

Development Management Sub-Committee Report

Wednesday 10 May 2023

**Application for Planning Permission
1 Baileyfield Crescent, Edinburgh, EH15 1BW.**

Proposal: Change of use from commercial units to residential flats to the upper floors, of the existing building (as amended).

**Item – Committee Decision
Application Number – 22/05536/FUL
Ward – B17 - Portobello/Craigmillar**

Reasons for Referral to Committee

In accordance with the Council Scheme of Delegation, the application has been referred for determination by the Development Management Sub-committee as more than six material objections have been received from third parties and the recommendation is to grant planning permission.

Recommendation

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

Summary

The proposals are in accordance with the relevant policies of National Planning Framework 4 and the Edinburgh Local Development Plan. The loss of employment premises and shop units then conversion to housing are all acceptable in principle and the proposals will contribute to the creation of sustainable and liveable places.

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

SECTION A – Application Background

Site Description

The site is located in Portobello near to the junction between Baileyfield Crescent and Fishwives' Causeway. It is a 4-storey non-residential block integrated with 'Building 26', which forms part of a residential development approved, built and largely occupied under planning permission 16/05898/FUL.

Small scale non-residential uses sit to the north on Fishwives' Causeway but the immediate surroundings to the south, west and east are predominantly residential in character. Larger in scale non-residential uses, 'Motorpoint Edinburgh', 'Aldi' and 'Kwik-fit', sit more distant to the west and north. The Portobello Town Centre begins and ends at the junction between Pipe Street and the High Street.

The is located within the boundaries of the Northwest Portobello Development Brief.

Description of the Proposals

Planning permission is sought for the creation of nine residential flats across floors one to three of the existing building.

The site is restricted to Class 2 (financial, professional and other services) and Class 4 (business) by condition 6 of 16/05898/FUL. However, The Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Miscellaneous Amendment Order 2023 came into force on the 31 March 2023 which has consolidated Class 1 (shop) and Class 2 into a new Class 1A (shops and financial, professional and other services). This Order has also affected condition 7 of 16/05898/FUL which restricted a change of use to the now redundant Class 1.

The proposals constitute the change in use of floors one to three from Class 1A and Class 4 to residential flat (*sui generis*). Six 2-bed units and three 1-bed units will be formed whilst the ground floor will be retained for Class 1A and 4 uses where no change in use is proposed. 15 cycle parking spaces and refuse and recycling storage will be located within integral stores and accessed via the rear elevation. External amenity space is to be provided by the shared garden ground established under 16/05898/FUL.

The application was amended prior to this recommendation. Scheme 2 altered the design of cycle parking and reduced the total number of spaces from 18 to 15 in order to provide low level racks. The waste and recycling provision was also updated so that it accords with current requirements of Waste and Cleansing Services. Scheme 3 made minor changes to the layouts of the residential flats.

Supporting Information

A Planning Statement, Noise Break-in Investigation and a photographic example of the as proposed cycle parking were submitted in support. A revised Planning Statement and marketing exercise were provided post submission. All are available to view on the Planning and Building Standards Portal.

Relevant Site History

19/05854/FUL
17 Fishwives Causeway
8 - 9,10,11,12,25 Baileyfield Crescent
Edinburgh

Form 9 apartments on the upper floors of the commercial building whilst retaining commercial use on ground floor.

withdrawn

24 February 2020

16/05898/VARY

17 Fishwives Causeway

8 - 9,10,11,12,25 Baileyfield Crescent

Edinburgh

EH7 6GH

Non-Material Variation - general amendments to window positions, amended building footprints to remove internal garage and alter location of front entrances.

VARIED

17 May 2019

16/05898/FUL

17 Fishwives Causeway

8 - 9,10,11,12,25 Baileyfield Crescent

Edinburgh

EH7 6GH

Planning application for mixed use development of 435 new homes and commercial building including infrastructure, drainage and landscaping (SCHEME 4)

Granted

20 April 2018

Other Relevant Site History

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

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

Publicity and Public Engagement

Date of Neighbour Notification: 25 November 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable

Site Notices Date(s): Not Applicable

Number of Contributors: 49

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 and Edinburgh Local Development Plan 2016 the newer policy shall prevail.

