

# Development Management Sub Committee

Wednesday 8 September 2021

## Application for Planning Permission 21/02434/FUL At Site 30 Metres North Of 18, Pipe Lane, Edinburgh Proposed residential development comprising 10 flats with associated car and cycle parking, infrastructure and landscaping

Item number

Report number

Wards

B17 - Portobello/Craigmillar

### Summary

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The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves and enhances the character and appearance of the conservation area and will not materially impact upon the scheduled monument.

The development complies with the development plan. The proposal is acceptable in this location and is of an appropriate scale, form and design and introduces a suitable mix of flats in the area. The proposal will have no material impact upon the amenity of local residents and will not result in any traffic or road safety issues.

There are no material planning considerations which outweigh this conclusion.

### Links

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[Policies and guidance for this application](#)

LDPP, LDEL01, LDES01, LDES03, LDES04, LDES05, LDES10, LDES11, LEN06, LEN03, LEN13, LEN14, LEN21, LHOU01, LHOU02, LHOU03, LHOU04, LTRA02, LTRA03, LTRA04, NSG, NSGD02, OTH, CRPPOR,

# Report

## **Application for Planning Permission 21/02434/FUL At Site 30 Metres North Of 18, Pipe Lane, Edinburgh Proposed residential development comprising 10 flats with associated car and cycle parking, infrastructure and landscaping.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The application site relates to land 18 metres north of No. 18 Pipe Lane, Portobello, Edinburgh.

It is currently vacant, empty land. The site was cleared years ago, previously there was an arcade building on the site.

Directly to the north of the site is Portobello Promenade, the beach and then the Firth of Forth. To the east is an area of public space where there is quite a large public toilet. To the west is a newly constructed flatted development, 4 and 5 storey's in height.

To the south east and south is a 1980's development of largely two storey houses and flats.

To the south west is Portobello Pottery Kilns, a scheduled monument.

The size of the site is 0.28 hectares.

This application site is located within the Portobello Conservation Area.

#### **2.2 Site History**

15 August 2013 - Planning permission granted for demolition of amusement arcade and erection of 73 flats with associated underground parking, amusement arcade and café with landscaped public and private gardens, at 1 Pipe Lane Edinburgh EH15 1BR (planning application reference: 09/00248/FUL). The development was substantially built. However, the part of it which is on this (21/02434/FUL) site was not constructed. The amusement arcade was demolished on site and the planning permission remains extant.

03 November 2017 - Non-material variation to planning permission 09/00248/FUL - minor alterations to the east block building, (Phase 2), comprising the internal layout

and fenestration with a new gable wall on the east elevation (application reference 09/00248/VARY).

24 October 2018 - an application for 13 units on this site was withdrawn (18/01368/FUL). The development was 6 storeys high and included 2 semi detached houses adjacent to the kilns.

## **Main report**

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### **3.1 Description Of The Proposal**

The application is for planning permission for the erection of a five storey flatted block which will include 10, 3 bedroom flats. The block will measure 18.57 metres in width, 16.15 metres in depth and will be approximately 16 metres in height. It will have a flat roof.

The walls of the proposal to its principal elevation and public facing gable elevation will be largely finished in sandstone cladding with elements of aluminium composite cladding. The elevation to the rear and that which will face the existing flats will be finished in sandstone cladding and white render.

The properties will all have their own balconies or raised garden terraces at ground floor level facing the promenade, whilst they will also have juliette balconies to the side and rear. Two of the ground floor flats will also have private rear garden grounds.

The area to the rear of the site will contain 10 off street car parking spaces and 24 secure cycle spaces as well as visitor cycle spaces. Private greenspace will also be provided for the residents. The boundary of this rear area will be lined by a wall with a cast stone finish and steel railings with infills with local artistic reference inlays. The walls along the boundary of the existing flats will be finished in concrete and galvanised steel railings to match that of the existing development.

#### Supporting documents

Information submitted in support of application is available to view on the Planning and Building Standards Online Services:

- Flood risk assessment report
- Archaeology report
- Surface water management report
- Design statement
- planning statement

### **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 the proposal is acceptable in this location;
- b) the proposal would impact upon the scheduled monument and archaeology;
- c) the proposed scale, form, design and materials will adversely affect the character and appearance of the conservation area, its setting or that of the surrounding area;
- d) the proposal will not have a damaging impact upon the Special Protection Area or Site of Special Scientific Interest;
- e) the proposal will result in an unreasonable loss of neighbouring amenity;
- f) the proposal provides sufficient amenity for the future occupiers of the development;
- g) the proposal will have adequate car and cycle parking and will have no impact upon road or pedestrian safety;
- h) any flooding concerns have been addressed;
- i) whether the proposal will be required to contribute to infrastructure provision;
- j) whether there are any other material planning considerations; and
- k) representations raised have been addressed.

