be granted permission, all noise mitigation measures set out in the supporting NIA should be installed and operational prior to occupation of the development. Furthermore, they have noted that supermarket deliveries should be restricted to daytime only.

It is noted that at present, the existing arrangement for deliveries to the supermarket service bay is for these to take place between the hours of 0700 hours and 2000 hours. Planning Enforcement does not encourage the use of time-limiting conditions for deliveries; therefore it is not proposed to implement a condition on these hours, however it is understood from the applicant that there is an expectation that this pattern of delivery activity will continue in the future.

Recommended conditions in relation to noise mitigation measures are attached to this report.

Open space provision and landscape details

The development site has a somewhat compromised context in relation to the provision of open space, given that it comprises residential development on the upper floors of an existing commercial ground floor use that covers the entirety of the site's red line boundary. This arrangement places a considerable constraint on the opportunity for development on the site to provide usable green space, whilst achieving an appropriate development density for a city centre location.

Open space is therefore provided in the form of roof terraces. This will include 122 sq. m of private open space, split to provide private terrace access for five of the apartments at first floor level, and an area of 166 sq. m (9.8% of the total site area) of communal terrace space, to be located on the fifth floor of the building. These terraces will be south/ southwest facing.

The overall usable green space provision on the site is therefore less than the 20% provision expected by policy Hou 3 of the local development plan. Policy Hou 3 notes that it expects most housing development to meet these greenspace requirements unless justification can be provided to the contrary. In addition, it notes that a proposal that does not meet the full requirements of policy Hou 3 on-site may be supported if appropriate provision or financial contribution is made to implement an identified action in the Open Space Strategy which will address a deficit in the local area.

Given the shortfall of on-site usable green space provision, the applicant has undertaken an Open Space Audit to assess the proximity of the site to existing good quality open spaces in the local area.

The Edinburgh Design Guidance and Open Space Strategy 2021 require the following criteria to be met in relation to green space accessibility for new developments.

1. *All homes should be within 400 metres walking distance (equivalent to a five minute walk) of a 'good' quality, accessible greenspace of at least 500 square metres.*

The application site is located in close proximity to Nicolson Square (235m distance) and St Patrick's Square (288m distance) and therefore meets this requirement.

2. *All homes should be within 800m walking distance of a good quality accessible greenspace of at least two hectares.*

The application site is located 662m from the Meadows, successfully meeting this requirement.

3. *Houses and flats should have access to at least one of the following:-*
 - *space of good play value within 800m walking distance;*
 - *play space of very good play value within 1200m walking distance; and*
 - *play space of excellent play value within 2000m direct distance.*

The Meadows includes a play space rated "excellent" and the application site is located well within the recommended threshold to meet this requirement.

The supporting Open Space Audit demonstrates that the site meets all of the criteria as set out above. It is noted that there are no identified green space actions relating to the open spaces in close proximity of the development site, therefore a financial contribution to offset the shortfall in green space provision would not be appropriate in this instance.

On balance, it is considered that the applicant has provided a reasonable and acceptable assessment of open space accessibility in the local area. Whilst the site itself does not achieve the recommended amount of open space provision, it is recognised that there are significant constraints which restrict the opportunity for on-site provision, that a reasonable effort has been made to provide open space within these constraints and that the site is well located for access to a range of existing good quality open space resources nearby. The benefit of providing residential development on a brownfield site in a sustainable location should be also noted in this regard. The open space provision is therefore considered to be acceptable in this instance.

Parking, road safety and infrastructure

Policy Tra 1 of the LDP aims to reduce travel demand and encourages accessibility to major development by modes alternative to the car. The site is located around 100m from the closest bus stop on Nicolson Street, which is a major public transport artery providing regular bus services.

There are several other bus routes within close proximity of the site and Waverley train station is located around 1km north of the site.

Zero car parking is proposed for the development. 60 cycle parking spaces will be provided in single tier storage, which is accessed via the main building entrance onto Davie Street. The cycle parking will include spaces for non-standard bikes and e-bike charging points. The proposed cycle parking arrangement has been reviewed by Transport and is considered to be acceptable.

The building has level access via the main entrance onto Davie Street. All flats are fully accessible, and an elevator is provided to allow access to all upper floors of the building.

The proposal complies with the transport policies of the Local Development Plan and is acceptable.

Archaeological remains

Policy Env 9 of the local development plan seeks to protect sites of archaeological significance. The City Archaeologist has advised that the site is located within an area of archaeological potential and therefore must be considered in the context of Scottish Government's heritage policy and guidance. On this basis, it is therefore recommended that a programme of archaeological work be carried out during demolition and prior to development to ensure that appropriate care is taken of any potential archaeological assets. A condition to this effect is attached to this report.

Protected species

LDP Policy Env 16 states that development will not be supported where it may impact on species protected by European or UK law unless mitigating circumstances are met. The site is existing developed land with little opportunity for habitat. The applicant has provided a Preliminary Ecological and Bat Assessment to support the application. This did not identify any evidence of bats dwelling within the site. The application complies with LDP Policy Env 16 and is acceptable in this regard. Further recommendations from the ecological report in relation to work during the nesting birds' season are set out as an informative attached to this report.

