

Development Management Sub-Committee Report

Wednesday 8 February 2023

**Application for Planning Permission
Lock Up, East Brighton Crescent, Edinburgh**

Proposal: Demolition of lock-up garages, repositioning of existing rear garden wall and proposal of two new dwelling houses on the Land South of 1 East Brighton Crescent.

**Item – Committee Decision
Application Number – 22/01472/FUL
Ward – B17 - Portobello/Craigmillar**

Reasons for Referral to Committee

This application has been referred to the Development Management Sub-Committee because it has received 40 objections. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

Outcome of previous Committee

This application was previously considered by Committee on 25th January 2023

Site visit - This application was continued by the Committee for a site visit. The application is returning to Committee for a decision.

Recommendation

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

Summary

The proposals comply with the Edinburgh Local Development Plan and is acceptable with regards to Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal is acceptable in principle and will not have a detrimental impact on the quality and character of the local environment or the spatial character of the surrounding area. The proposal will result in the creation of a satisfactory residential environment and will not have a detrimental impact on the amenity of neighbouring residents and setting of the listed building. It is recommended that the application be granted.

SECTION A – Application Background

Site Description

The application site is to the rear of 1 East Brighton Crescent (B listed, LB reference LB27200, listed 14 December 1970) and comprises of four small lock up garages lying at right angles to the garden with a separating wall. There are two other lock up garages immediately to the southeast of the site, beyond the red line boundary. The garages date from around the 1960s but are not considered curtilage listed buildings due to their separation from the B listed 1 East Brighton Crescent.

The site is accessed from Lee Crescent to the northeast of the site. To the south of the site runs Christian Path, a public walkway which leads to Brighton Place (West) and Windsor Place (East).

The site area is 374sqm.

The surrounding area is largely residential, but Portobello Town Centre is within walking distance, where there is a mix of retail, commercial and leisure uses and good public transport services.

The site lies within the Portobello Conservation Area.

Description of the Proposal

It is proposed to demolish the lock-up garages and erect two three-bedroom dwelling houses. This involves the repositioning and rebuilding of the existing rear listed garden wall to 1 East Brighton Crescent. The two new houses will be one and a half storeys in height and of a contemporary design. They both include rear private garden spaces with bin and cycle stores to the rear. The proposed roof material is zinc standing seam. The proposed façade materials include timber and natural stone to match the existing villa.

Supporting Information

- Tree Survey
- Planning Design Statement
- Drainage Strategy and Surface Management Plan

These documents are available to view on the Planning Portal.

Relevant Site History

No relevant site history.

Other Relevant Site History

Pending Listed Building Consent for `Demolition of lock-up garages, repositioning of existing rear garden wall and proposal of two new dwelling houses on the Land South of 1 East Brighton Crescent. ref number 22/01474/LBC.

Pending Conservation Area Consent for `Demolition of lock-up garages, repositioning of existing rear garden wall and proposal of two new dwelling houses on the Land South of 1 East Brighton Crescent. ref. number 22/01473/CON.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Historic Environment Scotland

Waste Service

Archaeology

Transport Planning

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

Publicity and Public Engagement

Date of Neighbour Notification: 25 March 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 1 April 2022

Site Notices Date(s): 29 March 2022

Number of Contributors: 40

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 - settings
- Managing Change - boundaries

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:

"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Historic Environment Scotland's guidance note Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It states that factors to be considered in assessing the impact of a change on the setting of a historic asset or place include the presence, extent, character and scale of the existing built environment within the surroundings of the historic asset or place and how the proposed development compares to this and the ability of the setting to absorb new development without eroding its key characteristics and the effect of the proposed change on qualities of the existing setting.

The site lies next to 1 East Brighton Crescent, which contains a row of Category B listed buildings and the associated boundary wall to the rear. The proposed new dwelling houses to the south of 1 East Brighton Crescent would be built close to the western boundary wall of 1 and 2 East Brighton Crescent. Although the repositioning of the boundary wall to the rear does reduce the size of the existing garden grounds of 1 East Brighton Crescent, there is still ample garden area left to maintain the setting of the listed building. As the proposed development is located to the rear of the B listed villa, the frontage of the listed buildings would not be impacted. The proposed dwelling houses will appear as a separate structure behind the rear boundary wall.