#### **a) Principle**

Policy Hou 1 (Housing Development) of the adopted Edinburgh Local Development Plan (LDP) states that housing development will be supported on suitable sites in the urban area, provided the proposals are compatible with other policies in the plan.

The application site is defined as being part of the urban area in the adopted LDP. It is also noted that on 15 August 2013 planning permission was granted for the demolition of an amusement arcade and erection of 73 flats with associated underground parking, amusement arcade and café with landscaped public and private gardens under planning application reference 09/00248/FUL. This planning permission was partially implemented. The amusement arcade was demolished on this site and the planning permission for the construction of a 5 storey block of flats to the front of the site and a 3 storey block to the side/rear of the site remains extant.

The principle of housing development at the site is therefore acceptable as long as the proposals are compatible with other policies in the plan.

LDP policy Hou 2 (Housing Mix) states that the Council will seek a mix of house types and sizes where practicable to meet a range of housing needs. However, it is acknowledged that of the 55 flats that have been constructed on the site directly to the west, the vast majority are two bedroom properties. Of the 18 flats that could be constructed on this site under the extant consent, there were only 2 three bedroom flats proposed, the rest were two bedroom.

The Edinburgh Design Guidance states that *In schemes with 12 units or more, 20% of the total number of homes should be designed for growing families. These types of homes should have three or more bedrooms, have good levels of storage, have direct access to private gardens (for example via patio doors or private external stairs) or safe play areas for children, and have a minimum internal floor area of 91m<sup>2</sup>.* If the extant scheme was assessed against the above it would not have complied with the guidance.

The proposed ten, 3 bedroom flats will bring a greater mix of house types and sizes to this area and it will provide an element of larger homes designed for growing families which the extant consent does not have. Policy Hou 2 is complied with.

LDP policy Des 2 (Co-ordinated Development) states that planning permission will be granted for development which will not compromise the effective development of adjacent land. As stated in section 3.3 e, the proposal will have no material impact upon neighbouring properties in terms of amenity and will not compromise the ability of these properties or adjacent land to be appropriately developed in the future. It therefore complies with LDP policy Des 2.

The proposal complies with LDP policy Hou 1.

The development is acceptable in principle.

#### b) Impact upon Scheduled monument and Archaeology

It is noted that the Portobello Pottery Kilns, Scheduled Monuments are located to the south west of the site. No works to the Kilns are proposed.

Scheduling is the process that identifies, designates and provides statutory protection for monuments and archaeological sites of national importance as set out in the Ancient Monuments and Archaeological Areas Act 1979

Historic Environment Scotland's Guidance Note on Managing Change in the Historic Environment: Scheduled Monuments states that *Archaeological sites and monuments are often fragile and need careful management to ensure their survival. Designation by scheduling under the Act helps protect the most important examples of these sites and monuments in the national interest.*

LDP policy Env 8 (Protection of Important Remains) states that development will not be permitted which would

(a) adversely effect a scheduled monument or other nationally important archaeological remains, or the integrity of their setting.

Historic Environment Scotland were consulted. It confirmed that it had no objection to the proposal.

The Council's archaeologist confirmed no objections to the proposal subject to the inclusion of a condition relating to a programme of archaeological works.

It should also be noted that as part of the extant consent for the site a three storey building continued down along Pipe Lane towards Bridge Street to the south. This would enclose and reduce the visibility of the kilns from the promenade to a much greater degree than application proposed which instead consists only of the main building along the promenade and to the rear a car park and landscaped area. Under the proposed plans the kilns will still be visible walking north along the promenade and the setting of these scheduled monuments will not be materially compromised.

The proposal complies with LDP policy Env 8 and Historic Environment Scotland's Guidance Note.

### c) Design and Impact upon 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 Area- Development) states that development within a conservation area or affecting its setting will be permitted which: a) preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area and c) demonstrates high standards of design and utilises materials appropriate to the historic environment.

The statement of significance of Portobello Conservation Area Character Appraisal (CACA) states *Portobello retains the character of a small town with a distinct town centre, an exceptionally high quality residential hinterland, a shoreline setting and a long sea-front promenade. The architectural form and character of Portobello is rich and varied, with many fine Georgian and Victorian historic buildings. The building materials are traditional: stone, harling, slate, pantiles,*

*timber windows and doors. Building heights vary from single storey to four storey tenements.*

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

LDP policy Des 1 (Design Quality and Context) states that planning permission will be granted for development where it is demonstrated that the proposal will create or contribute towards a sense of place.