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:

- 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 comply with the Development Plan

The Development Plan comprises National Planning Framework 4 (NPF4) and the Edinburgh Local Development Plan (LDP). The relevant policies to be considered are:

- NPF4 Sustainable Places Policies 1, 3, 4, 9, 12 and 13;
- NPF4 Liveable Places Policies 14, 15 and 16;
- LDP Design Principles for New Development Policies 1 and 12;
- LDP Employment and Economic Development Policy 9;
- LDP Housing and Community Facilities Policies 1 and 5;
- LDP Shopping and Leisure Policy Ret 10; and
- LDP Transport Policies 2, 3 and 4.

The non-statutory Edinburgh Design Guidance, the Cycle Parking Factsheet and the Northwest Portobello Development Brief guide the interpretation of the LDP Policies.

Principle of the loss of non-residential use

NPF4 Policy 9a) and 9d) (Brownfield, Vacant and Derelict Land and Empty Buildings) support the reuse of vacant existing buildings. LDP Policy Emp 9 (Employment Sites and Premises) supports the redevelopment of employment sites if the non-employment proposals would not inhibit the activities of existing operations and if they contribute to the comprehensive regeneration and improvement of the wider area. The site is not larger than one hectare with regards to LDP Policy Emp 9c) so this qualifier, which seeks employment floorspace in redevelopment proposals, does not apply.

In respect of LDP Policy Emp 9a), the agent of change principle has been exercised for the nearest employment sites (four total). These sit to the north on Fishwives Causeway. Two are of a vehicle repair nature and one relates to vehicle sales. The 'Noise Break-in Investigation' confirms that residential amenity will not be adversely impacted by noise from the employment sites below or nearby (largely as the vehicle repair operations occur internally) which should mitigate the potential for complaints from future occupiers. In considering privacy, the ground floor of the 2-storey 'Baileyfield Garage', one of the vehicle repair premises, is blank. Its upper floor office element features two large windows side by side and whilst these look onto the site, neither have a direct line of sight into habitable rooms and bathroom units have obscure glazing. The ground floor of the single storey 'Auto=XL Fleet Maintenance Solutions', the second vehicle repair premises, is also blank and it acts as a screen between the site and the yard of 'Porto Motors', the vehicle sales premises. The employment sites are completed by the 'Portobello Pakistani Educational and Cultural Centre' but there are no material amenity or inhibition of activity concerns in respect of its ongoing operations due to its degree of separation and general compatibility with housing.

The North West Portobello Development Brief's purpose is to *"provide a general framework to guide and co-ordinate the development of North West Portobello over the next 15 to 20 years. It is however intended to be flexible, and will be expanded as required as specific proposals, additional sites, or development pressures come forward"*. It dates from 2008 and has fulfilled its purpose as acting as a guide for forthcoming developments within the Baileyfield area. These sites are now largely developed and due to the age of the Brief, it has less weight as a material consideration.

As noted in the 16/05898/FUL report of handling, the building constituted *"speculative commercial floorspace and it is envisaged that this could provide Class 2 and/or Class 4 uses, possibly including healthcare facilities, offices or community space"*. However, attempts to occupy the building with these operators have not been successful. The applicants have sought to demonstrate their attempts at finding occupiers following a marketing exercise which was originally submitted as part of a Planning Statement. A revised version, which expanded upon the detail of the first submission, was then provided as a standalone document. There is no NPF4 or LDP policy requirement for a marketing exercise in respect of the loss of employment premises of this scale on unallocated land. Notwithstanding, attempts to find occupiers appear reasonable and of a length of time which suggests that there may be limited demand for speculative commercial floorspace of this type, in this location.

Although the proposals for conversion to residential are small scale, they will contribute to the comprehensive regeneration and improvement of the wider area through the occupation of a vacant building with a use which is compatible with the character of the immediate and wider surroundings.