Affordable housing provision

LDP policy Hou 6 sets out the requirement for the provision of 25% affordable housing to be provided within new developments of this scale. The affordable housing provision for the development will comprise eight units, which will be split across seven one-bedroom apartment and one three-bedroom apartment. During the application assessment period the applicant has revised their scheme from an initial proposal to provide a commuted sum for off-site affordable housing to a proposal for on-site affordable housing provision.

Affordable housing on site will be provided via the non-grant funded intermediate rent model. Using this model, rents would be restricted to the Scottish Government's published Broad Rental Market Area 30th Percentile. Rents at the 30th Percentile are affordable to people within the defined client group and significantly less than average market rents.

The applicant has provided supporting information which demonstrates that they have explored alternative approaches to on-site affordable housing provision including the delivery of affordable housing via a Registered Social Landlord (RSL) model as part of a grant funded affordable housing project. This has identified a significant funding shortfall to deliver the homes for social rent, which would render the project unviable due to above average build costs resulting from the constrained nature of the site.

It is noted that this site has a very small developable area and is currently occupied at ground floor by a retail unit, which constrains the opportunity to provide a separate doorway access for affordable housing provision. The result of this is that the affordable homes will be distributed across the development, using the same common stair as privately rented apartments. This approach is generally not favoured by RSLs as it means mixed ownership within one building and common stair, which causes operational and management difficulties.

Given the above development constraints, the Council's Affordable Housing team has agreed that they are satisfied with the approach set out by the applicant to adopt an intermedial rent model for this site. The affordable housing will be tenure blind and fully compliant with building regulations. All tenants will have access to the same communal facilities and communal open space provision within the site. The affordable homes will be located within close proximity to regular public transport links and local amenities.

The mix of affordable housing offer is representative of the overall housing mix on site and will be well integrated with the non-affordable housing offer. This is acceptable and complies with LDP Policy Hou 6. The applicant will be required to enter into a Legal Agreement in order to secure the affordable housing provision.

Waste

The proposed waste management arrangements have been reviewed by the Council's waste officers and are acceptable.

Flooding

LDP Policy Env 21 (Flood Protection) states that planning permission will not be granted for development that would increase flood risk or be at risk of flooding itself. The site is not included in an area of flood risk as identified by the SEPA flood map. Below ground cellular storage is proposed for the development which is contrary to the Council's Water Vision. However, given the overall constraints to provision of open space on the site, and that this is redevelopment of an existing brownfield site, this approach is considered justified.

Contaminated Land

The site has been developed for commercial and industrial uses for a significant time. These uses have the potential to contaminate the site. Should the application be granted, then a condition could be attached to ensure that the site is made safe for the proposed end use.

Sustainability

The development site can be classified as brownfield and the intensification of uses in this location provide a sustainable use of an urban site. The scheme proposes sustainability measures in its development approach including the use of air source heating system and sustainable construction measures. The applicant has undertaken the Council's S1 Sustainability Assessment and complies with the requirements.

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.

Conclusion in relation to the Development Plan

Overall, the proposals are in accordance with the Development Plan and associated guidance. The proposals are an acceptable design, scale, height and density are appropriate for the location, and there will be an acceptable level of amenity achieved. Zero parking is proposed, and the level of proposed cycle parking is acceptable, as are the proposed landscaping, surface water, sustainability, waste and recycling arrangements.

There are no material considerations which outweigh the proposals accordance with the Development Plan.

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

The following material planning considerations have been identified:

SPP - Sustainable development

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

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

Southside Community Council - comments

No objection to principle of residential development. Concerns raised in relation to;

- Noise concerns
- Residential unit sizes/ mix
- Lack of on-site affordable housing provision
- Height of proposed building

A summary of public representations is provided below:

Two objections have been received for this planning application. Details are noted as follows:-

material considerations

- Noise concerns
- Impact of the development on parking provision in local area.
- Development will block daylight.

non-material considerations

- Impact on views from neighbouring properties.
- Impact on value of neighbouring properties due to loss of view.

Conclusion in relation to identified material considerations

There are no equalities or human rights issues, and the proposal complies with the SPP Sustainability Principles. The material considerations do not raise any matters which would result in recommending the application for refusal. Therefore, the application should be granted.

Overall conclusion

Overall, the development is in accordance with the development plan. The development provides high density housing on a city centre site and will have a positive impact on the character of Davie Street by providing a well-designed in-fill development which responds positively to the character of the surrounding area. The proposals are an acceptable design, scale, height and density are appropriate for the location, and there will be an acceptable level of amenity achieved.

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

There are no material considerations which outweigh the proposals accordance with the Development Plan.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. Prior to the commencement of construction works on site:
 - (i) a) A site survey (including intrusive investigation where necessary) must be carried out by the applicant 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. The noise protection measures to the proposed residential units, as defined in the Robin Mackenzie Partnership 'Environmental Noise Assessment' technical report (Ref R-9223-CL1-RRM) dated 2nd June 2022, shall be carried out in full and completed prior to occupation of the residential units.
4. 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 above groundwork is commenced on site. This includes external hard landscaping materials. Sample panels may be requested.
5. No demolition nor development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

6. The approved soft landscaping scheme shall be fully implemented within the first planting season of the completion of the development. All planting carried out on site shall be maintained by the developer to the satisfaction of the Planning Authority for a period of 5 years from the date of planting. Within that period any plants which are dead, damaged, missing, diseased or fail to establish shall be replaced annually with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme, as may be submitted to and approved in writing by the Planning Authority.