Policy Des 4 (Development Design) states development should have a positive impact on its surroundings, having regard to height and form; scale and proportions, including the spaces between buildings; position of buildings and other features on the site; and materials and detailing.

LDP policy Hou 4 (Housing Density) states that the council will seek an appropriate density of development on each site having regard to the need to create an attractive environment and safeguard living conditions within the development.

LDP policy Des 10 (Waterside Development) states that planning permission will only be granted for development on sites in the coastal edge or adjoining a watercourse where the proposals:

- a) provide an attractive frontage to the water in question
- b) where appropriate, maintains or improves, public access along the water's edge
- c) maintains and enhances the water environment, its nature conservation or landscape interest
- d) if appropriate, promotes recreational use of the water

LDP policy Des 11 (Tall Buildings- Skyline and Key Views) states that planning permission will only be granted for development which rises above the building height generally prevailing in the surrounding area where:

- a) a landmark is to be created that enhances the skyline and surrounding townscape and is justified by the proposed use
- b) the scale of the building is appropriate in context
- c) there would be no adverse impact upon important views of landmark buildings, the historic skyline, landscape features in the urban area or the landscape setting of the city including the Firth of Forth

In terms of policy Env 6 on Conservation Area Development, the proposed development will enhance the appearance of the conservation area as it will fill a derelict site with new buildings compatible with the development to the west. It will provide an attractive frontage to the Promenade and Pipe Lane. The site is on the edge

of the conservation area and the area has been subject to considerable change over the last 10 years with new flats being erected along the frontage. This development has been sensitively designed in good quality materials and overall it will preserve the character of the conservation area.

The Edinburgh Design Guidance sets out key aims for new development to have a positive impact on the immediate surroundings, through its height and form; scale and proportions; positioning of the buildings on site and materials and detailing.

The application site is currently an empty plot of land after the amusement arcade previously on the site was demolished. The development proposed will quite closely replicate the existing five storey flatted building which was constructed on the other side of the site directly to the west. It will also be five storeys in height and will have a similar design, scale and mass. It will be viewed as a completion of the larger development and will therefore be compatible with the surrounding area.

The new development proposed within this site will therefore not be an incongruous intervention. The level of density proposed at the site is also comparable to that of the nearby recently constructed flats.

The proposed building will have a flat roof, whilst its walls shall be finished in stone cladding. The adjacent block of flats has also been finished in stone cladding although it has not weathered well. The agent has stated that the proposed stone material will be of a higher quality than that used on the nearby flatted block and that care will be taken during construction to ensure that the building is completed to a high standard. It is recommended that a condition be applied to the consent with regards to further details of the proposed external materials being submitted for the approval of the Council, prior to works commencing on site.

The development will also have a range of balconies, which will be finished largely in glass. Whilst the glazing will require maintenance and cleaning, appropriate measures will be included within the required building warrant and in the building maintenance plan. Overall, the building will provide an attractive frontage to the water, whilst it will complement and bookend the existing structures directly nearby.

The ground floor flats will have external raised terraces, this is to provide required separation from the public footpath and the private spaces of the flats and to provide the required levels of flood protection. Again this is the same layout that was approved and constructed directly nearby under the extant consent.

The flats will be constructed within private land and a degree of separation from public spaces and the pavement must be expected. However, the raised terraces will not impact upon the public access to or along the water's edge or indeed along the promenade.

A sun path study has been submitted with the application. This shows that whilst the proposal will cast shadow onto the promenade during the day, it will not materially impact upon the beach area. The area of shadow cast upon the promenade by the development will also be relatively small compared to the larger buildings to the west which have recently been constructed.



While the proposal will undoubtedly have a degree of impact upon some property's views of the coast, there is no right to a view under planning policy. In terms of the proposals potential impact upon key views, the development will be built along the established building line of the promenade and will be constructed close to the gable of the existing newly constructed flats. The proposal will not impact upon views of the Firth of Forth from the promenade and will not materially impact upon the landscape setting of the Firth of Forth from key viewing points like the Old and New Town.

One disabled parking space shall be provided within the site. Disabled access shall be provided from the greenspace and car parking area. To the front an access lift from the promenade shall also be provided. Stairs and a lift will be present within the building.

The density of the proposal is acceptable, and it is an imaginative, high quality design which will enhance the area.

The proposal complies with LDP policies Env 6, Des 1, Des 4, Des 10, Des 11 and Hou 4.

