

Development Management Sub Committee

Wednesday 17 March 2021

Application for Planning Permission 19/06114/FUL at Land at, St Mary's Place Lane, Edinburgh Construction of new single dwelling.

Item number

Report number

Wards

B17 - Portobello/Craigmillar

Summary

The proposals comply with the Local Development Plan. The proposals preserve the character and appearance of the conservation area and have no adverse impact on residential amenity. The design is acceptable. There are no transport issues of concern. There are no material planning considerations which outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LHOU01, LEN06, LDES01, LDES04, LTRA02, LTRA03, LEN21, LDES05, NSGD02, CRPPOR,

Report

Application for Planning Permission 19/06114/FUL at Land at, St Mary's Place Lane, Edinburgh Construction of new single dwelling.

Recommendations

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

Background

2.1 Site description

The application site is an area of land, measuring approximately 325 sqm with a low bricked wall enclosure. It is located within St Mary's Place Lane, which is characterised by single storey, flat roofed garages. The rear elevations of properties on Argyle Crescent, Abercorn Terrace, St Marys Place back onto this lane.

The site is presently vacant and was previously overgrown prior to its clearance. Historically, the site could have been the former drying greens but there is currently no direct relationship with the properties in Argyle Crescent and is separated by a brick wall. The extension to the lane would have been for coal delivery. Historic maps shows that once the development on Argyle Crescent was completed, several shed like structures appeared at the far west of the lane. Overtime, the lane has been infilled with single storey garages.

This application site is located within the Portobello Conservation Area.

2.2 Site History

25 May 2007 - Planning permission refused for the erection of two mews properties (Application number: 07/01185/FUL);

4 October 2007 - Appeal against application 07/01185/FUL dismissed (DPEA reference: P/PPA/230/932);

11 January 2008 - Planning permission refused for the erection of a single dwelling house (Application number: 07/05058/FUL);

1 July 2008 - Appeal against application 07/05058/FUL dismissed (DPEA reference: P3085);

23 August 2010 - Planning permission refused to erect two single storey domestic garages for the parking of private motor vehicles (as amended) (Application number: 10/01753/FUL);

15 December 2010 - Review against application 10/01753/FUL dismissed (Review reference:10/00110/REVREF); and

22 September 2011 - Planning permission granted to erect two single storey domestic garages (with activity space for chairbound disabled users) for the parking of private motor vehicles (Application number: 11/01579/FUL).

Main report

3.1 Description of the Proposal

The application for a four-bedroom, detached dwelling arranged over two floors. It will occupy 150 sqm of the site.

In order to mitigate the impact of a building over two floors, the land will be excavated to position the lower ground floor circa 1200mm below existing ground level. This will result in a north elevation parapet height of just 4200mm, similar to the existing garages on the lane.

The development turns its back on the north, east and south, with the main windows facing west into the garden on the ground floor, and along the lane, and over the garages on the first floor. There are high level windows that face east, to allow some morning light into the first-floor dressing room and ensuite.

The design is contemporary, and the materials are largely brick to tie in with the brick boundary walls.

There is a garden area to the south.

Two on site car parking spaces are to be provided within a garage where there is also ample space for cycle parking.

Supporting documents

- Design Statement;
- Coal Report;
- Surface water management plan;
- flood risk assessment.

These documents are available to view on the Planning Portal.

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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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 principle of housing on the site is acceptable;
- b) the proposal preserves the character or appearance of the conservation area;
- c) the design is appropriate;
- d) future occupiers of the new build will have an acceptable level of living amenity;
- e) neighbouring amenity will not be adversely affected by the proposal;
- f) the proposal raises any road safety and meets the current parking standards;
- g) other material considerations have been addressed and
- h) public comments have been addressed.

a) Principle

Policy Hou 1 Housing Development in the Edinburgh Local Development Plan (LDP) states the circumstances that priority will be given to the delivery of the housing land supply. Criteria (d) of policy Hou 1 permits housing on suitable sites in the urban area, provided that the proposals are compatible with other policies in the plan. The application site is in an urban area as designated in the Edinburgh Local Development Plan. The principle of housing on the site is acceptable, subject to compliance with other policies in the plan. This is addressed in more detail below.