Principle of the loss of a shop unit

NPF4 Policy 9a) and 9d) (Brownfield, Vacant and Derelict Land and Empty Buildings) support the reuse of vacant existing buildings. LDP Policy Ret 10 (Alternative Use of Shop Units in Other Locations) requires the giving of regard to whether:

- b) the proposals are compatible with the character of the area when located within a predominantly commercial area;
- c) they would result in the loss of premises suitable for small business uses;
- d) there is a clear justification to retain the unit as a shop to meet local needs and
- e) the development is acceptable in terms of external appearance and standard of accommodation if the new use is residential in nature.

The LDP Policy Ret 10a) qualifier is not relevant to this site which is not located within a speciality shopping street.

The proposals are not located within a predominantly commercial area and housing is compatible with the prevailing residential character of the surroundings. The loss of premises suitable for small business use has been considered under the preceding section and the external works and standard of accommodation are acceptable as assessed under the following section. Although the existing building now benefits from the provisions of Class 1A, the intent of condition 7 of 16/05898/FUL was to restrict a shop use in order to protect Portobello Town Centre. Accordingly, there is no justification to retain the unit as a shop as the Town Centre first approach for retail is still supported by NPF4 and the LDP.

Principle of residential use

NPF4 Policy 16c) (Quality Homes) supports new homes that improve affordability and choice. NPF 4 Policy 16f) only supports new homes on unallocated land when they are:

- i. supported by an agreed timescale for build-out; and
- ii. otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods and
- iii. for smaller scale opportunities within an existing settlement boundary.

The iii-qualifier listed above, out of four, is the only one relevant to these proposals.

LDP Policy Hou 1d) (Housing Development) supports housing in the Urban Area if the proposals are compatible with other LDP policies. LDP Policy Hou 5 supports the conversion to housing of non-residential buildings if a satisfactory residential environment can be achieved, if compatible with nearby uses and when acceptable in regard to other LDP policies including those that seek to safeguard important or vulnerable uses.

In respect of NPF4 Policy 16c), the proposals will provide the choice of "a range of size of homes such as those for larger families". In respect of NPF4 Policy 16f i and iii), there is no need to agree a build out timescale for this change of use application and the proposals are small scale and located within a settlement. In respect of LDP Policy Hou 5d), an "important" or "vulnerable" use appears to constitute an empty shop unit with reference being made to LDP Policy Ret 10. The loss of a premises suitable for a shop or small business has already been assessed and considered acceptable under the preceding sections. Whether the proposals accord with other relevant NPF4 and LDP policies is assessed in the following sections.

NPF4 Policy 16e), which requires 25% affordable housing unless the LDP sets out when a lower contribution is justified, is not deemed to apply. LDP Policy Hou 6 (Affordable Housing) does not require 25% affordable housing if 11 or less units are proposed, which is the case here. Contributions towards education, health, transport or greenspace are not required for proposals of this scale or because they do not fall within an applicable area of the Action Programme.

Creation of a satisfactory residential environment

NPF4 Policy 12c) (Zero Waste) requires that proposals set out waste generation and its management. NPF4 Policy 13b) and 13e) (Sustainable Transport) support proposals which have been considered in line with the sustainable travel and investment hierarchies and are ambitious in terms of low / no car parking. LDP Policy Hou 3 (Private Green Space in Housing Development) requires 10 sqm of communal open space per residential flat and 20% of the site to be useable greenspace. LDP Policy Tra 2 (Private Car Parking) and Tra 3 (Private Cycle Parking) support proposals which accord with the Edinburgh Design Guidance for car and cycle parking. LDP Policy Tra 4 (Design of Off-Street Car and Cycle Parking) sets out the design considerations for both.

Internal floor areas accord with the minimum requirements of the Edinburgh Design Guidance. Only three of the nine residential units will be dual aspect which is below the desired 50% of total (five). However, all will receive sufficient levels of natural light due to the separation of the site from nearby buildings and size and location of windows, in respect of relating to habitable rooms. There are no material privacy concerns with regard to future occupiers or neighbouring developments and noise from nearby uses have been considered in the previous section.