The views towards the listed building from the Christian Path is already reduced due to a high stone wall which would remain in place. Therefore, the setting of the listed building is not negatively impacted.

Conclusion in relation to the listed building

The proposal will not detract from the special architectural and historic interest of the adjacent listed building nor harm its setting and is acceptable with regards to section 59 of the Planning (Listed Buildings and Conservation Area) (Scotland) Act 1997.

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

The Portobello Conservation Area Character Appraisal emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high-quality architecture, and the predominant use of traditional building materials...

What is important is not that new buildings should directly imitate earlier styles, rather that they should be designed with respect for their context, as part of a larger whole which has a well-established character and appearance of its own. Therefore, while development of a gap site in a traditional terrace may require a very sensitive design approach to maintain the overall integrity of the area; in other cases, modern designs sympathetic and complimentary to the existing character of the area may be acceptable'

The main buildings fronting East and West Brighton Crescent are Georgian in style. Although Portobello does not have the same spatial pattern of mews buildings as the New Town, there are existing one and a half storey cottages along Lee Crescent Lane. The proposed development reflects a similar scale, massing and form as the existing cottages, contributing positively to the character and appearance of the conservation area.

Overall, the proposed development represents a sensitive and modern interpretation of the existing nearby cottages using high quality materials and design that reflects the character of the area. The works will also preserve the use of the back lane in this part of the conservation area.

The works will preserve and enhance the character and appearance of the conservation area

Conclusion in relation to the conservation area

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan.

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

- LDP Environment policies Env 3, Env 4, Env 6, Env 9, Env 12.
- LDP Design policies Des 1, Des 3, Des 4, Des 5.
- LDP Housing policies Hou 1, Hou 3, Hou 4.
- LDP Transport policies Tra 2, Tra 3.

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

This has been assessed in section a). Overall, it has been concluded that the proposal does not conflict with LDP policies Env 3 and Env 4.

Conservation Area

This has been assessed in section b). Overall, it has been concluded that the proposal does not conflict with LDP policy Env 6.

Principle of the use

The application site is located in the urban area as designated in the Edinburgh Local Development Plan (LDP). Proposals in the urban area must accord with relevant policies in the LDP.

LDP Policy Hou 1 (Housing Development) prioritises the delivery of housing land supply and the relevant infrastructure and identifies four criteria (a-d) on where this can be achieved.

Criteria d) prioritises the delivery of housing on other suitable sites in the urban area in recognition that windfall sites can contribute to land supply. To comply with Hou 1 d), proposals must be compatible with other policies in the plan.

The site is located at the back of 1 East Brighton Crescent and is currently occupied by four small lock ups that have been proposed for demolition. The site is connected to existing public transport links and is within walking distance of Brighton Park. The site is an appropriate and sustainable location for infill housing.

LDP policy Hou 4 (Housing Density) seeks an appropriate density of development having regard to its characteristics and those of the surrounding area, the need to create an attractive residential environment, accessibility and its impact upon local facilities.

The surrounding area is generally low density with Georgian style properties and traditional tenements along Portobello High Street. There is also a range of properties in Windsor Place and small infill cottage style properties just behind the tenement buildings. The proposal is a low-density form of development that is in keeping with the scale and layout of the existing residential area. An appropriate level of greenspace is achieved, by virtue of the rear garden that will help create an attractive environment for future residents. An infill residential development in this location will utilise an unused site and help to support local facilities in Portobello Town Centre.

As such, introducing infill development of this density is considered compatible with the density of residential development evident in the area, complying with LDP policy Hou 4.

LDP Policy Hou 3 (Private Green Space in Housing Development) seeks to ensure adequate provision of green space will be provided to meet the needs of future residents.

Edinburgh Design Guidance (EDG) states that private gardens of over 9m in length are encouraged. Furthermore, gardens of a similar size to neighbouring gardens are likely to be required in order to preserve the character of the area.