The proposals comply with Hou 1 in the LDP.

b) Conservation Area

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

LDP Policy Env 6 (Conservation Areas- Development) also states that development within a conservation area will be permitted which preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant character appraisal.

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

St Mary's Place Lane is a back lane and not highly visible within the conservation area. It is currently characterised by flat roofed garages and walls. At this end of the lane the garages are rendered. The site currently has a brick wall. The new house has been designed to fit in with the scale of buildings in the lane and will only be around 400mm higher than the garages as it has been excavated downwards. In terms of materials, the brick will potentially be a more prominent material although the existing wall is brick. Portobello brick was a traditional material and can be found in many parts of the conservation area, but stone is the predominant material. As such, a condition has been applied to materials to ensure the brick proposed is acceptable.

There have been two appeal decisions (both dismissed) in relation to the erection of houses on this site in 2007 and 2008 respectively, In both cases the Reporter raised concerns about the impact on the spatial character of the conservation area stating that the lane was characterised by garages not houses and the form of the buildings compromised the character of the lane. Increased activity in the lane was also seen as an issue. The applicant has sought to address these issues by excavating down so the new building will not necessarily have the appearance of a house and the outward appearance will be blank walls with doors. This retains the spatial relationship between the villas on Argyle Crescent and the character of the lane. Any increase in pedestrian and car activity would not fundamentally change the character of the conservation area.

Overall, the new house will fit in with the scale and character of the lane and will therefore preserve the character and appearance of the conservation area.

c) Design

Policies Des 1-Des 5 in the LDP sets out the design principles to ensure policy compliant schemes for new development proposals.

The design is contemporary and has been designed to fit in with the positive characteristics of the area in terms of scale, form and materials. To the lane, the appearance will be largely blank with the exception of a garage door and pedestrian door. Much of the north elevation facing the lane is in line with the garage heights and then the upper floor reads as a projection of this, around 400mm higher than the nearest garage. The overall massing of the proposal is broken down into two section which lessens the overall impact of the proposed scale and form of the building to fit in with the context of the lane.

As stated above, the materials are the subject of a condition to ensure they are appropriate.

The new house will appear as a high quality contemporary addition in harmony with other buildings in the lane.

d) Future occupiers

LDP Policy Des 5 Development Design - Amenity of the LDP states that planning permission will be granted for development where it is demonstrated that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

Floorspace

The Edinburgh Design Guidance requires a minimum internal floorspace of 91 sqm for a three-bedroom or more with enhanced storage. The proposal more than exceeds the minimum floorspace standard and this is acceptable.

Daylight

The proposal has good levels of daylighting.

Privacy

Future occupiers will have reasonable levels of privacy.

Noise

Given the residential nature of the area, the proposal is compatible with that use.

Open space

Policy Hou 3 Private Green Space in Housing Development states that planning permission will be granted for development which makes adequate provision for green space to meet the needs of future residents.

The proposal has a garden area which meets the standards.

e) Neighbouring Amenity

LDP Policy Des 5 Development Design - Amenity also states that planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments is not adversely affected.

Neighbouring gardens are already overlooked with low boundary walls. The orientation of the building means the windows all face west, at ground level onto the boundary wall and at upper level onto the adjacent garages and the rear ends of neighbouring gardens. Other windows are high level. There will be no adverse impacts in terms of privacy.

In terms of potential overshadowing the development will be positioned 1 metre away from the southern and eastern section of the site and there will therefore be no overshadowing of gardens.

Due to the distances involved there will be no loss of daylighting to neighbouring windows.

Overall, the proposal has been designed to take neighbouring amenity into account.

Noise and light pollution from a single house are unlikely to be more than other residential properties in the area.

f) Road Safety and Parking Standards

LPD Policies Tra 2- Tra 4 sets out the requirement for private car and cycle parking.

The Roads Authority has raised no issues in respect to road safety. The introduction of a house on this lane would be no different from the existing arrangement of cars driving on the lane to access the garages or to the existing situation or children playing within the lane.

Although the plans show room for two cars, this is indicative. Although the lane is unpaved, it is clearly used regularly and there is no reason emergency vehicles would be unable to access the new house.

g) Other Material Considerations

Flood Issues

LDP Policy Env 21 Flood Protection seeks to ensure that new development proposals do not increase a flood risk or be at risk of flooding itself; impede the flow of flood water or deprive a river system of flood water storage within the areas shown on the Proposals Map as areas of importance for flood management; or be prejudicial to existing or planned flood defence systems.