Future occupiers will have access to the same external amenity space as current residents of 'Building 26' and it is of a scale which can accommodate the increased demands from these proposals; 1,070 sqm of communal space would exist for 79 residential flats on approval of this application in respect of LDP Policy Hou 3. 20% of the site is not useable greenspace but it would be unreasonable for this component to apply for a change in use application. No additional car parking spaces are proposed, which is supported by both NPF4 and LDP policy. 15 cycle parking spaces are proposed within an integral store. The level and design of the spaces are in accordance with the Edinburgh Design Guidance and Cycle Parking Factsheet.

Residential refuse is integral at ground level, accessed via the side elevation and accords with current requirements of Waste and Cleansing Services. Waste generation is anticipated to be typical for residential uses of this scale and the management arrangements raise no material concerns.

NPF4 Policy 19f), which supports proposals for buildings that will be occupied by people where they are designed to promote sustainable temperature management, is not deemed to apply. This application is to change the use of an existing building rather than constituting "*proposals for buildings*". However, the building is modern and likely to be highly efficient in heat retention.

Compatibility with and 'local living' accessibility to nearby uses

NPF4 Policy 15 (Local Living and 20 Minute Neighbourhoods) requires proposals to contribute to local living including, where relevant, 20-minute neighbourhoods.

Housing is compatible with the prevailing residential character of the surroundings as well as the nearby employment sites in respect of safeguarding their continued operation as considered in the previous section. The residential flats are a three minute walk (320 metres) from the junction between Portobello High Street and Pipe Lane, the westernmost extent of the Portobello Town Centre, and a 13 minute walk (965 metres) to the easternmost extent. An Aldi, which sits outwith Portobello Town Centre, is a 3-minute walk (160 metres) and the promenade (320 metres), Rosefield Park (320 metres) and bus stops (160 metres) are all within 5 minutes of the site. The residential uses are also located within the same building as Class 2 and 4 floorspace. The proposals will contribute to local living as future occupiers will have the opportunity to have a significant proportion of their needs met by nearby amenities.

Tackling the climate and nature crises

NPF4 Policy 1 (Tackling the Climate and Nature Crises) requires the giving of significant weight to the global climate and nature crisis. NPF4 Policy 3a) and 3c) (Biodiversity) requires that proposals include appropriate measures to conserve, restore and enhance biodiversity. NPF4 Policy 4a) (Natural Places) restricts proposals which will have an unacceptable impact on the natural environment.

Significant weight has been given to the global climate and nature crisis and the balance is tipped in favour of the proposals. They shall not have an unacceptable impact on the environment and whilst no specific measures to enhance biodiversity are proposed, it is accepted that material habitat enrichment is limited by the change in use nature of the application. Some weight has also been given to the landscaping improvements introduced as part of 16/05898/FUL which are well established and likely to have resulted in a net improvement in biodiversity particularly when compared to the historic industrial / commercial use of the land.

NPF4 Policy 2 (Climate Mitigation and Adaptation), which requires proposals to be sited and designed to minimise lifecycle greenhouse gas emissions and be adaptable to current and future risks of climate change, is not deemed to apply to this change in use application.

External alterations

NPF4 Policy 14a) and b) (Design, Quality and Place) support proposals which are consistent with the six qualities of successful places and when they improve the quality of an area. LDP Policy Des 1 (Design Quality and Context) requires the creation of, or contribution to, a sense of place.

LDP Policy Des 12 (Alterations and Extensions) supports external alterations which are compatible with the character of the building, when they do not result in an unreasonable loss of privacy or natural light to neighbouring properties or be of detriment to neighbourhood amenity and character.

External alterations to the building are confined to the formation of openings to the ground floor. These minor works are compatible with the building and shall not result in an unreasonable loss of privacy or natural light to neighbouring properties and nor will they be of detriment to neighbourhood amenity and character. The proposals will contribute to the creation of a sense of place through the occupation of a vacant building with a use which is compatible with the character of the immediate and wider surroundings.