#### d) Impact upon SPA and SSSI

The site lies adjacent to the Firth of Forth which is a designated Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI).

LDP policy Env 13 (Sites of International Importance) states that internationally important sites, known as "Natura 2000 sites" designated under the Conservation (Natural Habitats &c) Regulations 1994. The Firth of Forth is included as one of these sites.

LDP policy Env 14 (Sites of National Importance) states that Sites of Special Scientific Interest (SSSI's) are areas of land which are considered by Nature.Scot to be of special interest by reason of their natural features.

The Council's Ecologist was consulted as part of the assessment of the application and was satisfied that the proposal would have no impact on the SPA or SSSI.

Nature.Scot were also consulted but did not provide comment.

The proposal complies with LDP policy Env 13 and Env 14.

#### e) Neighbouring amenity

LDP policy Des 5 states that planning permission will be granted for development where the amenity of neighbouring developments is not adversely affected.

The Edinburgh Design Guidance confirms that the pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances. In assessing this, the Council will look at each case individually and assess the practicalities of achieving privacy against the need for development.

The windows to the front of the building will overlook the promenade and then the sea. The windows in the gable elevation of the building will overlook an area of public open

space which is to the front of a public toilet. The windows to the rear of the building will look out directly into the proposed car parking/landscaped area to the rear of the site.

The applicant has produced a sun path analysis that shows that the proposal will not materially impact upon existing levels of sunlight received by neighbouring residential properties.

There are no buildings directly to the north of the proposal. The nearest property to the south west of the proposal is approximately 50 metres away. Whilst the buildings to south east along Pipe Lane shall be closer to the site, their principal elevations will not directly face the proposed building. It is also acknowledged that under the approved extant consent a three storey building could be constructed directly across the road from the principal elevation of these properties.

The windows in the flats constructed to the west of the site will also not directly face the proposed building.

The existing levels of daylight to neighbouring properties will not be materially impacted by the proposal.

The planning service does not control the potential for noise and disruption associated with the construction of a build. The use of the site as flats will not materially impact upon existing residents in terms of potential noise and disruption.

The proposal complies with LDP policy Des 5.

#### f) Amenity for future occupiers

LDP policy Des 5 states that planning permission will be granted for development where it is demonstrated that future occupiers will have acceptable levels of amenity.

It is noted that the properties are all at least dual aspect and will have large windows that will face to the south. Overall, the properties will receive adequate levels of daylight while views will also be good.

The Edinburgh Design guidance establishes minimum floor space standards for new residential properties. These are: 81 sqm for a three bedroom property. The proposal exceeds these standards.

LDP policy Hou 3 (Private Greenspace in Housing Development) states that planning permission will be granted for development that makes adequate provision for green space to meet the needs of future residents. In flatted developments where communal provision will be necessary, this will be based on a standard of 10 square metres per flat. A minimum of 20% of the total site area should be useable greenspace.

The development will have 252 sqm of green amenity space, which will be located to the south of the site. Each apartment will also have its own private balcony, whilst two properties will also have private rear gardens.

The proposal complies with LDP policy Hou 3.

Environmental Protection was consulted as part of the assessment of the application. It confirmed that it had no objections subject to the inclusion of a condition to the consent relating to a ground contamination survey.

#### g) Road Safety, car and bike storage

LDP policy Tra 2 (Private Car Parking) states that planning permission will be granted for development where proposed car parking provision complies with and does not exceed the parking levels set out in Council Guidance.

LDP policy Tra 3 (Private Cycle Parking) states that planning permission will be granted for development where the proposed cycle parking and storage facilities comply with the standards set out in Council guidance.

LDP policy Tra 4 (Design of off street car and cycle parking) states the considerations that will be taken into account where off street car parking is considered to be acceptable.

The development proposes, 24 cycle parking spaces, eight visitor cycle parking spaces and ten off street car parking spaces.

The Roads Authority was consulted as part of the assessment of the application. It has confirmed that it has no objections to the proposals subject to suitable informatives being added to the consent.

Car and secure cycle parking have been provided in accordance with parking standards.

It is further noted that the extant consent for the site includes 18 apartments an arcade and a cafe which would likely generate much more traffic than the ten apartments now proposed.

The proposal complies with LDP policy Tra 2, Tra 3 and Tra 4.

#### h) Flooding

LDP policy Env 21 (Flooding Prevention) states that planning permission will not be granted for development that would increase the risk of flooding or be at risk of flooding itself.

A Surface Water Management Plan and Flood Risk Assessment were submitted with the application.