A flood risk assessment and surface water management plan have been submitted and Flood Planning has no objections subject to the applicant providing a written confirmation that Scottish Water agree to the proposed surface water discharge rate to the combined system. This has been added as an informative.

Historic Ground Use

A coal report has been submitted and the Coal Authority has no objections.

Waste

A waste strategy will be agreed with waste services.

h) Public Comments

Material Comments - Objection

- Site is not brownfield/ originally a drying green - assessed in 3.3 a)
- Will harm the character and appearance of conservation area - assessed in 3.3 b)
- Contrary to Councils guidance on building in garden grounds (incorrect-guidance since updated)
- Inappropriate development design - assessed in 3.3 c)
- Neighbouring amenity - assessed in 3.3 e)
- Two car parking will add traffic to area and increase road safety issues - assessed in 3.3 f)
- Existing lane too narrow/unpaved and would be unsuitable for emergency services - assessed in 3.3 f)

- Existing sewer to the lane is inadequate - assessed in 3.3 g)
- Proposals are contrary to Edinburgh Local Development Plan - assessed in report
- No detail on water or waste services - assessed in 3.3 g)
- The lane is regularly flooded - assessed in 3.3 g)
- No ground survey provided - assessed in 3.3 g)

Material Comments - Support

- Appropriate design for this site and will not harm the character or the appearance of the conservation area - assessed in 3.3 c)

Non-Material Comments - Objection

- will set a precedent - this is not a material planning consideration
- Security risk to neighbouring properties - - this is not a material planning consideration
- Access to lane is in poor condition and the applicants/owner do not own the lane or have any rights to carry out improvements to the lane/ Ownership issues of the lane - this is not a material planning consideration
- Personal reasons for purchasing house - this is not a material planning consideration
- Impact on views - this is not a material planning consideration
- Construction disruption/ construction logistics/ Health and Safety risks - this is not a material planning consideration
- Would involve significant excavation and could impact on surrounding houses/vibration - this is not a material planning consideration
- Quality detail of the drawings submitted and no landscape plan submitted - the drawings and design statement give clear details of the proposal
- Application does not mention any environmental or biodiversity impact assessment on the biodiversity of the site before clearance in 2019 or the removal of trees/shrubs from the site - this was not required
- Uncertainty over the technical capabilities of the access, ground conditions, power, drainage and water supply - these aspects will be covered by the building warrant
- large scale excavation of the site and the need to bring undefined volumes of earth off the site will not only create an issue for neighbours in terms of tipper loads entering and leaving the lane but the question of where the material is being transported to an dumped has not been addressed by the agent - this is not a material planning consideration. The applicant will have to ensure the proper licences are in place.

Conclusion

The proposals comply with the Local Development Plan. The proposals preserve the character and appearance of the conservation area and have no adverse impact on residential amenity. The design is acceptable. There are no transport issues of concern. There are no material planning considerations which outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Conditions :-

1. The proposed mitigation strategy on page 9 of the Coal Mining Report dated September 2020 in support of this application hereby granted shall be implemented prior to the occupation of the development.
2. Details of the proposed materials shall be submitted for the further approval of the planning authority.

Reasons:-

1. To mitigate any risks from old coal seams
2. To ensure that the proposed materials are acceptable.

Informatives

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
4. The applicant shall provide a written confirmation that Scottish Water agree to the proposed surface water discharge rate to the combined system.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

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:

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 17 January 2020 and the proposal attracted 61 comments; 59 were objections and 2 were support. The comments raised are addressed in the Assessment section of the report.

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 an urban area as designated in the adopted Edinburgh Local Development Plan and the Portobello Conservation Area.

Date registered

10 January 2020

Drawing numbers/Scheme

01, 02A-05A, 06,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Laura Marshall, Planning Officer

E-mail: laura.marshall@edinburgh.gov.uk

Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

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

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

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

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

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

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.

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

Appendix 1

Application for Planning Permission 19/06114/FUL At Land At, St Mary's Place Lane, Edinburgh Construction of new single dwelling.