Although, the recommended depth of garden space is 9 metres, there is no actual standard figure for new houses. This is not achieved by the proposal as the length of the garden is 5.7 metres. However, there is sufficient width, and the proportions of garden ground are over 40 square metres. In this regard, the provision of private green space is deemed acceptable. The proposal complies with LDP policy Hou 3.

The proposal is an acceptable location for new housing as the site is connected to nearby public transport links. The density of development is compatible with the surrounding residential development and an appropriate level of private greenspace is achieved. The development will support the vitality and viability of local services through increased footfall. The proposals comply with LDP policies Hou 1, Hou 3 and Hou 4.

Scale, form, design and neighbourhood character

The height and scale of the proposed dwelling houses reflects the one and a half storey cottages located on Lee Crescent Lane, whilst also being compatible with the larger Georgian villas and Victorian terraces.

The material palette includes timber, natural stone and zinc roofing. These provide a more contemporary finish appropriate to the context and complementary the predominantly stone and slate roof buildings.

The proposal also includes a new boundary wall repositioned from the existing position and moved further up into the existing garden of 1 East Brighton Crescent, using a stone to match the existing property. The moving of this boundary wall does reduce the size of the original garden of 1 East Brighton Crescent, however, there is still an ample garden left to maintain a decent setting.

As outlined in section a) and b) of the report, the proposed design will have a positive impact on the immediate surroundings through its height and form, scale and proportions, positioning, materials and detailing. This is in accordance with LDP Policies Des 1, Des 3, Des 4 and the Edinburgh Design Guidance which support new development where the design reflects the positive characteristics of the area.

Creation of a Satisfactory Living Environment

Policy Des 5 supports development where future occupiers have acceptable levels of amenity in regard to noise, daylight, sunlight, privacy or immediate outlook.

The Edinburgh Design Guidance states that residential dwellings of three bedrooms or more shall have a minimum floor area of 91 square metres. The proposed dwellings contain three bedrooms and have floor areas of 96 sqm (plot one), and 91 sqm (plot two) respectively. In this regard, they both meet the internal space standards as set out in the Edinburgh Design Guidance.

In terms of daylight, the dwellings will achieve a satisfactory level of daylight by virtue of larger window on the principal elevation and roof windows on both sites.

In terms of sunlight, both properties contain south-west facing gardens. The size of these areas in tandem with the retained separation distances to the neighbouring properties is sufficient in order to achieve appropriate levels of sunlight.

With regards to private greenspace, the garden provides a good quality living environment for future residents.

Overall, the proposal will result in the creation of a high quality residential environment, thus complying with LDP Policy Des 5. Likewise, the proposal will provide quality amenity space for residents, in compliance with LDP Policy Hou 3 and the Edinburgh Design Guidance

Impact on Neighbouring Amenity

LDP Policy Des 5 supports proposals that have no adverse impact on neighbouring developments in regard to noise, daylight, sunlight, privacy or immediate outlook.

With regards 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 consequential privacy distances. The rear side of development often offers better opportunity for privacy than the street side, which can be compromised by existing proximity of neighbours' windows. The guidance does not seek to protect the privacy of gables of existing housing.

In regard to the ground floor windows to the rear, the formation of a 1.8 metre boundary wall protects the overlooking into the neighbour's property. First floor bedroom windows to the rear and front are situated on the pitched roof to deter direct overlooking to neighbouring properties.

The spatial pattern of the area consists of larger garden plots with undisturbed views. Although the proposed infill development would disturb the immediate outlook of 1 East Brighton Crescent, the distance between the existing property and the proposed dwellings is approximately 14 metres of unobstructive view, which is more than the recommended 9 metre distance. For this reason, the scale and positioning of the proposed development will not block the immediate outlook of neighbouring dwellings, in accordance with the Edinburgh Design Guidance.

Furthermore, the proposed use of the site for two residential dwellings is compatible with the predominantly residential character of the local area. It is, therefore, not anticipated that the development would give rise to an unreasonable level of noise.