Flood Planning confirmed that it has no objections to the proposal.

The Scottish Environmental Protection Agency (SEPA) also confirmed it had no objections.

The proposal complies with LDP policy Env 21.

### l) Financial Contributions

LDP policy Del 1 - (Developer Contributions and Infrastructure Delivery) states that proposal will be required to contribute to the following infrastructure provision where relevant and necessary to mitigate any negative additional impact (either on a individual or cumulative basis) and where commensurate to the scale of the proposed development.

No financial contributions have been identified.

The proposal complies with LDP policy Del 1.

### j) Other material considerations

#### *Sustainability*

LDP policy Des 6 (Sustainability) states that planning permission will only be granted for new development where it has been demonstrated that the current carbon dioxide emissions target has been met, with at least half of this target met through the use of low and zero carbon generating technologies and other features are incorporated that will reduce or minimise environmental resource use and impact.

The plans submitted include an electric car charging point.

Swift bricks shall be included within the site and air source heat pumps are also proposed.

The proposal complies with LDP policy Des 6.

#### *Waste*

Waste Services was consulted as part of the assessment of the application and has confirmed no objections to the proposal.

### k) Public comments

#### **Material Representations - Objections**

- Not enough parking spaces on the site, impact on road safety- This is addressed in section 3.3g
- Development should be car free - This is addressed in section 3.3g.
- Impact upon sunlight/daylight levels and overshadowing - This is addressed in section 3.3e
- Loss of privacy- This is addressed in section 3.3e
- Design, scale and materials inappropriate - This is addressed in section 3.3c

- Impact upon skyline - This is addressed in section 3.3c
- Impact upon historic monument and their setting- This is addressed in section 3.3b
- Overdevelopment of the site - This is addressed in section 3.3d
- Impact upon conservation area- This is addressed in section 3.3c
- Insufficient public consultation-Statutory neighbour notification has been carried out correctly given the scale of development proposed. A site notice was also erected and the development was advertised in the Edinburgh Evening News.
- Impact on the public and private space - This is addressed in section 3.3 c
- Disruption and noise - This is addressed in section 3.3 e
- Impact on future nearby development- This is addressed in section 3.3a. The development of this site does not prejudice the potential development of adjacent sites.

### **Non Material Objection**

- Removal of commercial/cafe uses- There are no LDP policies which state that residential accommodation in this location must have an element of commercial/cafe use
- Construction noise- This is not controlled by the Planning Service.
- Site should be considered for other uses- The Planning Service can only assess application submitted to it against the policies in the adopted LDP and associated supplementary guidance

### **Material Representations - Support**

- Development respects character and appearance of conservation area, will improve areas visual amenity - This is addressed in section 3.3c
- Development is sustainable, good use of brownfield, vacant land- This is addressed in section 3.3a
- Appropriate design - This is addressed in section 3.3e
- Need to ensure adequate parking and waste storage provided- This is addressed in section 3.3 g and j
- More parking provision required - This is addressed in section 3.3g

- More housing is required within the area - This is addressed in section 3.3a

### **Non Material Representations - Support**

- Will glass balconies be permitted? - This will be addressed under the building warrant.
- Will bring more jobs to the area- No commercial aspect is proposed.
- Concern relating to gap between buildings.- The gap between proposed and existing buildings within the applicants ownership will be fenced off from the promenade.

### **Material Neutral Comment, including comment made by Portobello Community Council**

- Parking and access- This is addressed in section 3.3g
- Impact upon Kilns- This is addressed in section 3.3 b
- Scale and size, design of building and landscaping- This is addressed in section 3.3c
- Good use of site, sustainable-This is addressed in section 3.3 a
- Developer contributions. No affordable housing. - This application can only assess the proposed development as submitted. The scale of the development does not require affordable housing provision. It is further noted that the extant consent for the application also did not require affordable housing provision.
- Lack of renewable energy aspects- This is addressed in section 3.3j
- Impact upon local facilities- This is addressed in section 3.3 i

### **Non Material Neutral Comment**

- Removal of commercial/cafe uses- There are no LDP policies which state that residential accommodation in this location must have an element of commercial/cafe use
- loss of view- This is not a material planning consideration.
- legal disputes over the construction of underground parking spaces- This cannot be considered under this application.
- Use of proposed bin facilities - This is a civil matter.

## Conclusion

The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997 as it preserves and enhances the character and appearance of the conservation area and will not materially impact upon the scheduled monument.

The development complies with the development plan. The proposal is acceptable in this location and is of an appropriate scale, form and design and introduces a suitable mix of flats in the area. The proposal will have no material impact upon the amenity of local residents and will not result in any traffic or road safety issues.