Consultations

Transport Planning

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

1. *Electric vehicle charging outlets should be considered for this development.*

Note:

- *The applicant should note that St. Mary's Place Lane is not a 'road' and is considered to be a private access. The applicant should assure themselves that they have the necessary rights and authority to utilise the access; and*
- *The proposed 2 parking spaces are considered to be appropriate.*

Coal Authority

The application site falls within the defined Development High Risk Area. The Coal Authority's information indicates that the application site lies in an area where historic unrecorded coal mining activity is likely to have taken place at shallow depth.

The Coal Authority objected to the proposal in our previous consultation responses due to the lack of a Coal Mining Risk Assessment Report, or an equivalent report, to identify and assess the risks posed to the proposed development by coal mining legacy. We are therefore pleased to note that the applicant has now submitted a Coal Mining Risk Assessment report (September 2020, prepared by Earth Environmental & Geotechnical Ltd) in support of their application. Based on a review of appropriate sources of coal mining and geological information, the submitted report concludes that whilst coal seams are present beneath the site, the risk of instability at the surface derived from unrecorded coal mining activity is very low.

No further investigations or remedial measures are proposed. However, the report does recommend that as a precaution, the building is constructed upon a reinforced raft foundation that is capable of spanning potential voids and is designed to cater for differential settlement associated with to localised mining subsidence.

Based on the information submitted, and the professional opinions of the report authors set out therein in respect of coal mining legacy related stability matters, the Coal Authority wishes to withdraw its objection to the planning application, subject to the recommendations within the report being implemented on site.

The submitted report does not provide a detailed assessment of the risk posed by mine gas migration. The LPA may consider it prudent to seek comments from the Council's Environmental Health / Public Protection Team on this matter and any resultant need for gas monitoring and/or the incorporation of gas protection measures within the proposed development.

Communities and Families

The Council's Supplementary Guidance on 'Developer Contributions and Infrastructure Delivery' states that no contribution towards education infrastructure is required from developments that are not expected to generate at least one additional primary school pupil.

Using the pupil generation rates set out in the Supplementary Guidance, the development of one house is not expected to generate at least one additional pupil. A contribution towards education infrastructure is therefore not required

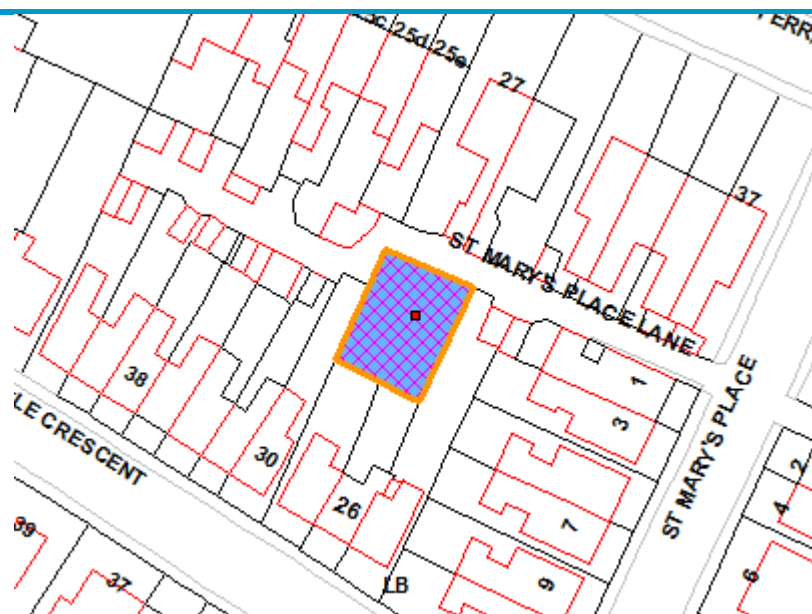
Flood Planning

Thank you for sending through the additional information. We have no major concerns over this application.

Our remaining comment relates to Scottish Water accepting the surface water discharge rate to the combined system. Prior to construction we would request that the applicant provides written confirmation that Scottish Water agree to the proposed surface water discharge rate to the combined system. This can be attached as a condition, if it helps your process.

This application can proceed to determination, with no further comments relating to our department.

Location Plan



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