In terms of overshadowing, the part that would be impacted is the back of the rear garden of the original property at 1 East Brighton Crescent. The submitted Sun Path Analysis shows that the impacted area would be in the morning at around 9am and this would be gradually reduced by 11am and 2pm. Given the positioning of the proposal in relation to the existing house and the scale of the garden, the overshadowing in this instance is acceptable.

Overall, the proposal will not result in an unreasonable impact on neighbour's amenity. It is therefore broadly compliant with LDP Policy Des 5.

Transport

The provision of zero car parking provision in this location is acceptable as the site is well served by public transport. The proposal complies with LDP policy Tra 2 (Private Car Parking).

The proposal includes three cycle spaces per dwelling in the integral storage space at the rear. This complies with LDP Policy Tra 3 and the Edinburgh Design Guidance.

The proposal complies with LDP Policies Tra 2 and Tra 3.

Trees

LDP policy Env 12 states that development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or on other tree or woodland worthy of retention unless necessary for good arboricultural reasons.

After consultation with the Council's Tree Officer following the submission of a Tree Survey, it is concluded that the proposed development will not result in the loss of or damage to any trees, with the exception of a short cypress hedge within the application site. This will have no impact on the attractiveness and character of the locality.

The proposal complies with LDP Policy Env 12.

Waste

The applicant has submitted details regarding the location of refuse facilities. Final agreement of the Waste Strategy is to be agreed with the Waste Planning Team therefore an informative has been included in regard to this.

Archaeology

No archaeological features will be affected by the proposed development. The proposals comply with LDP policy Env 9.

Flooding

Policy Env 21 (Flood Protection) states permission will not be granted for development that would increase flood risk.

A flood risk assessment and surface water management plan have been submitted.

This information has been reviewed by Flood Planning and no objections have been received subject to a condition confirming that Scottish Water accept the proposed surface water discharge rate to the combined network.

The application complies with policy Env 21.

Conclusion in relation to the Development Plan

The proposals comply with the Development Plan. The proposal is acceptable in principle and will not have a detrimental impact on the quality and character of the local environment or the spatial character of the surrounding area. The proposal will result in the creation of a satisfactory residential environment and will not have a detrimental impact on the amenity of neighbouring residents and settings of a listed building.

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

The following material planning considerations have been identified:

SPP - Sustainable development

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

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Revised Draft National Planning Framework 4 was approved by the Scottish Parliament on 11 January 2023 to proceed to adoption. On adoption the Revised Draft NPF 4 (2022) will form part of the Council's Development Plan, but at present it remains a material consideration. As adoption of the Revised Draft NPF 4 (2022) is understood to be imminent, and it is now the settled position of Scottish Ministers and the Scottish Parliament, it requires to be given significant weight. Revised Draft NPF 4 (2022) lists various policy provisions under the themes of Sustainable Places, Liveable Places and Productive Places.

Policy 1 of the Draft NPF 4 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. The application addresses this through:

- Proposal involves development of a brownfield site with sustainable urban drainage (SUDs).

The proposed development is considered to broadly comply with the provisions of NPF 4 and there is not considered to be any significant issues of conflict.

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. 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

A summary of the representations is provided below:

material considerations

- neither enhance nor preserves conservation area - assessed in the report section (b).
- proposed materials are inappropriate - assessed in section (c).
- visually obtrusive/overdevelopment - assessed in section (c).
- overlooking/privacy and overshadowing issue - assessed in section (c).
- no parking spaces - assessed in section (c).
- provided gardens are too small - assessed in section (c).
- both site boundary and ownership boundary are incorrect - The submitted plans provided sufficient information for the determination of this application; any dispute about ownership would be a civil matter.
- loss of sunlight - assessed in section (c).
- sun path analysis is only until 4pm - design statement has provided appropriate details to assess any potential impact.
- impact on trees - assessed in section (c).
- scale and form are inappropriate - assessed in section (c).
- flooding issue - assessed in section (c).
- not in keeping with the area - assessed in section (b).
- negative impact on listed building - assessed in section (a).

