

Development Management Sub Committee

Wednesday 17 February 2021

Application for Planning Permission in Principle 20/03225/PPP

at Western Harbour, Western Harbour Drive, Edinburgh.

Section 42 application to amend the wording of condition 1 of planning permission ref: 09/00165/OUT to amend the time period within which applications for the approval of matters specified in conditions can be made.

Item number

Report number

Wards

B13 - Leith

Summary

Applications made under Section 42 of the Town and Country Planning Act can allow the Planning Authority to explore new issues, particularly if the original permission is a number of years old.

The applicant is seeking planning permission in principle for the part of the site that relates to the previous application for matters specified in conditions. This being the case, it is appropriate to restrict the development to that part of the site via a condition of the permission.

The previous legal agreement is a material consideration and development has been undertaken in relation to it.

Given that the current AMC can be implemented without any changes to the requirements of the legal agreement, and given that this development will be restricted in terms of site area to reflect that of the previous AMC, it is acceptable to secure a legal agreement on the same terms as previously granted.

Further to this, a time limit is imposed on this permission which restricts the permission to one year. This provides sufficient time for the submission of AMC applications for this part of the site and ensures that a new planning application will be required after that time where fresh requirements for planning obligations can be considered and a fresh legal agreement formed in relation to them.

The concerns raised by Environmental Protection in relation to noise and air quality arising from adjacent port uses have been addressed in conditions.

Transport issues have been addressed and no additional impacts arise from this application.

The levels of contribution, although lower than the current guidance, are acceptable in these unique circumstances.

The proposal is therefore acceptable, the principle is in accordance with the development plan, and there are no material considerations which may indicate otherwise.

Links

<u>Policies and guidance for this application</u>	LDPP, LDEL01, LDEL03, LDES01, LDES02, LDES03, LDES04, LDES05, LDES06, LDES07, LDES10, LEMP09, LEN21, LHOU01, LHOU02, LHOU03, LHOU04, LHOU06, LHOU10, LTRA02, LTRA03, LTRA08, LTRA09, NSG, NSGD02,
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Report

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specified in conditions can be made.**

Recommendations

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

Background

2.1 Site description

The whole of the Western Harbour application site extends to over 40 hectares. However, the site that the applicant seeks to develop under this application is the site of the 19/00965/AMC which covers approximately 7.2 hectares. This is shown on drawing 2. This part of the site sits on reclaimed land, which predominantly contains areas of scrubland and unmanaged vegetation. The site boundary covers a central area of the site stretching from Sandpiper Road at the south to Western Harbour Drive at the north.

To the south and the west of the site are existing flatted residential developments, including some blocks that have recently been completed. To the west is an area of land which is proposed to be for Western Harbour Park use and further west are large flatted development blocks located on Western Harbour Drive. To the east is the Asda supermarket and associated filling station and parking. Also east of the site is vacant land for future phases of development. Further east of the site are the docks and associated uses including Chancelot Mill. To the north of the site is vacant land. This application site is located within the Newhaven Conservation Area.

2.2 Site History

A number of applications have been submitted and built out within the wider masterplan site. Initial phases of development included Platinum Point and the Asda superstore. More recently, 455 affordable homes have been built using National Housing Trust funding at the junction with Lindsay Road at the southern part of the masterplan site.

1 July 2002 - outline permission granted for a mixed-use development including residential, commercial, retail and public amenity development, public open space provision and associated reclamation, access, service and landscaping arrangements.

A condition attached to this consent required the approval of a detailed design brief prior to the submission of reserved matters or detailed proposals. The brief was required to set out general urban design principles and include more detailed urban design frameworks for individual areas (application reference: 01/03299/OUT).

8 September 2004 - The Western Harbour Masterplan Design Brief was approved. This included a masterplan (referred to as the Robert Adam Masterplan) and addressed issues such as car parking, landscape, key open spaces, character description, block detail studies, sustainability, wind studies and daylighting.

3 March 2009 - planning permission was granted to extend the period of time for the approval of reserved matters under planning permission 01/03229/OUT for a further 10 years (application reference: 09/00165/OUT).

10 October 2018 - Committee approved a new Revised Design Framework for the land at Western Harbour within Forth Ports Ltd ownership. This replaced the previously approved masterplan and design brief (linked to application reference: 09/00165/OUT).

14 August 2019 - permission minded to grant land to the southwest of the site for a new Victoria Primary School and nursery and associated playground spaces (application reference: 18/10570/FUL).

7 October 2019 - planning permission approved for approval of matters specified in condition 2 of planning permission 09/00165/OUT for a proposed park (application reference: 19/01040/AMC).

22 June 2020 - planning permission approved for approval of matters specified in condition 2 of planning permission 09/00165/OUT for residential and commercial development providing for Use Classes 1, 2, 3 and 4 and associated infrastructure (application reference: 19/00986/AMC). This is the application referred to above and its site area is the same as the area to which the current applications seeks permission for.

Main report

3.1 Description of the Proposal

This is an application made under Section 42 of the Town and Country Planning Act to amend the time period within which further applications can be made.

Planning permission 09/00165/OUT was granted on 3 March 2009. It extended the previous outline planning permission 01/03229/OUT for a period of 10 years by means of a condition of the planning permission. Permission 01/03229/OUT granted permission for the mixed-use development of Western Harbour.

Development of Western Harbour has progressed following a number of applications for reserved matters and applications for matters specified in conditions (AMC) being taken forward. These applications have been in accordance with permissions 01/03229/OUT and 09/00165/OUT, including residential developments at Newhaven Drive, Goosander Place and Western Harbour Drive.

The most recent AMC application (19/00986/AMC) relates to an area within the wider masterplan site and was approved for the development of 938 housing units and 13 commercial units.

This application was approved in June 2020, and due to the timescales imposed by the 09/00165/OUT permission, no further AMC applications are able to be submitted. The applicants sought to make amendments to the approved scheme, however due to the imposed time limit, this is not possible, and no further AMC applications could be made to facilitate these amendments.

This application therefore seeks to allow additional time for further AMC applications to be submitted, in order to make amendments to the approved scheme.

The application site area is therefore the same as that of the previous outline planning permissions. The applicant has confirmed that permission is sought for the part of the site that relates to the previous AMC approval (19/00986/AMC).

The applicant has also stated that a short timescale for the submission of any further AMC applications in order to restrict the permission, limited to one year, is acceptable.

The following documents have been submitted in support of the application:

Supporting Documents:

- Planning Supporting Statement;
- Noise Impact Assessment;
- Transport Statement and
- Air Quality Impact Assessment.

These documents are available to view on the Planning and Building Standards Online Service.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Do the proposals comply with the development plan?

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

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

3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) The proposals comply in principle with the Development Plan.
- b) The proposed extension to the time period is acceptable.
- c) There are any other relevant issues relating to developer contributions, transport or air quality and
- d) Representations have been addressed.

(a) The Principle of the Development

The original outline planning permission was for a mixed use development. An indicative masterplan and design guide were submitted as part of the original application and showed potential locations for the proposed uses.

The original proposals in application 01/03229/OUT were as follows: -

- Up to 3,000 residential units; (18% affordable);
- Up to 50,000sqm business/commercial floorspace;
- Up to 7,500sqm (gross) local retail centre (supermarket restricted to 6000 sqm by condition)
- Commercial use for the lighthouse;
- A public amenity building such as a cultural centre or museum of up to 20,000 sqm which may include educational facilities;
- A public park
- Further public open spaces including a walkway around the perimeter of the site adjoining the water.

The Edinburgh Local Development Plan (LDP) identifies Western Harbour for a housing-led mixed use development. It is identified as Proposal EW1a in the Edinburgh Local Development Plan (LDP). This sets out a number of Development Principles including completing the approved street layout and perimeter block urban form and complete the partly implemented local centre, along with broader principles of housing mix and open space.