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. No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis, reporting, publication, preservation, public engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant

2. (i) Prior to the commencement of construction works on site:

a) A site survey (including intrusive investigation where necessary) must be carried out to establish, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and

b) Where necessary, a detailed schedule of any required remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning Authority.

ii) Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided for the approval of the Planning Authority.

3. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.
4. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and all planting, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.
5. The approved landscaping scheme shall be fully implemented within six months of the completion of the development.
6. Further details of the proposed air source heat pumps, including their siting, shall be submitted for the written approval of the Council prior to work commencing on site.
7. Electric charging points in compliance with the requirements set out in the Edinburgh Design Guidance shall be implemented and operational prior to the occupation of the flats hereby approved.

**Reasons:-**

1. To protect nationally important archaeological artefacts within the site.
2. To protect the health and safety of future occupants.
3. In the interests of visual amenity.
4. In the interests of visual amenity.
5. In the interests of visual amenity.
6. In the interests of amenity.
7. To mitigate the impacts of climate change

**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 should further engage with SEPA to receive the necessary permissions to discharge surface water to the Figgate Burn via the surface water network.
- 5.a. The proposed access to the off-street car parking area is to be by single vehicle width dropped kerb (i.e. not bell mouth) in order to prioritise pedestrian movement;
- b. The applicant should consider:
  - a. the provision of car club vehicles;
  - b. developing a Travel Plan including provision of 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;
  - c. provision of electric vehicle charging outlets for the disabled parking spaces as well as the single outlet proposed for other vehicles;

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.

6. Should during construction the proposals for discharging water prove unfeasible or difficult to implement as proposed in the application and permitted in the permission the applicant should contact CEC and SEPA as a matter of urgency to agree appropriate alternatives

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

## **Risk, Policy, compliance and governance impact**

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

## **Equalities impact**

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### **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**

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### **7.1 The sustainability impact has been assessed as follows:**

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

## **Consultation and engagement**

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### **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 received 8 objection comments, 27 support comments and four neutral comments including one from the Portobello Community Council. The points raised are addressed in section 3.3 of the report.

## **Background reading/external references**

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- 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](#)

<b>Statutory Development Plan Provision</b>	Urban Area
<b>Date registered</b>	11 May 2021
<b>Drawing numbers/Scheme</b>	1-14, Scheme 1

**David Givan**  
**Chief Planning Officer**  
 PLACE  
 The City of Edinburgh Council

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## **Links - Policies**

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

LDP Policy Des 11 (Tall Buildings - Skyline and Key Views) sets out criteria for assessing proposals for tall buildings.

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

LDP Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

LDP Policy Env 13 (Sites of International Importance) identifies the circumstances in which development likely to affect Sites of International Importance will be permitted.

LDP Policy Env 14 (Sites of National Importance) identifies the circumstances in which development likely to affect Sites of National Importance will be permitted.

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 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 4 (Design of Off-Street Car and Cycle Parking) sets criteria for assessing design of off-street car and cycle parking.

## **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.

## **Other Relevant policy guidance**

**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 21/02434/FUL At Site 30 Metres North Of 18, Pipe Lane, Edinburgh Proposed residential development comprising 10 flats with associated car and cycle parking, infrastructure and landscaping.**

### **Consultations**

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#### **Archaeology**

*The site overlies the remains associated with the nationally significant Portobello (Rathbone) Potteries. The site has a rich and complex history with industrial activity in this location known from as early as the 1760's when a Mr Jamieson established his brick-works here. Potteries on the site were soon established certainly by the early 1770's, with Anthony Hellcoat establishing a pottery on the site c.1786. By Wood's Plan of 1824 the site had developed significantly with a contemporary map showing the development site as overlying both these early-Industrial Potteries. Portobello Soap-works and also a harbour constructed to service them.*

*The Portobello Potteries expanded throughout the 19th and early 20th centuries under various owners most notably A W Buchan, undergoing various name changes along route finally ending as the Thistle Pottery, which closed in 1972. All that remains today above ground are the two scheduled bottle-kilns (dated 1906 & 1909) immediately to the west of the site. The site's 18th century harbour, the remains of part of which were excavated by AOC in 2013 and preserved under the adjacent flatted development (see Fig. 2), can also be seen, depending on the movement of sand and tide on Portobello Beach.*

*Following discussions and archaeological requirements for pre-determination archaeological assessments, an archaeological evaluation was carried out on site by AOC Archaeology in October 2020 (see AOC's DSR 24351 accompanying the application). The results indicated that despite modern activities that significant deposits survive across the site, though the upper sections of the expected 18th century harbour had been truncated surviving either below 2m and or across the neighbouring site.*