- site notice was not up until 13th/14th - the correct procedure has been undertaken.
- impact on traffic - transport planning has been consulted and raise no objection.

non-material considerations

- additional land has been taken on the drawings - this is not a planning material consideration but a civil matter.
- access dispute - this is not a planning material consideration but a civil matter.
- construction of higher wall was not discussed - the application has been assessed based on the information submitted and consulted upon.
- not wide enough to accommodate large trucks - planning has no control over this and as such it cannot be considered as part of this application.
- public water and sewer connection - this is not a planning matter, and it should be assessed by the building standards, any garden work it would be civil matter issue which cannot be materially assessed as part of the planning application.
- title deed prohibits development - - this is not a planning material consideration but a civil matter.
- impact on the value of the properties - this is not a planning material consideration.

Conclusion in relation to identified material considerations

There are no material planning considerations which outweigh the conclusion set out above.

Overall conclusion

The proposals comply with the Edinburgh Local Development Plan and is acceptable with regards to Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal is acceptable in principle and will not have a detrimental impact on the quality and character of the local environment or the spatial character of the surrounding area. The proposal will result in the creation of a satisfactory residential environment and will not have a detrimental impact on the amenity of neighbouring residents and setting of the listed building.

There are no material considerations that outweigh this conclusion.

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 construction, the applicant should confirm that Scottish Water accept the proposed surface water discharge rate to the combined network.

Reasons

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure surface water on-site is adequately managed and discharged.

Informatives

It should be noted that:

1. 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.
2. A source control surface water attenuation and treatment measures should be considered in order to manage runoff from the two proposed buildings and to provide additional attenuation prior to discharge to the culvert.
3. A waste strategy shall be agreed with the Council's Waste Planning team in line with current instruction for architects and developers guidance, available at www.edinburgh.gov.uk/wasteplanning.
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.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 25 March 2022

Drawing Numbers/Scheme

01-04,05A,06-13

Scheme 2

David Givan

Chief Planning Officer
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The City of Edinburgh Council

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Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: Historic Environment Scotland do not have any comments to make on the proposals.

DATE: 8 April 2022

NAME: Waste Service

COMMENT: We would have no objection to this proposal.

DATE: 19 May 2022

NAME: Archaeology

COMMENT: No objections.

DATE: 29 March 2022

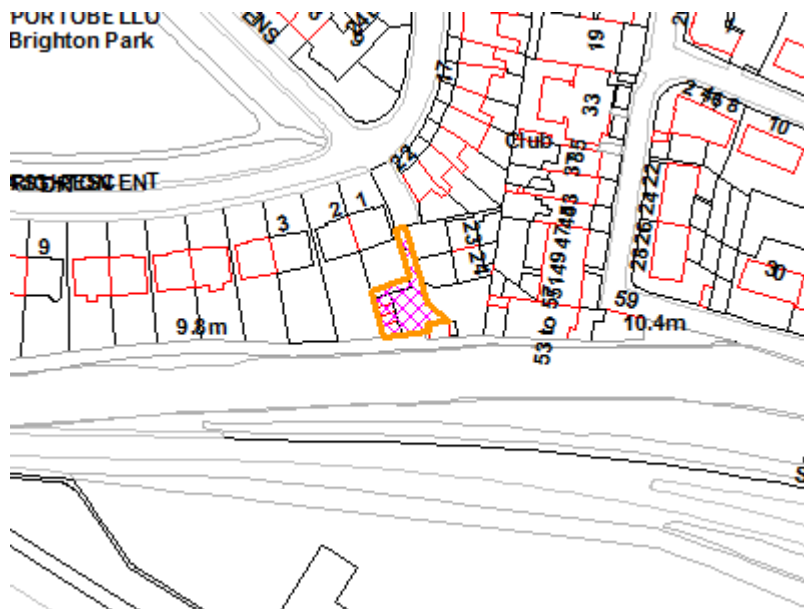
NAME: Transport Planning

COMMENT: No objections to the proposed application.

DATE: 17 May 2022

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

Location Plan



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