LDP Policy Del 3 (Edinburgh Waterfront) sets out that planning permission will be supported for development which will contribute towards the creation of new urban quarters at Leith Waterfront. This requires (amongst other matters) comprehensively designed proposals which maximise the development potential of the area, the provision of a series of mixed use sustainable neighbourhoods, proposals for a mix of house types, sizes and affordability and the provision of local retail facilities.

Housing-led development is supported, and a number of developments have already been approved or delivered, including residential units at the southern and eastern parts of the site. A supermarket has been delivered forming part of the local centre, the primary school is under construction and approval has been given for the central park.

There has been a move away from major commercial/business development on the site in the LDP. The 50,000 square metres of commercial space in the outline permission would not generally be supported through the current LDP at this location.

However, the previous Revised Design Framework for the central part of the site resulted in the change from the previous commercial uses in the Robert Adam Masterplan being altered to housing.

Aside from the commercial elements, the principle of a mixed use development is still acceptable on the site and progress has been made on the delivery of housing and the primary school in recent years.

The principle of the housing-led development is therefore acceptable.

b) The Proposed Extension to the Time Limit

The circumstances relating to this application mean that the applicant is seeking to limit the scope of the planning permission in principle (PPP) to cover only the site of the previous application (19/00986/AMC). It is appropriate to allow a year for the submission of AMC applications, and this is done by a direction which is set out in the informatives.

This means that the scope of this application is narrow, and allows for focussed AMC applications to be made in order to deliver the housing quickly on this site.

The extension to the time limit is therefore acceptable.

c) Developer Contributions, Transport and Air Quality and Noise

Developer Contributions

A planning permission which is granted in respect of a section 42 application is a new and separate planning permission from the original permission and is capable of separate implementation.

A new section 75 agreement will be required. Such a requirement is confirmed within Circular 3/2013 Development Management Procedures. Annex I at paragraph 2(d) sets out:

"Planning authorities will wish to note the following in relation to Section 42 applications:

d. The need to secure any section 75 legal obligation (or other agreement) to the new permission, where it is intended this should still apply."

Regard must be given to the LDP in terms of determining what developer contributions may be required. Since the granting of the original outline permission, there have been significant changes in Council policy on developer contributions and affordable housing.

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) sets out the Council's approach to developer contributions and infrastructure provision. It states that proposals will be required to contribute to infrastructure provision where relevant and necessary to mitigate any negative additional impact (either on an individual or cumulative basis) and where commensurate to the scale of the proposed development.

The Council's LDP Action Programme sets out how the infrastructure and services required to support the growth of the city will be delivered. The Council's Developer Contributions and Infrastructure Delivery Supplementary Guidance sets out the Council's approach to infrastructure provision and what is expected in terms of developer contributions. The main areas are in relation to affordable housing provision, transport, education and healthcare.

However, that development has already been delivered under the previous outline permissions, 01/03229/OUT and 09/00165/OUT, for which planning obligations have been secured, is an important material consideration. This needs to be taken into account when determining appropriate levels of contribution arising from this application.

Affordable Housing:

Planning permission was originally granted in outline under 01/03229/OUT and then again under 09/00165/OUT for up to 3000 units. The affordable housing requirement for these permissions is the lesser of 434 units or 18% of all residential units. 447 affordable homes have been delivered to date.

This applicant has stated that the requirements of the legal agreement have been satisfied and there is no requirement for further applications made in accordance with the Western Harbour Masterplan to deliver affordable housing.

However, the current policy and guidance seeks 25% of the total number. As noted, the previous legal agreement has been satisfied, and the restrictions on this permission in terms of development area and timescale mean that the terms of the previous legal agreement will be applied in this case.

Education:

The existing legal agreement on the outline planning permission is for £821 per flat.

Current guidance requires:

Per unit infrastructure contribution requirement (index linked):

- Per Flat - £3,747
- Per House - £18,391

Per unit land contribution requirement (no indexation):

- Per Flat - £221
- Per House - £947

Healthcare:

There is no requirement for a healthcare contribution in the original outline permission legal agreement.

Current guidance requires £945 per dwelling Leith Waterfront Healthcare Contribution Zone .

Transport:

The transport contributions attached to the original outline permission have now been discharged. The Transport contributions for Western Harbour were linked to the those at Granton Harbour (01/00802/OUT). The legal agreement for Granton Harbour states that these requirements are a substitution of the requirements set out in 01/03229/OUT (Western Harbour) and not in addition. These agreements identify a level of transport contributions to mitigate the impact of development proposed in these outline applications.

On 20 July 2012, Forth Ports paid the Council £25k towards Waterfront Corridor, £20k towards Eastern Corridor and £190k towards Lower Granton Road. The Council agreed that this discharged Forth Ports of all obligations under clauses 4.1 - 4.3 of the legal agreement 01/00802/OUT and therefore also 01/03229/OUT. Forth Ports agreed that the Council could use this money for any purpose.

Based on 938 units and with the current guidance, the applicant would be required to:

- a. Contribute the sum of £1,644,286 to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report. The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
- b. Contribute the sum of £1,647,128 to the Ocean Drive Eastwards Extension as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
- c. Contribute the sum of £72,226 to the Water of Leith Walkway Improvements (Warriston to Commercial Street) as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
- d. Contribute the sum of £96,614 to the Lindsay Road / Commercial Street Junction Improvements as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
- e. Contribute the sum of £60,032 to the Ferry Road / North Junction Street Junction Improvements as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
- f. Contribute the sum of £95,676 to the Hawthornvale Off-Road Cycle path to Lindsay Road and into Western Harbour as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;

Other costs that generally need paid, include contributions towards Transport Regulation Orders (TROs) and an optional car club contribution.

The applicant has requested that the contributions of the original outline planning permission are applied in this case. This is due to the fact that the applicant considers that this application is only required due to fact that the time period for submitting further AMC applications under the previous planning permission in principle has expired, but that amendments are required in order to make the previous permission (19/00986/AMC) deliverable.

Under the circumstances, this is acceptable. It is noted that the previous AMC (19/00986/AMC) can be implemented, but the applicant is intending amendments in order to improve the scheme by making material changes, which will be reflected in further AMC applications, following this new PPP. This is a new planning permission, and current guidance levels of contribution would normally be sought under these circumstances. However, the scope of this application is so narrow as to only relate to a smaller plot within the wider harbour redevelopment area to reflect the previous AMC; and this application is only required due to the timing of the expiry of the ability to submit further AMC applications under the original permission. Taking these issues into account, accepting the lower levels of contribution is acceptable in this instance.

Transport

The Roads Authority has no objections to the proposals but has stated that there is a requirement for electric car charging points, car and cycle parking and the submission of a travel plan to serve the proposed development. These matters are dealt with as informatives of this permission and will inform the submission of the future AMC applications. Similarly, the Roads Authority has requested that the applicant consults with the Tram team regarding the timing of the development.

With regards to technical design details, the Roads Authority has outlined the contributions required for road upgrades in line with the current LDP Action Programme. However, as noted above, a contribution has already been made as part of the original outline planning permission in order to enable the redevelopment of Western Harbour. Although the contribution levels have changed as part of the LDP Action Programme, the junctions and road capacities have been previously designed to accommodate this size of development.

The submitted transport information also included proposals for the potential redesign of the Lindsay Road/Sandpiper Drive/Newhaven Place junction layout. Further information would be required to understand how this proposed layout would comply with guidance. The Roads Authority has requested that the applicant examines and (as necessary) improves the operation of the junction prior to construction of the 600th residential unit, potentially though a condition.

However, as noted above the scope of this application is limited to the site that has the recent benefit of approval for 938 units. As the number of units arising from this permission, if granted, would continue to limit the number to 938 units on the same site, it is not considered appropriate to seek improvements to this junction through this application.

There is further development land at Western Harbour and if issues arise with the operation of this junction, then this matter can be considered as and when further applications come forward.

The transport matters are acceptable at this stage.

Air Quality and Noise

With regards to air quality, there have been two Air Quality Management Areas declared near to the proposed development site, and Environmental Protection has raised concerns about the capacity available in the surrounding road network to accommodate the likely additional traffic flows associated with the proposed development.