*The site occurs across an area regarded as being of potentially nationally archaeological significance in terms of Scotland's Industrial Pottery industry dating back to the mid-18th century. Accordingly, this application must be considered under terms Scottish Government's Our Place in Time (OPIT), Scottish Planning Policy (SPP) and Historic Environment Scotland Policy Statement (HESPS) 2016 and CEC's Edinburgh Local Development Plan (2016) Policies DES 3, ENV8 & ENV9. The aim should be to preserve archaeological remains in situ as a first option, but alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be an acceptable alternative.*

*It is essential that if granted a programme of archaeological mitigation is undertaken prior to development. This will require the undertaking of programme of archaeological investigation prior to development to fully excavate record and analysis of any surviving archaeological remains surviving across the site and to ensure the protection of the buried harbour located across the rear of the site at depth.*

*In addition, given the archaeological significance of the site and the considerable local interest in its heritage it is considered essential that as part of the overall archaeological programme of works that a programme of public/community engagement is undertaken during development. The full the scope of which will be agreed with CECAS but will include site open days, viewing points, temporary interpretation boards, press and social media.*

*Lastly, an engineering mitigation strategy must be submitted which will seek to avoid damage to the adjacent scheduled kilns during construction works, considering any possible affects construction methodologies may have e.g. vibrations from piling, upon the foundations of these fragile brick structures. This will include monitoring of the structures throughout the process.*

*In consented it is essential therefore that a condition be applied to any permission granted, to secure this programme of archaeological works is undertaken based upon the following CEC condition;*

*'No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis, reporting, publication, preservation, public engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'*

*The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.*

## **Environmental Protection**

*Environmental Protection has no objections to this application, subject to the attached condition:*

1. *Prior to the commencement of construction works on site:*

*(a) A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Head of Planning, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and*

*(b) Where necessary, a detailed schedule of any remedial and /or protective measures, including their programming, must be submitted to and approved in writing by the Head of Planning.*

*Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the satisfaction of the Head of Planning.*

*The proposal is situated on land which has the potential to be contaminated. A condition is recommended above which requires the developer to investigate any potential contamination and ensure that the site is remediated to a level commensurate with the proposed end use.*

*Therefore, Environmental Protection has no objection to the application, subject to the above condition.*

## **Flood Planning**

*Thank you for sending through Scottish Water's PDE response.*

*Prior to commencing development of the site, we recommend the applicant further engages with SEPA to receive the necessary permissions to discharge surface water to the Figgate Burn via the surface water network.*

*This application can proceed to determination with no further comments from Flood Prevention.*

## **Historic Environment Scotland**

*We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.*

## **Scottish Water**

### *Audit of Proposal*

*Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:*

### *Water Capacity Assessment*

*Scottish Water has carried out a Capacity review and we can confirm the following:*

*There is currently sufficient capacity in GLENCORSE Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.*

### *Waste Water Capacity Assessment*

*There is currently sufficient capacity for a foul only connection in the EDINBURGH PFI Waste Water Treatment works to service your development. However, please note that*

*further investigations may be required to be carried out once a formal application has been submitted to us.*

## **Waste Services**

*I have been in contact with the architect for this development and I can confirm that they have provided the information for the waste collections and these are shown to be in line with our instruction for architects guidance and the developments waste and recycling requirements have been fully considered (guidance available here <https://www.edinburgh.gov.uk/wasteplanning> ).*

*I would ask that the architect passes my contact information to the developer/builder and to stress that they will need to contact this department a minimum of 12 weeks prior to any collection agreement to allow us time to arrange a site visit and to add these to our collection systems.*

*A site visit will be conducted to ensure that this has been constructed inline with our agreement. Any waste produced on site by the residents/occupants will be the responsibility of the developer/builder until such times as the final part of our agreement and waste collections are in place.*

## **Nature.Scot**

*No response.*

## **Roads Authority**

*No objections subject to appropriate conditions and informatives.*

### *Full Response*

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

*1. The proposed access to the off-street car parking area is to be by single vehicle width dropped kerb (i.e. not bell mouth) in order to prioritise pedestrian movement;*

*2. The applicant should consider:*

*a. the provision of car club vehicles;*

*b. developing a Travel Plan including provision of 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;*

*c. provision of electric vehicle charging outlets for the disabled parking spaces as well as the single outlet proposed for other vehicles;*

*3. 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.