Conclusion in relation to the Development Plan

Significant weight has been given to the global climate and nature crisis and within this context, the proposals are acceptable. The loss of employment premises and shop units then conversion of a vacant building to housing are all acceptable in principle and a residential use is compatible within the prevailing character of the surroundings. The proposals will not have an unacceptable impact on the natural environment and the arrangements for waste, recycling, car and cycle parking are acceptable. The design is consistent with the six qualities of successful places and the development will contribute towards local living. The proposals are in accordance with NPF4 Policy 1, 3, 4, 9, 12, 13, 14, 15 and 16 and LDP Policy Des 1, Des 12, Emp 9, Hou 1, Hou 5, Ret 10, Tra 2, Tra 3 and Tra 4.

b) There are any other material considerations which must be addressed

The following material planning considerations have been identified:

Emerging policy context

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 and human rights. No materially unacceptable impacts have been identified for these proposals which are to change the use of an existing building.

Public representations

48 letters of representation were received, 46 in objection and two in support. A duplicated objection has been removed from the total. Material considerations raised have been summarised and addressed in Section a) of this report on handling.

Material considerations in objection

- Loss of employment use
- Non-compliance with the North West Portobello Development Brief
- Increase in demand for local public services
- Increase in vehicular traffic and car parking demand

Non-material considerations in objection

- Adequacy of the marketing exercising
- Loss of space for a doctor, dentist, childcare, 'craftspeople', physio, chiropractor, community space, café for parties, funeral gatherings or occupational therapist
- Concerns regarding pavement parking, parking in accessible bays, impediment of emergency vehicles by 'poor' parking and alleged use of parking spaces by nearby businesses
- Concerns regarding the management or factoring of the development approved by 16/05898/FUL
- Developer of 16/05898/FUL not contacting existing residents to allow them to make comment
- Lack of consultation with or marketing to local community groups
- Lack of electric vehicle charging points
- Not what was approved under 16/05898/FUL

Material considerations in support

- Prefer residential occupancy over continued vacancy

Non-material considerations in objection

- None

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals accordance with the Development Plan.

c) Overall conclusion

The proposals are in accordance with the relevant policies of National Planning Framework 4 and the Edinburgh Local Development Plan. The loss of employment premises and shop units then conversion to housing are all acceptable in principle and the proposals will contribute to the creation of sustainable and liveable places.

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.

Reasons

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.

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. 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: 18 November 2022

Drawing Numbers/Scheme

01, 02A, 03B, 04A, 05A

Scheme 3

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

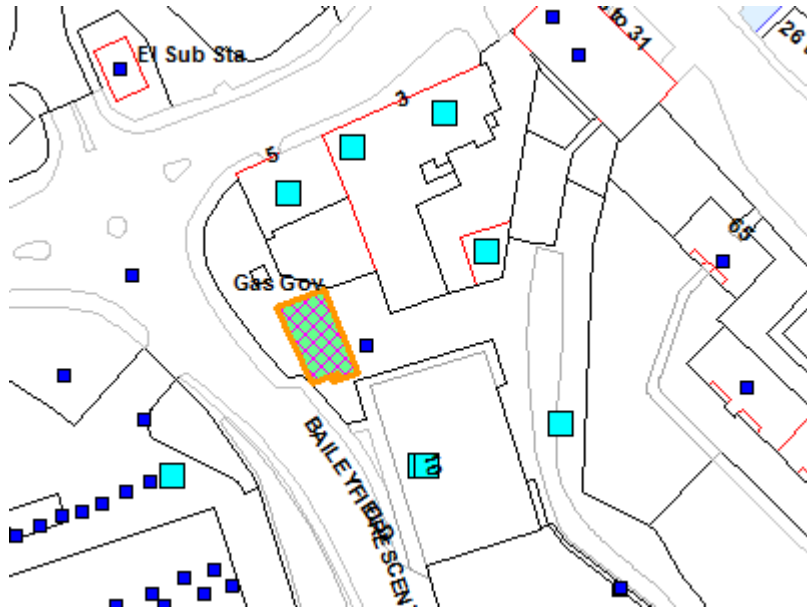
Contact: Graham Fraser, Assistant Planning Officer
E-mail: graham.fraser@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

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

Location Plan



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