The applicant has submitted a supporting noise and air quality impact assessment which have been assessed by Environmental Protection. This assessment has provided an updated understanding of the potential local air quality impacts the proposal may have, and the impacts pollutants in the local area may have on any new residents introduced as part of this development.

The development site is near the Bernard Street Air Quality Management Area, which has been declared for exceedances in NO₂. The sources of NO₂ from this development will be mainly from transport sources and special heating as the applicant is proposing to use gas.

The development site offers good access to public transport, as well as walking and cycling infrastructure with good levels of amenity and employment already existing in the area. The applicant has demonstrated how the development will link into the existing travel networks. Environmental Protection advises that the applicant must keep car parking numbers to a low level, as this would be welcomed and would reduce the air quality impacts the development will have.

These comments from Environmental Protection are noted. As this application is for a new Planning Permission in Principle, parking numbers will be assessed in any forthcoming applications for matters specified in conditions, and conditions and informatives are recommended relating to electric car charging points and sustainability measures.

In relation to noise, Environmental Protection has advised that noise complaints have been received in relation to port noise and these are currently under investigation. Through this investigation, Environmental Protection has been advised by Forth Ports that over the years, vessels docking, which have previously been the source of the noise issues, have gotten quieter and more efficient. However, if noise issues continue with insufficient levels of mitigation for future residents, then this could adversely impact on both the operations of the dock and/or adversely impact the amenity of any future tenants in Western Harbour.

Environmental Protection does not object to this planning application, as it is generally accepted that residential use has been established in this area. However, several conditions and informatives relating to noise mitigation measures are recommended in order to minimise impacts on either the dock operations or future residential amenity.

(d) Public Comments

One representation was received during the first notification period commenting on the process of this application. This is addressed in the sections above.

Second neighbour notification period:

Material Objections

- Object to development at this location - this is addressed in section 3.3a).
- Traffic congestion - this is addressed in section 3.3c).
- Requirement for open space - this will be addressed in future AMC applications, notwithstanding the delivery of Western Harbour Park.

Conclusion

Applications made under Section 42 of the Town and Country Planning Act can allow the Planning Authority to explore new issues, particularly if the original permission is a number of years old.

The applicant is seeking planning permission in principle for the part of the site that relates to the previous application for matters specified in conditions. This being the case, it is appropriate to restrict the development to that part of the site via a condition of the permission.

The previous legal agreement is a material consideration and development has been undertaken in relation to it.

Given that the current AMC can be implemented without any changes to the requirements of the legal agreement, and given that this development will be restricted in terms of site area to reflect that of the previous AMC, it is acceptable to secure a legal agreement on the same terms as previously granted.

Further to this, a time limit is imposed on this permission which restricts the permission to one year. This provides sufficient time for the submission of AMC applications for this part of the site and ensures that a new planning application will be required after that time where fresh requirements for planning obligations can be considered and a fresh legal agreement formed in relation to them.

The concerns raised by Environmental Protection in relation to noise and air quality arising from adjacent port uses have been addressed in conditions.

Transport issues have been addressed and no additional impacts arise from this application.

The levels of contribution, although lower than the current guidance, are acceptable in these unique circumstances.

The proposal is therefore acceptable, the principle is in accordance with the development plan, and there are no material considerations which may indicate otherwise.

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

3.4 Conditions/reasons/informatives

Conditions :-

1. No permission is granted for any development out with the red line boundary area shown on approved plan (02).
2. The maximum number of residential units to be constructed within the site shown in approved plan 02 shall not exceed 938
3. Before any work on each phase of the site is commenced, details of the undernoted matters being submitted to, and approved by the planning authority, in the form of a detailed layout of that phase of the site (including landscaping and car parking) and detailed plans, sections and elevations of the buildings and all other structures.

Matters:

(a) Siting, design and height of development, including design of all external features and glazing specifications, (including acoustic capabilities), design and configuration of public and open spaces, all external materials and finishes, including their colour;

(b) Car ((including electric vehicle charging points) and Cycle Parking, access, road layouts and alignment, servicing areas;

(c) Footpaths and cycle routes;

(d) Boundary treatments;

(e) Hard and soft landscaping details, which shall include:

- i) existing and finished ground levels in relation to Ordnance Datum;
- ii) layout and design, including walls, fences and gates;
- iii) existing and proposed services;
- iv) other artefacts and structures such as street furniture, play equipment;
- v) programme of completion and subsequent maintenance;
- vi) the location of new trees, shrubs, hedges, grasses and wetland areas;
- vii) a schedule of plants to comprise species, plant size and proposed number/density;
- viii) programme of completion and subsequent maintenance;

(f) Surface Water arrangements for the attenuation and discharge of surface water.

- Prior to the submission of any reserved matters or detailed application the following actions shall be undertaken:

- a) a site survey, including the formation of a conceptual site model, intrusive site investigation and monitoring programme to enable an assessment of the presence and concentration of landfill gases from the infill.
- b) A site-specific risk assessment.
- c) A detailed scheme of any required remedial measures and/or gas protective measures, including details of any necessary on-going gas monitoring, shall be submitted to and approved in writing by the head of planning.

Prior to the commencement of work on site,

- a) a site survey (including bore hole testing where necessary) shall be carried out to establish, to the satisfaction of the Head of Planning, either that the level of contamination of any land within the site is acceptable, or that remedial and/or protective measures could be undertaken to bring the contamination to an acceptable level in relation to the development, and
 - b) a detailed schedule of any required remedial and/or protective measures, including their programming, shall be submitted to and approved in writing by the Head of Planning.
4. No development shall take place on a plot until full technical details of the proposed noise mitigation measures (including glazing and ventilation measures) have been submitted to and approved in writing by the Planning Authority. No residential unit within that plot shall be occupied until the agreed measures have been provided in accordance with the approved details.
 5. Each phase of landscaping will be in place and available for use prior to the occupation of any buildings within that phase of development.

Reasons: -

1. In order to define the land which can be developed under this permission.
2. In order to restrict the number of residential units in line with the previous AMC approval and ensure that new obligations (if required) can be secured against a subsequent application for additional housing.
3. To enable the Planning Authority to consider these matters in detail.
4. In order to provide noise mitigation to future residents.
5. In order to ensure that the approved landscaping works are properly established on site.

Informatives

It should be noted that:

1. A suitable legal agreement will be required to cover the following matters:

Education contribution - £821 per unit.

Transport:

Contribute the sum of £2,000 to progress a suitable order to redetermine sections of footway and carriageway as necessary for the development;

Contribute the sum of £2,000 to progress a suitable order to introduce waiting and loading restrictions as necessary;

Contribute the sum of £2,000 to promote a suitable order to introduce a 20pmh speed limit within the development, and subsequently install all necessary signs and markings at no cost to the Council. The applicant should be advised that the successful progression of this Order is subject to statutory consultation and advertisement and cannot be guaranteed.

2. It is directed that:

a) Application for the approval of matters specified in conditions must be made before the expiration of 1 year from the date of the grant of planning permission in principle, unless an earlier application for such an approval has been refused or an appeal against such a refusal has been dismissed, in which case application for approval of all outstanding matters specified in conditions must be made within 6 months of the date of such refusal or dismissal.

b) The approved development shall be commenced not later than the expiration of 3 years from the date of grant of planning permission in principle or 2 years from the final approval of matters specified in conditions, whichever is later.