Reasons: -

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to protect the development's occupants and human health.
3. In order to safeguard the amenity of neighbouring residents and other occupiers.
4. In order to enable the Planning Authority to consider this/these matter/s in detail.
5. In order to safeguard the interests of archaeological heritage.
6. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

Informatives

It should be noted that:

1. Consent shall not be issued until a suitable legal agreement has been concluded in relation to affordable housing, as set out below:

Affordable Housing

The proposal is required to deliver 8 units of affordable housing.

2. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
3. 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.
4. 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.

5. The applicant should be advised that, as the development is located in Zones 1 to 8, 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 (Category A - New Build).
6. 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.
7. The applicant should note that the proposed works to the footway etc. are not approved at this stage and will require further details and approval from the Council as roads authority.
8. Due to the presence of suitable nesting habitat, it is recommended that, if required, the flat roof is worked upon outside of the bird nesting season, which runs from March to August, inclusive. If this is not possible, and works are due to take place between March to August, then nesting bird checks should be undertaken by a suitably qualified ecologist, immediately prior to works commencing.
9. Other biodiversity site management mitigation measures as set out in Table 6 of the Preliminary Ecological Appraisal & Bat Assessment (30th September 2021) should be undertaken on site during the construction period to ensure due care is undertaken in this regard.

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

01-03. 04A, 05-21

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Julie Ross, Planning Officer
E-mail:julie.ross@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Transport

COMMENT: No objection to the application subject to appropriate conditions and informatives.

DATE: 5 May 2022

NAME: Environmental Protection

COMMENT: Recommendation for refusal in relation to noise concern - amenity concerns caused by noise from integrated delivery service bay to new residents on upper floors within the proposed development.

DATE: 11 October 2022

NAME: Archaeology

COMMENT: The site is within an area of archaeological interest - potential remains of 18/19th C buildings. A recommendation is made for a condition to be attached to allow monitoring of potential archaeological value to be undertaken.

DATE: 5 April 2022

NAME: Flooding

COMMENT: Flooding are satisfied with the additional supporting information provided by the applicant and the application can proceed to determination with no further comment.

DATE: 28 July 2022

NAME: Waste

COMMENT: Waste strategy agreed with applicant

DATE: 2 September 2022

NAME: Communities and Families

COMMENT: No education contribution required, based on the current proposed housing mix.

DATE: 6 April 2022

NAME: Scottish Water

COMMENT: No objection. General advice provided to developer.

DATE: 11 April 2022

NAME: Southside Community Council

COMMENT: No objection to the principle of development. Concerns raised in relation to the size of residential units, lack of on-site affordable housing provision, noise matters and building height.

DATE: 24 April 2022

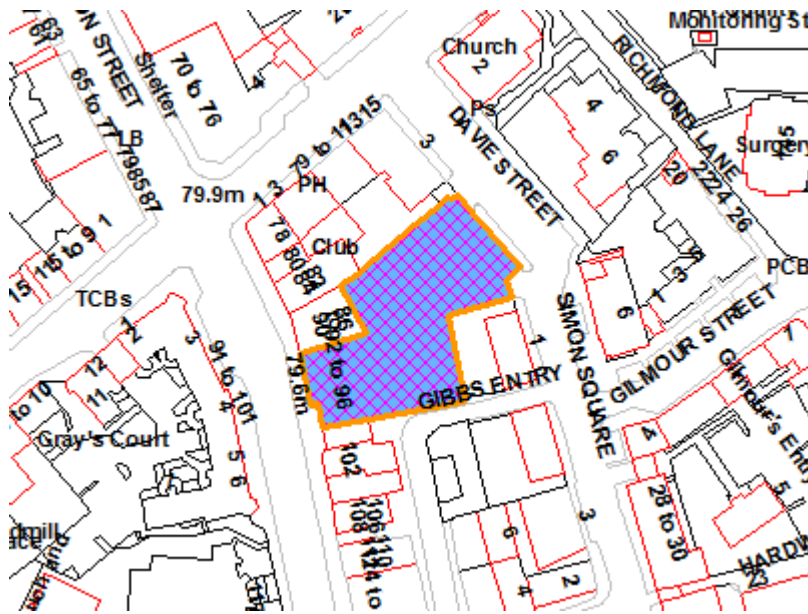
NAME: Affordable Housing

COMMENT: The initial affordable housing strategy to provide off-site commuted sum affordable housing is not encouraged - alternative strategy requested. The applicant has subsequently made a commitment to provide 25% on site affordable housing and this will be secured by a Section 75 Legal Agreement. This approach which will assist in the delivery of a mixed sustainable community.

DATE: 10 November 2022

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

Location Plan



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