Note:

The proposed 24 cycle parking spaces, 8 visitor cycle spaces and 10 car spaces, including 1 disabled parking space, are considered acceptable.

## **SEPA**

No objection to this planning application, but we advise that there is a need for clarification before the application is determined. Please see Section 2 of our response, SUDS.

### *Flood Risk*

The approximate 1 in 200-year flood level is 3.95mAOD based on calculations using the Coastal Flood Boundary Method. This is a still water level which does not account for the effects of wave action, climate change, funnelling or local bathymetry. The recommended sea level rise for the area is 0.86m by 2100 based on the latest UK climate change predictions published in 2018. This allowance, plus a minimum freeboard allowance of 0.6m to account for uncertainties and the effects of wave action takes this level up to 5.41mAOD.

The information provided demonstrates that the development will be situated on ground levels above 4.6mAOD, with the lowest residential floor level being 5.95mAOD. As such, it has been shown that the development will be situated on ground levels above the 200 year coastal still water flood level, with allowances for climate change and freeboard also accounted for partly by the minimum ground levels and partly through the proposed finished floor levels. Assessment of the Figgate Burn also confirms that this is not a likely source of flood risk to the site. We therefore have no objection on flood risk grounds.

The site is above the current 200 year plus wave action flood level (Flood Risk Assessment Figure 6, Kaya, April 2021) however the combination of high waves and sea level rise in the future may pose a risk to the site. The developer and residents should be aware of property level protection measures they can take to prevent any residual risk of flooding or damage due to wave thrown debris in the future.

### *SUDS*

The proposed development includes the discharge of surface water from 10 flats and associated parking spaces into the Figgate Burn prior to it entering Portobello West bathing beach.

SUDS are generally not considered compulsory for discharges to coastal waters however, these discharges still have to comply with the general binding rules (GBR) 'no pollution' requirement of the Controlled Activities Regulations.

There are exceptional circumstances where SEPA may identify through a risk assessment that SUDS are necessary to protect a coastal water e.g. where there is a risk of affecting compliance of a designated bathing water. This may well be applicable

due to the proximity to Portobello West and Central designated bathing waters. In such circumstances, SEPA may escalate control of that activity from a GBR to a licence.

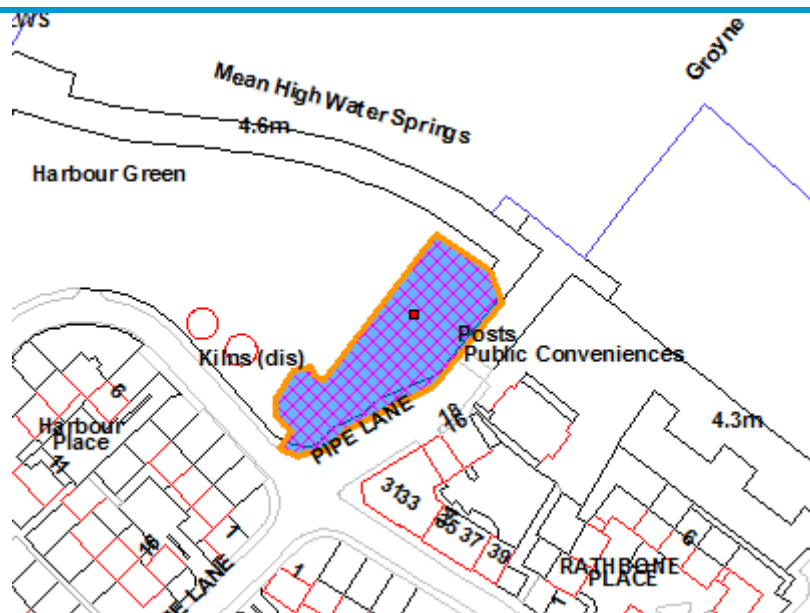
We advise of the need for the applicant to provide an assessment that there will be no impacts to the bathing waters or that SUDS will be in place to ensure no impact on ensuring compliance with the standards for a designated bathing waters. If this information has already been provided we would be grateful if either you or the applicant could identify where it can be found on the planning portal for this application.

### SEPA further response to clarification

Thank you for your email. I have reviewed the information you have provided, and I am satisfied that the measures you have proposed meet the requirements of CIRIA's SuDS manual (C753).

As advised in SEPA's response to SEPA's planning application, there are exceptional circumstances where SEPA may identify through a risk assessment that SUDS are necessary to protect a coastal water for example if the surface water discharge is found to be affecting compliance of Portobello West and Central bathing waters. In these circumstances, SEPA may escalate control of that activity from a GBR to a licence.

### Location Plan



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