3. Transport Issues:

- All accesses must be open for use by the public in terms of the statutory definition of 'road' and require to be the subject of applications for road construction consent. The extent of adoptable roads, including footways, footpaths, accesses, cycle tracks, verges and service strips to be agreed. The applicant should note that this will include details of lighting, drainage, Sustainable Urban Drainage, materials, structures, layout, car and cycle parking numbers including location, design and specification. Particular attention must be paid to ensuring that refuse collection vehicles are able to service the site. The applicant is recommended to contact the Council's waste management team to agree details;
- The applicant should note that the Council will not accept maintenance responsibility for underground water storage / attenuation;

- A Quality Audit, as set out in Designing Streets, to be submitted prior to the grant of Road Construction Consent;
 - The applicant should be aware of the potential impact of the proposed development on the Edinburgh Tram and the Building Fixing Agreement. Further discussions with the Tram Team will be required;
 - In accordance with the Council's LTS Travplan3 policy, the applicant should consider developing a Travel Plan including provision of pedal cycles (inc. electric cycles), secure cycle parking, 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;
 - The applicant should note that new road names will be required for the development and this should be discussed with the Council's Street Naming and Numbering Team at an early opportunity.
 - Any parking spaces adjacent to the carriageway will normally be expected to form part of any road construction consent. The applicant must be informed that any such proposed parking spaces cannot be allocated to individual properties, nor can they be the subject of sale or rent. The spaces will form part of the road and as such will be available to all road users. Private enforcement is illegal and only the Council as roads authority has the legal right to control on-street spaces, whether the road has been adopted or not. The developer is expected to make this clear to prospective residents as part of any sale of land or property.
 - All disabled persons parking places should comply with Disabled Persons Parking Places (Scotland) Act 2009. The Act places a duty on the local authority to promote proper use of parking places for disabled persons' vehicles. The applicant should therefore advise the Council if he wishes the bays to be enforced under this legislation. A contribution of £2,000 will be required to progress the necessary traffic order but this does not require to be included in any legal agreement. All disabled persons parking places must comply with Traffic Signs Regulations and General Directions 2016 regulations or British Standard 8300:2009 as approved.
 - Electric vehicle charging outlets should be considered for this development including dedicated parking spaces with charging facilities and ducting and infrastructure to allow electric vehicles to be readily accommodated in the future.
4. All operations during remediation and preparation of the site will be conducted in accordance with the most up to date SEPA's pollution prevention guidelines.
 5. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment. This should apply to the measured output from combined sources operating at their design capacity.

6. Conditions 5 and 6 of the previous permission references 09/00165/OUT related to the requirement for a design brief and design principle documents. These have been dealt with through the approved Revised Design Framework (RDF), dated October 2018. Development should be in line with the principles established in the RDF.
7. The Environmental Protection response contains a number of matters that the applicant should be made aware of.

Financial impact

4.1 The financial impact has been assessed as follows:

The application will be subject of a new legal agreement. This new legal agreement will relate to the previous legal agreement for the site, as per the assessment section of the report.

Risk, Policy, compliance and governance impact

5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application meets the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 14 August 2020 and attracted one representation. A further notification period attracted three representations.

A full assessment of the representation can be found in the main report in the Assessment Section.

Background reading/external references

- To view details of the application, go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

Statutory Development

Plan Provision

The site is within the Edinburgh Waterfront in the Edinburgh Local Development Plan. It is located in the Leith Western Harbour for housing-led mixed use development (site EW 1a). Part of the site is shown as local centre S3.

Date registered

6 August 2020

Drawing numbers/Scheme

01, 02,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Kenneth Bowes, Senior Planning officer

E-mail: kenneth.bowes@edinburgh.gov.uk

Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) identifies the circumstances in which developer contributions will be required.

LDP Policy Del 3 (Edinburgh Waterfront) sets criteria for assessing development in Granton Waterfront and Leith Waterfront.

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

LDP Policy Des 2 (Co-ordinated Development) establishes a presumption against proposals which might compromise the effect development of adjacent land or the wider area.

LDP Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) supports development where it is demonstrated that existing and potential features have been incorporated into the design.

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

LDP Policy Des 6 (Sustainable Buildings) sets criteria for assessing the sustainability of new development.

LDP Policy Des 7 (Layout design) sets criteria for assessing layout design.

LDP Policy Des 10 (Waterside Development) sets criteria for assessing development on sites on the coastal edge or adjoining a watercourse, including the Union Canal.

LDP Policy Emp 9 (Employment Sites and Premises) sets out criteria for development proposals affecting business and industrial sites and premises.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

LDP Policy Hou 1 (Housing Development) sets criteria for assessing the principle of housing proposals.

LDP Policy Hou 2 (Housing Mix) requires provision of a mix of house types and sizes in new housing developments to meet a range of housing needs.

LDP Policy Hou 3 (Private Green Space in Housing Development) sets out the requirements for the provision of private green space in housing development.

LDP Policy Hou 4 (Housing Density) sets out the factors to be taken into account in assessing density levels in new development.

LDP Policy Hou 6 (Affordable Housing) requires 25% affordable housing provision in residential development of twelve or more units.

LDP Policy Hou 10 (Community Facilities) requires housing developments to provide the necessary provision of health and other community facilities and protects against valuable health or community facilities.

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

LDP Policy Tra 8 (Provision of Transport Infrastructure) sets out requirements for assessment and mitigation of transport impacts of new development.

LDP Policy Tra 9 (Cycle and Footpath Network) prevents development which would prevent implementation of, prejudice or obstruct the current or potential cycle and footpath network.

Relevant Non-Statutory Guidelines

Non-Statutory guidelines Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

Appendix 1

Application for Planning Permission in Principle 20/03225/PPP

**At Western Harbour, Western Harbour Drive, Edinburgh
Section 42 application to amend the wording of condition 1
of planning permission ref: 09/00165/OUT to amend the time
period within which applications for the approval of matters
specified in conditions can be made.**

Consultations

Environmental Protection response dated 26 January 2021

There is currently an outline planning permission for 938 dwellings in the proposed development area and the applicant advises that there is physical capacity for up to a total of 2,200 new dwellings, together with commercial and recreational space and a new school. When the outlook was consented, there was a wider development framework that would have seen most of the industrial operations around the dock change into more residential lead mixed uses. Local Air Quality in general has become recognised as a serious public health concern. There has also been two Air Quality Management Areas declared near to the proposed development site. We have raised concerns about the capacity available in the surrounding road network to accommodate the likely additional traffic flows associated with the proposed development.

The applicant has submitted a supporting noise and air quality impact assessment which have been assessed by Environmental Protection.

The applicants air quality impact assessment has provided an updated understanding of the potential local air quality impacts the proposal may have and the impacts pollutants in the local area may have on any new residents introduced as part of this development. The applicant has done both a desk-top study and onsite monitoring for the relevant pollutants. This update has been welcomed and assessed by Environmental Health. It is also understood that a level of residential development has already been established on this site.

The development site is near the Bernard Street Air Quality Management Area, which has been declare for exceedances in NO2. The sources of NO2 from his development will be mainly from transport sources and special heating as the applicant is proposing to use gas. Environmental Protection would highlight that there are cost effective alternatives that will significantly reduce the impacts.

The development site offers great access to public transport, as well as walking and cycling infrastructure with fantastic amenity and employment already existing in the area. The applicant has demonstrated how the development will link into the existing travel networks. They recognise that the main network especially during peak hours is

congested. This is something that is likely to get worse when other committed developments are built out. The applicant must keep car parking numbers to a low level, this would be welcomed and would reduce the impacts it will have.

Low Emission Zones' (LEZ) in Edinburgh are being progressed in close alignment with several strategies aiming to enhance placemaking and connectivity in Edinburgh, including City Centre Transformation and City Mobility Plan.

Alongside the development of the national regime, the next steps for Edinburgh's LEZ will involve continued technical assessment work to inform LEZ decisions. The applicant will need to engage with Planning with regards the development of LEZ's and its potential in this area.

The applicant must commit to installing EV charging points it should be noted that they will need to be provided in all the car parks to the agreed standards with the necessary infrastructure for this to be increased over time. The applicant must at least be in accordance with the Edinburgh Design Standards in providing the minimum number of EV charging points. These would need to be to a minimum standard of 7kw (32amp) type two plugin sockets. As proposed parking areas are likely going to be located in basements it will be easy and cheap to install wall mounted chargers at the development phase. Environmental Protection would recommend that every parking space has access to a 3kw (16 amp) three pin plug to enable slow charging of electric vehicles. We would recommend that users of the spaces are given an option to upgrade the charging outlets to the 7kw standards, so the developer would need to ensure there is capacity in the electrical mains to increase the amps. Details of this will need to be clearly demonstrated in detailed drawing.

Any non-residential parking spaces will need to have at least 3 rapid three-phase 50Kw electric vehicle charging points installed and operational prior to occupation. This should also be highlighted on any detailed plans.

The UK and Scottish Government have committed to banning the sale of combustion engine cars. As this is a large development which will take many years to complete it is feasible that this development will not be completed before the ban is introduced. The developer should therefore ensure the development is futureproofed with charging provided for all spaces as described above.

The applicant should be advised to ensure emissions are kept to a minimum. The applicant must fully consider extending the provision of PV/solar panels which is a good mitigation measure to reduce energy demand and emissions. The applicant should also investigate the installation of photovoltaic panels and use ground and air sourced heat pumps linked to energy storage. There is also potential to capture latent heat from the dock water and link into a district heating system for the wider development. A similar system has been installed on the Queens Quay (Glasgow) for a similar development. The applicant should be aware of the Climate Emergency and Edinburgh's Zero Carbon targets. Therefore, no fossil fuels should be considered. It is understood that they propose using Combined Heat and Power (CHP) gas boilers. We would urge the developer to reconsider this option and look to meet all heat and energy demand using onsite renewables.

If the applicant progress with an energy centre or centralised boilers they will need to ensure that information is submitted and if required a supporting chimney height calculation as per the Clean Air Act which is anything above 366Kw. The Pollution

Prevention and Control (Scotland) Regulations 2012 were amended in December 2017 to transpose the requirements of the Medium Combustion Plant Directive (MCPD 'Directive (EU) 2015/2193 of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants). The purpose of the MCPD is to improve air quality. All combustion plant between 1 and 50 MW (net rated thermal input) will have to register or have a permit from SEPA. Environmental Protection will require that secondary abatement technology is incorporated into any plant above 1MW (accumulate assessment).

The applicants air quality monitoring was measuring levels of particulates affecting the site. The monitoring did show that the site would meet the national levels. There were some peaks when levels did seem excessive. The applicant did provide possible reasons for these peaks. However Environmental Protection are concerned with the possible impact the dock operations could have on new residential developments encroaching onto the docks. For example, fumes from idling vessels on the docks may become an issue.

However overall the air quality impact assessment when read in context with the understand that outline consent has been granted has established that there will be limited impacts except for during the construction phase.

If possible, planning restrictions are recommended to ensure amenity is protected during the construction phase. We would strongly recommend that you engage with Environmental Health throughout the development but especially during the early stages. This will ensure that the risk of complaint is further reduced. This is due to the location, level of demolition/earth works and length of time the development phase and the fact that people are now spending far longer periods in their homes due to the changes introduced through COVID and are more sensitive to construction disturbance. Environmental Protection would normally be recommending planning conditions are attached to mitigate the local air quality and noise and vibration impacts this proposal will have, however it is understood that this may not be possible for this specific application.

In line with industry best practice a Construction Environmental Management Plan (CEMP) should be prepared for the development. The CEMP would be implemented and adhered to throughout the works with limited scope to amend it throughout.

The details of the CEMP would ideally be agreed with the Planning Authority prior to the commencement of the works and would comprise, in effect, an operational manual detailing the management, monitoring, auditing and training procedures to be followed during the works to ensure compliance with relevant legislation, planning policy, regulations and best practice. It would also set out the specific roles and responsibilities of on-site personnel.

To minimise potential dust, noise and vibration, general best practice measures would be implemented and adhered to by contractors. Such measures have been highlighted in an informative, but the CEMP should provide more detail however the main concern for Environmental Protection is the dust, piling stage and hours of noisy operation.

Environmental Protection have assessed the submitted noise impact assessment. The noise measurements were taken in January/February 2019, during this period there

was less activity on the docks when compared to 2020. We would advise that further measurements be conducted to ensure a worst-case scenario has been achieved and that future residents have an acceptable level of amenity. This is requested due the increased number of noise complaints we have received in the last year due to noise from the Ports effecting properties that are located further from the docks than this proposed development site. Some of these complaints have originated from the existing residential units located on Western Harbour. It is understood that the applicant for this application is Forth Ports and it's the Port that has been the source of the noise being currently investigated.

One of the main concerns has been vessels making noise with the docks both day and night. These vessels need power, and this is supplied by engines or generators. Environmental Health have raised the possibility of a shore side supply being installed for the vessels. The Port operator has advised that there are no current plans to install shoreside electrical connections across the Port of Leith and that few vessels can take a shoreside connection and those that can operate on a range of voltages and frequencies, with a variety of physical connection types. So, this type of noise is going to remain, it is also possible that this will get worse. This is due to the continued development of residential properties around the docks putting pressure on where vessels can be berthed without causing noise problems.

Through our investigation of the noise complaints we have been advised that over the year's vessels have got quieter and more efficient. They believe that more emphasis should be put on the developers of these homes and appropriate noise surveys and considered whether the noise environment at the time of survey may or may not have been representative. The real issue is that if further encroachment is allowed with insufficient levels of mitigation then this could adversely impact the operations of the Dock and/or adversely impact the amenity of any future tenants in Western Harbour.

It is accepted that residential use has been established in this area, and that the following condition must be discharged before development can commence;

'5. No construction works shall take place on a plot until full technical details of the proposed noise mitigation measures (including glazing and ventilation measures) have been submitted to and approved in writing by the Planning Authority. No residential unit within that plot shall be occupied until the agreed measures have been provided in accordance with the approved details.

This condition does provide a level of protection however with the available noise survey information it is not possible to discharge the condition. Further noise surveys and likely additional more bespoke noise mitigation measures required.

The average overall noise levels recorded over the measurement periods are shown below;

Measured Road Traffic Noise Levels

<i>Position (dB)</i>	<i>Duration</i>	<i>LAeq,T (dB)</i>	<i>LA90,T (dB)</i>	<i>LA10,T</i>	<i>LAFmax</i>
<i>1</i>	<i>03:00:00</i>	<i>64</i>	<i>52</i>	<i>59</i>	<i>85</i>

2	01:00:00	51	44	52	83
3	01:00:00	61	50	65	84

The levels above suggest that the World Health Organisations Guidelines for Community Noise outdoor amenity levels will be breached, and the applicant has not addressed this issue in the supporting Noise Impact Assessment (NIA). The Lmax levels that could be associate with spikes in the noise are also high.

The applicant took measurements of noise from various locations. Individual measurements of the noise sources to be assessed were conducted throughout January and early February 2019. Measurements relating to the following noise sources were conducted;

- ' Asda fixed Plant & Deliveries*
- ' Aggregate Industries*
- ' ADM Milling Facility*
- ' Cranes 41 & 42*
- ' Dales Marine*

Since BSL and Subsea7 have ceased their operations within the Port of Leith over the last several years noise levels measured by New Acoustics in the initial 2004 assessment are reused within this assessment which us acceptable. However as highlighted above Environmental Assessment have concerns with noise from the Port due to recent noise complaints. It is noted that the applicant did not take any measurements near to the dock side on the east of their development site. A measurement in this location and during the time when the noise levels have increased at the dock would have provided a better understanding and more representative sample of the noise from the docks.

The various noise sources have been assessed individually against the noise standards. The applicant has advised that no allowance has been made for the accumulation of sound sources. This is because the main sources at issue is only the BSL pipe coating area has any significant noise component which is continuous. The only significant noise at Subsea7's welding plant is that of alarms. The movement of pipes at both BSL and Subsea7 happens for only parts of the day and the noise itself is intermittent. Not accumulating the noise sources is therefore offset by the averaging of the individual noise sources. The exceptions are the cases of the loading and unloading of ships where the applicant has averaged the noise.

Resultant internal levels at the façades most exposed to road traffic within the proposed development are assessed against the BS8233:2014 internal criteria. Internal levels are derived from measured external levels assuming closed windows and installation of 6mm/12mm/6mm standard double glazing (or of equal and approved) throughout the development. The mitigation (closed window) indicate the worst-case road traffic noise levels at a height of 1.5m from ground level. Glazing attenuation calculations for this assessment are presented in Appendix 6 of the NIA. Environmental Protection can accept a closed window standard for road traffic noise. Other sources of noise will need to be assessed against an open window standard.

The applicant NIA has identified that there will be units that will not be able to comply with the BS8233:2014 indoor noise levels. Residents will be expected to close the windows to reduce the noise levels. The applicant proposes installing mechanical ventilation for these effected areas; however no specific information has been submitted showing the detailed system. Environmental Protection are also concerned with the proposed glazing 6mm/12mm/6mm specification as recent noise complaints about the docks have been associated with low frequency noise and having two glass units the same thickness and specification may only cancel out the same frequency and allow other frequencies to travel through the glass.

In summary we have concerns that the NIA has not assesses a worst-case scenario. We have received recent noise complaints from residents located much further away. We will require the applicant to provide an appropriate noise surveys and considered whether the noise environment at the time of survey may or may not have been representative to the docks.

Therefore, Environmental Protection offers no objection to the specific S42 application we do need to ensure that noise and local air quality are carefully further considered due to the recent experience of noise and air quality complaints being investigated.

We would recommend the following informative is attached to any consent;

Informative

- 1. An agreed minimum number of car parking spaces shall be served by 7Kw (32amp) type 2 electric vehicle charging sockets and shall be installed and operational in full prior to the development being occupied. All remaining parking spaces shall be served by a minimum 3 Kw (16-amp three pin plug) with an optional upgrade to 7Kw (32amp) Type 2 electric vehicle charging sockets. These shall be installed and operational in full prior to the development being occupied.*
- 2. Car Parking numbers must be kept to a minimum.*
- 3. An agreed number of Rapid 50 Kw (125amp) triple headed (Combined Charging Standard/CHAdEMO/Type 2) chargers shall be installed at the commercial parking areas.*
- 4. A detailed Construction Environment Management Plan (CEMP) should be submitted to the satisfaction of The Planning Authority and adhered to during the construction phase.*
- 5. During the demolition and construction phase no crushing should be permitted on the development site.*
- 6. During the demolition and construction phase hours of noisy construction should be restricted to the satisfaction of the Planning Authority and specified in the CEMP.*
- 7. Details on how the heat and energy will provided, with specific details on renewable energy and storage submitted to the satisfaction of the Planning Authority.*

8. Any gas boilers in excess of 1MW (accumulative assessment) will require secondary abatement technology incorporated into any plant to the satisfaction of the Planning Authority.

9. When available the applicant shall provide details of all the boilers to Environmental Protection to ensure compliance with the Clean Air Act 1993.

10. The applicant shall engage with the Spatial Policy Team with regards the LEZ proposals spatial.policy@edinburgh.gov.uk

11. The design, installation and operation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment.

12. It should be noted that when designing the exhaust ducting, Heating, ventilation and Air Conditioning (HVAC) good duct practice should be implemented to ensure that secondary noise is not generated by turbulence in the duct system. It is recommended that the HVAC Engineer employed to undertake the work, undertakes the installation with due cognisance of the Chartered Institute of Building Services Engineers (CIBSE) and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guidance.

Construction Phase

1. Careful selection of methods and plant to minimise noise at source as far as reasonably practicable;

2. Use of modern, quiet and well-maintained machinery such as electric powered plant, where possible and hoists should use the Variable Frequency Converter drive system;

3. All mobile plant introduced onto the site shall comply with the emission limits for off road vehicles as specified by EC Directive 97/68/EC.

4. Vehicles and mechanical plant used for the Works would be fitted with exhaust silencers, which would be maintained in good and efficient working order and operated in such a manner as to minimise noise emissions in accordance with the relevant EU/UK noise limits applicable to that equipment or no noisier than would be expected based the noise levels quoted in BS 5228. Plant should be properly maintained and operated in accordance with manufacturers' recommendations. Electrically powered plant would be preferred, where practicable, to mechanically powered alternatives;

5. Establish noise and vibration target levels (a Section 61 agreement under the Control of Pollution Act 19745 (COPA)) to reduce noise and vibration to a minimum in accordance with best practicable means, as defined in Section 72 of COPA;

6. Adherence to relevant British Standards to establish noise and vibration `Threshold' and `Action' levels. Noise criteria would be discussed and agreed with CEC prior to the commencement of works

7. Identification and use of low noise techniques and non-vibratory or percussive piling techniques, where possible, to minimise noise and vibration. For example, equipment that breaks concrete by munching or similar, rather than by percussion. Where construction plant is known to generate significant levels of noise then it is to be used sparingly and the construction activity closely monitored to minimise noise levels;

8. Where possible, adopt low vibration working methods or alternative working methods, use of cut off trenches, reduction of energy input per blow and reducing resistance to penetration e.g. pre-boring for driven piles;

9. Where high levels of noise and vibration are predicted, monitoring of noise and vibration levels;
10. Positioning plant as far away from residential property as physically possible and switching off when not in use;
11. Switching off plant and vehicle engines when not in use;
12. Regular maintenance and servicing of vehicles, equipment and plant;
13. Adherence to the agreed operational hours;
14. Use of hoarding to the required height and density appropriate to the noise sensitivity of the area. Use of enclosures and screens (hoardings and heavy Monaflex sheeting), where necessary and practicable, around noisy fixed plant, especially near to surrounding residences;
15. Liaison with the occupants of adjacent properties most likely to be affected by noise or vibration from activities on the Site should also take place. The occupants should be informed of the nature of the works, proposed hours of work and anticipated duration prior to the commencement of activities; and

16. Review of demolition and construction techniques, especially in response to exceedances of the Action Level and / or complaints
17. Implementing measures to reduce dust emissions during transport (for example, sheeting the sides of vehicles carrying fine material);
18. All mobile plant shall be maintained to prevent or minimise the release of dark smoke from vehicles exhaust;
19. Using dust screens and covers and the appropriate location of dusty materials storage;
20. Fires to be prohibited on the Site;
21. Restricting drop heights onto lorries;
22. Assessing the risk of dust annoyance from the operations throughout the working day, taking account of wind speed, direction, and surface moisture levels. The Contractor should ensure that the level of dust suppression implemented on site is adequate for the prevailing conditions. The assessment should be recorded as part of documented site management procedures;

23. Spraying of internal unsurfaced temporary roadways with water at regular intervals as conditions require. The frequency of road spraying would be recorded as part of documented site management procedures;
24. Keeping surfaced roads and the public road during all ground works clean and swept at regular intervals using a road sweeper as conditions require. The frequency of road sweeping would be recorded as part of documented site management procedures;
25. Adherence to the speed limits. All vehicles operating within the Site on unsurfaced roads would not exceed 15mph to minimise the re-suspension of dust;
26. Where dust from the operations are likely to cause significant adverse impacts at sensitive receptors, then the operation(s) should be suspended until the dust emissions have been abated. The time and duration of suspension of working and the reason would be recorded. Review of the dust management plan on a monthly basis during the construction project and the outcome of the review to be recorded as part of the documented site management procedures.
27. No bonfires shall be permitted on the Site.

Roads Authority response - dated 22 December 2020

No objections to the application subject to the following being included as conditions or informatives as appropriate:

1. The Applicant is required to upgrade the Lindsay Road - Sandpiper Drive - Newhaven Place Junction prior to construction of the 600th residential unit. The design and layout to be agreed with the Chief Planning Officer;
2. The design and layout of the road infrastructure, including footways, footpaths, accesses, cycle tracks, verges and service strips to be a reserved matter and to be agreed through future applications;
3. Parking numbers including car, cycle, accessible, electric vehicle and motorcycle parking to be a reserved matter and to be agreed through future applications;
4. The applicant will be required to:
 - a. Contribute the sum of £1,644,286 to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report. The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
 - b. Contribute the sum of £1,647,128 to the Ocean Drive Eastwards Extension as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
 - c. Contribute the sum of £72,226 to the Water of Leith Walkway Improvements (Warriston to Commercial Street) as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
 - d. Contribute the sum of £96,614 to the Lindsay Road / Commercial Street Junction Improvements as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
 - e. Contribute the sum of £60,032 to the Ferry Road / North Junction Street Junction Improvements as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
 - f. Contribute the sum of £95,676 to the Hawthornvale Off-Road Cycle path to Lindsay Road and into Western Harbour as per LDP Action Programme (2020). The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
 - g. Contribute the sum of £2,000 to progress a suitable order to redetermine sections of footway and carriageway as necessary for the development;
 - h. Contribute the sum of £2,000 to progress a suitable order to introduce waiting and loading restrictions as necessary;
 - i. Contribute the sum of £2,000 to promote a suitable order to introduce a 20pmh speed limit within the development, and subsequently install all necessary signs and markings at no cost to the Council. The applicant should be advised that the successful progression of this Order is subject to statutory consultation and advertisement and cannot be guaranteed;
5. In support of the Council's LTS Cars1 policy, the applicant should consider contributing the sum of £34,500 (£1,500 per order plus £5,500 per car) towards the provision of 6 car club vehicles in the area;
6. All accesses must be open for use by the public in terms of the statutory definition of 'road' and require to be the subject of applications for road construction consent. The extent of adoptable roads, including footways, footpaths, accesses, cycle tracks, verges and service strips to be agreed. The applicant should note that this will include details of lighting, drainage, Sustainable Urban Drainage, materials, structures, layout, car and cycle parking numbers including location, design and specification. Particular attention must be paid to ensuring that refuse collection vehicles are able to

service the site. The applicant is recommended to contact the Council's waste management team to agree details;

7. The applicant should note that the Council will not accept maintenance responsibility for underground water storage / attenuation;

8. A Quality Audit, as set out in *Designing Streets*, to be submitted prior to the grant of Road Construction Consent;

9. The applicant should be aware of the potential impact of the proposed development on the Edinburgh Tram and the Building Fixing Agreement. Further discussions with the Tram Team will be required;

10. In accordance with the Council's LTS Travplan3 policy, the applicant should consider developing a Travel Plan including provision of pedal cycles (inc. electric cycles), secure cycle parking, 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;

11. The applicant should note that new road names will be required for the development and this should be discussed with the Council's Street Naming and Numbering Team at an early opportunity;

12. Any parking spaces adjacent to the carriageway will normally be expected to form part of any road construction consent. The applicant must be informed that any such proposed parking spaces cannot be allocated to individual properties, nor can they be the subject of sale or rent. The spaces will form part of the road and as such will be available to all road users. Private enforcement is illegal and only the Council as roads authority has the legal right to control on-street spaces, whether the road has been adopted or not. The developer is expected to make this clear to prospective residents as part of any sale of land or property;

13. All disabled persons parking places should comply with Disabled Persons Parking Places (Scotland) Act 2009. The Act places a duty on the local authority to promote proper use of parking places for disabled persons' vehicles. The applicant should therefore advise the Council if he wishes the bays to be enforced under this legislation. A contribution of £2,000 will be required to progress the necessary traffic order but this does not require to be included in any legal agreement. All disabled persons parking places must comply with Traffic Signs Regulations and General Directions 2016 regulations or British Standard 8300:2009 as approved;

14. Electric vehicle charging outlets should be considered for this development including dedicated parking spaces with charging facilities and ducting and infrastructure to allow electric vehicles to be readily accommodated in the future;

Note:

I. Tram contribution based on the site being in zone 1 of the tram contribution zone and on the following uses:

a. 938 residential units;

b. 637m² of Class 1, 2 & 4 use (assessed as retail);

c. 808m² of Class 1, 2, 3 & 4 use (assessed as food & drink);

d. 970m² of Health Centre use (assessed as medical services);

II. Transport contributions were calculated by firstly identifying relevant actions to the development site that are in the current LDP Action Programme (February 2020). They are as follows:

o Ocean Drive Eastwards Extension (T16) - £12,678,750

o Water of Leith Walkway Improvements (Warriston to Commercial Street) - £637,000

- o Lindsay Road / Commercial Street Junction Improvements - £587,222
- o Ferry Road / North Junction Street Junction Improvements - £368,375
- o Hawthornvale Off-Road Cycle path to Lindsay Road and into Western Harbour - £306,250

To find a rate per housing unit the costs above were divided by the estimated housing capacities of the relevant LDP areas and neighbouring sites out with these areas identified in the Land Housing Audit:

- o Leith Waterfront - Western Harbour (LW(WH)) = 3,000
- o Central Leith Waterfront (CLW) = 2,720
- o Leith Waterfront - Salamander Place (LW(SP)) = 1,500
- o Land Housing Audit (LHA) = 1,107

The contribution level is calculated by applying the proposed number of residential units (938) to the rate per unit of each action to provide a level of contribution to each transport action identified. The calculations are as follows (percentages are for the purpose of the legal agreement):

- o Ocean Drive Eastwards Extension (T16) = £12,678,750 / 7,220 (LW(WH) + CLW + LW(SP)) = £1,756 per unit x 938 = £1,647,128 (83.5%)
- o Water of Leith Walkway Improvements (Warriston to Commercial Street) = £637,000 / 8,327 (LW(WH) + CLW + LW(SP) + LHA) = £77 per unit x 938 = £72,226 (3.7%)
- o Lindsay Road / Commercial Street Junction Improvements = £587,222 / 5,720 (LW(WH) + CLW) = £103 per unit x 938 = £96,614 (4.9%)
- o Ferry Road / North Junction Street Junction Improvements = £368,375 / 5,720 (LW(WH) + CLW) = £64 per unit x 938 = £60,032 (3%)
- o Hawthornvale Off-Road Cycle path to Lindsay Road and into Western Harbour = £306,250 / 3,000 (LW(WH)) = £102 per unit x 938 = £95,676 (4.9%)

III. A redesign of the Lindsay Road / Sandpiper Drive / Newhaven Place junction layout was submitted as part of the Applicants supporting transport information. However further information is required as to how this proposed layout complies with current guidance (Edinburgh Design Guidance and relevant Edinburgh Street Design Guidance Fact Sheets) and contributes to the Councils current transport policies. It is anticipated this will require further discussions and subsequent agreement with the Council as both Planning and Roads Authority;

TRAMS - Important Note:

The proposed site is on or adjacent to the proposed Edinburgh Tram. An advisory note should be added to the decision notice, if permission is granted, noting that it would be desirable for the applicant to consult with the tram team regarding construction timing. This is due to the potential access implications of construction / delivery vehicles and likely traffic implications as a result of diversions in the area which could impact delivery to, and works at, the site. Tram power lines are over 5m above the tracks and do not pose a danger to pedestrians and motorists at ground level or to those living and working in the vicinity of the tramway. However, the applicant should be informed that there are potential dangers and, prior to commencing work near the tramway, a safe method of working must be agreed with the Council and authorisation to work obtained. Authorisation is needed for any of the following works either on or near the tramway:

- o Any work where part of the site such as tools, materials, machines, suspended loads or where people could enter the Edinburgh Tram Hazard Zone. For example, window cleaning or other work involving the use of ladders;
- o Any work which could force pedestrians or road traffic to be diverted into the Edinburgh Trams Hazard Zone;

- o Piling, using a crane, excavating more than 2m or erecting and dismantling scaffolding within 4m of the Edinburgh Trams Hazard Zone;
- o Any excavation within 3m of any pole supporting overhead lines;
- o Any work on sites near the tramway where vehicles fitted with cranes, tippers or skip loaders could come within the Edinburgh Trams Hazard Zone when the equipment is in use;
- o The Council has issued guidance to residents and businesses along the tram route and to other key organisations who may require access along the line. See our full guidance on how to get permission to work near a tram way <http://edinburghtrams.com/community/working-around-trams>

Affordable Housing - dated 20 January 2021

1. Introduction

I refer to the consultation request from the Planning service about this planning application.

Housing Management and Development are the consultee for Affordable Housing. The proposed affordable housing provision is assessed to ensure it meets the requirements of the city's Affordable Housing Policy (AHP).

- o *Policy Hou 6 Affordable Housing in the Edinburgh Local Development Plan states that planning permission for residential development, including conversions, consisting of 12 or more units should include provision for affordable housing.*
- o *25% of the total number of units proposed should be affordable housing.*
- o *The Council's guidance on 'Affordable Housing' sets out the requirements of the AHP, it can be downloaded here:*

<https://www.edinburgh.gov.uk/affordable-homes/affordable-housing-policy/1>

2. Affordable Housing Provision

Planning permission was originally granted in outline under 01/03229/OUT and then again under 09/00165/OUT for up to 3000 units. The affordable housing requirement for these permissions is the lesser of 434 units or 18% of all residential units. 447 affordable homes have been delivered to date.

This applicant has stated that the requirements of the legal agreement have been satisfied and there is no requirement for further applications made in accordance with the Western Harbour Masterplan to deliver affordable housing.

However, there is now an AHP requirement for a minimum of 25% homes of approved affordable tenures. If a new planning permission is to be granted, a Section 75 Legal Agreement should secure affordable housing based on current AHP requirements.

The applicant should engage with the Council at an early stage to agree the tenure, mix and location of affordable homes required under the new permission. Where relevant, future applications for the Approval of Matters Specified in Condition should include an Affordable Housing Statement detailing how the AHP requirement will be addressed.

3. Summary

There is an AHP requirement for a minimum of 25% homes of approved affordable tenures. If a new planning permission is to be granted, a Section 75 Legal Agreement should secure affordable housing based on current AHP requirements. This approach which will assist in the delivery of a mixed sustainable community.

The applicant should engage with the Council at an early stage to agree the approach to delivery, tenure and location of affordable homes required under the new permission.

Where relevant, future applications for the Approval of Matters Specified in Condition should include an Affordable Housing Statement detailing how the AHP requirement will be addressed.

We would be happy to assist with any queries on the affordable housing requirement for this application.

SNH response - dated 31 August 2020

We've no comments to make to this application. We are consulted with individual development applications, including the more recent revised design framework and parkland proposals, and we advise of any HRA revisions required at these times.

SEPA - dated 25 August 2020

Thank you for your consultation email which SEPA received on 10 August 2020 (with documents available only few days later).

Advice for the planning authority

We have no objection to this planning application, however Edinburgh Council should note that any application must be considered in the context of current (date of the application) understanding of flood risk and climate change predictions.

Regulatory advice for the applicant

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulation section of our website or by contacting waterpermitting@sepa.org.uk or wastepermitting@sepa.org.uk.

Archaeology Officer - dated 17 August 2020

Further to your consultation request I would like to make the following comments and recommendations concerning this application to amend the wording of condition 1 of planning permission ref: 09/00165/OUT: to amend the time period within which applications for the approval of matters specified in conditions can be made.

Leith's Western Harbour occupies a large area reclaimed land situated historically 'offshore' between and no connecting historic harbours at Newhaven and Leith. During the early prehistoric period at various points this area was dry land, however it is

considered that the chances of finding early remains of this date given effects of modern harbour dredging is very limited. In 2002 as part of the infilling of the harbour, material was taken to the site from excavations at 21 Graham Street Bonnington. This material the skeletal remains of a 15th-17th century an adult male, removed during the construction of new flats on this site, as only leg bones were recovered by GUARD Archaeology following human-remains call out. Despite initial searching of the dumped material at the time no further human discovered in western harbour due to the significant quantities dumped material. It is unlikely that these remains will be discovered, however it is worthy of note.

The Western breakwater was constructed just prior to/ at the beginning of WWII and Leith Harbour formed an important part during this period. Although unlisted this structure is considered as being of local historic/archaeological significance. Given that most of the infrastructure has already been put in place it is considered that future developments associated with this application will not have a significant impact upon this structure.

Given the above and nature of this application to amend time for approval of matters specified in conditions I have concluded that if future developments avoid significant impacts upon the Western Breakwater that there are no known archaeological implications in granting this application.

Communities and Families - dated 17 September 2020

The Council has assessed the impact of the growth set out in the LDP through an Education Appraisal (August 2018), taking account of school roll projections. To do this, an assumption has been made as to the amount of new housing development which will come forward ('housing output'). This takes account of new housing sites allocated in the LDP and other land within the urban area.

In areas where additional infrastructure will be required to accommodate the cumulative number of additional pupils, education infrastructure 'actions' have been identified. The infrastructure requirements and estimated delivery dates are set out in the Council's Action Programme (February 2020).

Residential development is required to contribute towards the cost of delivering these education infrastructure actions to ensure that the cumulative impact of development can be mitigated. In order that the total delivery cost is shared proportionally and fairly between developments, Education Contribution Zones have been identified and 'per house' and 'per flat' contribution rates established. These are set out in the finalised Supplementary Guidance on 'Developer Contributions and Infrastructure Delivery' (August 2018).

is expected to generate primary school and secondary school pupils. A standard contribution towards 'Education infrastructure, land remediation and servicing' and 'Land purchase' is therefore required.

The legal agreement attached to the original outline consent for the Western Harbour development (01/03229/OUT) requires payment of £821 per flat (as at 1 January 2000) toward education infrastructure. If development at Western Harbour continues to progress under the terms of the original agreement there will be a significant funding

gap to deliver the education infrastructure that is required to serve new housing development in the Leith/Trinity Contribution Zone.

In order to reduce the capital funding gap for the education infrastructure required to mitigate the impact of housing developments it is necessary for any new legal agreement to reflect the current guidance.

The proposed development is therefore required to make a contribution on the established 'per house' and 'per flat' contribution rates set out below and secured through a new legal agreement.

If the appropriate infrastructure and land contribution is provided by the developer, as set out below, Communities and Families does not object to the application.

Per unit infrastructure contribution requirement:

Per Flat - £3,747

Per House - £18,391

Note - all infrastructure contributions shall be index linked based on the increase in the BCIS Forecast All-in Tender Price Index from Q4 2017 to the date of payment.

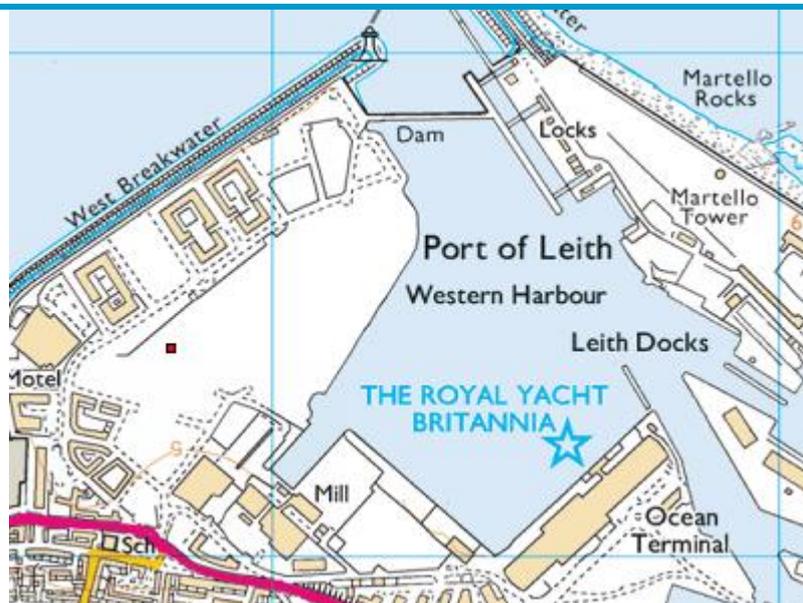
Per unit land contribution requirement:

Per Flat - £221

Per House - £947

Note - no indexation to be applied to land contribution

Location Plan



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