

# Development Management Sub-Committee Report

**Wednesday 5 October 2022**

**Application for Planning Permission in Principle  
24 & 25 Seafield Road East, Edinburgh, EH15 1ED.**

**Proposal: Residential led mixed-use including classes 1, 2 and 4,  
development with associated infrastructure.**

**Item – Committee Decision  
Application Number – 22/00733/PPP  
Ward – B14 - Craigentinny/Duddingston**

## **Reasons for Referral to Committee**

This application has been referred to the Development Management Sub-Committee because 105 letters of objection have been received including from the Craigentinny and Meadowbank Community Council and the Leith Links Community Council. The application is recommended for approval. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

## **Recommendation**

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

## **Summary**

The site is within the urban area where planning permission for residential use is acceptable in principle so long as it complies with the other local plan policies. The application raises issues of amenity for occupiers given the noise emanating from the nearby Edinburgh Dog and Cat Home. This issue could be resolved through the use of a suitably negatively worded "Grampian condition". A number of other planning conditions and a legal agreement would also be required to ensure compliance with the local plan policies at the detailed design stage. Under section 59 of the Act, it is proposed to limit the duration of planning permission to 18 months as a result of the potentially changing circumstances of the site and adjacent sites in light of the proposed City Plan which may result in cumulative impacts on primary school educational infrastructure.

Scottish Planning Policy introduces a presumption in favour of development that contributes to sustainable development and sets out 13 principles to guide policy and decisions. The site is within the urban area where residential development is acceptable in terms of sustainable development and the SPP.

The proposal is compliant with the Local Development Plan and there are no other material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The site comprises existing two storey car showroom buildings, vehicle display forecourts and MOT garage and associated car parking and extends to 0.89 hectares approximately. It is bounded to the north east by the Promenade, beach and Firth of Forth, to the north west by Edinburgh Dog and Cat Home, to the south east by existing car showroom buildings and to the south west by Seafield Road East. The site is currently in use as a car showroom sales (sui generis).

The site is generally flat, with ground levels between 6-7 metres AOD, fronting Seafield Road East. The site is accessed from a vehicle access spur running parallel but downslope from the main Seafield Road East (A199) to the west. The site fronts onto Seafield Road East with its rear to the Seafront and Promenade - a core path pedestrian and cycle off road route to Portobello with a connection route at the north-west corner of the site. The site is adjacent to the Firth of Forth Special Protection Area (SPA) and the Outer Firth of Forth and St Andrews Bay Complex SPA. There is also the Forth Coast Site of Special Scientific Interest (SSI) adjacent to the site.

The site is located within the urban area, with the surrounding area largely commercial, including car dealerships, vehicle depots, and a cluster of class 4,5 and 6 uses located to the south west as well as the Edinburgh Dog and Cat Home immediately adjacent to the north west of the site. Craigentiny lies to the west of the site, separated from it by the Meadow Yards Local Nature Reserve and the Railway Line which runs parallel to Seafield Road East. Portobello Town centre lies 1.2 - 1.5km to the south east providing the closest local retail facilities to the application site currently. Leith, which includes a designated town centre is approximately 3km to the north east. The nearest bus stop currently is at the Lothian Buses depot approximately 650m away to the south of the site.

### **Description of the Proposal**

The application seeks planning permission in principle as a red-line application site for up to 220 residential units with associated infrastructure and potential for supporting commercial units. The applicant has clarified that the commercial units would be Use Classes 1 (Shop), 2 (Financial and Professional Services) and 4 (Business) with a combined maximum floorspace of 500 sq.m.

The development proposals are indicative and flexible showing two urban grid blocks of between 3-6 storey flats with rain gardens, potential roof gardens, car parking and vehicle access from the spur from Seafield Road East. However, no design details nor unit numbers are to be agreed at this Planning Permission in Principle stage.

## **Supporting Information**

The application is supported by the following documents available to view on the Council's Planning and Building Standards Public Access Portal:

- Air Quality Impact Assessment;
- Archaeology Assessment;
- Design and Access Statement;
- Drainage and Flood Risk Assessment;
- Ecology Assessment;
- Landscape and Visual Impact Assessment;
- Odour Assessment;
- Noise Assessment;
- Planning Statement;
- Pre-application Consultation Report;
- Site Investigation Report and
- Transport Assessment

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

### **Relevant Site History**

13 January 2021 - Pre-application consultation approved for residential led mixed use development with associated infrastructure (application number 20/05758/PAN).

#### Other relevant applications nearby

18 February 2022 - Planning permission granted for the conversion of existing retail units at 64-66 Seaford Road to create floorspace for a discount food retailer (application number 21/06144/FUL).

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

SEPA

CEC Flooding

Environmental Protection

Scottish Water

Archaeology

Nature Scot

Children and Families

The Coal Authority

Enabling Partnerships

Final Transport Response

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

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 17 February 2022

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** Not Applicable;

**Site Notices Date(s):** Not Applicable;

**Number of Contributors:** 105

## **Section B - Assessment**

### **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?

Section 59 of the Town and Country Planning (Scotland) Act 1997 states - where planning permission in principle is granted, it must be granted subject to the condition that the development to which it relates must be begun not later than the expiration of 5 years beginning with the date on which the permission is granted or such other period (whether longer or shorter) as the authority concerned may specify when granting the permission.

Section 41A of the Town and Country Planning (Scotland) Act 1997 states - when considering to grant planning permission for a noise-sensitive development subject to conditions, take particular account of whether the development includes sufficient measures to mitigate, minimise or manage the effect of noise between the development and existing cultural venues or facilities (including in particular, but not limited to, live music venues), or dwellings or businesses in the vicinity of the development, and may not, as a condition of granting planning permission for a noise-sensitive development, impose on a noise source additional costs relating to acoustic design measures to mitigate, minimise or manage the effects of noise.

Section 41(1)(c) of the Town and Country Planning (Scotland) Act 1997 states - Without prejudice to the generality of section 37(1) to (3), conditions may be imposed on the grant of planning permission under that section for identifying (whether by means of a specified period or otherwise) when the applicant may be required to make an application for a consent, agreement or approval, or carry out some other action in connection with the permission or development

## **Assessment**

To address these determining issues, it needs to be considered whether:

### **a) The proposals comply with the development plan?**

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

- LDP Delivery policies - Del 1, Del 3;
- LDP Design policies - Des 1 - Des 11;
- LDP Environment policies - Env 8-9, Env 13 - 16, Env 20 - 22;
- LDP Employment policies - Emp 8-9;
- LDP Housing policies - Hou 1-4, Hou 6, Hou 10;
- LDP Retail policies - Ret 6, Ret 8;
- LDP Transport policies - Tra 1-4, Tra 7-9;

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering the Design, Environment, Housing and Transport policies. The Affordable Housing Guidance is a material consideration that is relevant when considering Hou 6. The Finalised Developer and Infrastructure Delivery Guidance is a material consideration that is relevant when considering policies Del1, Del 3 and the Transport policies.

## Principle

SESPLAN is the Strategic Development Plan for Edinburgh and South-East Scotland. It identifies four Strategic Development Areas within Edinburgh, including Edinburgh's Waterfront. However, this application site is not identified as a strategic development area as reflected in the current Edinburgh Local Development (LDP.)

The Edinburgh Local Development Plan (2016) retains the primacy in terms of decision making and is afforded the greatest material weight despite now being over five years old. The LDP defines the site as within the urban area. Policy Hou 1 of the (LDP) relates to the location of housing development and part 1(d) gives priority to other suitable sites in the urban area, provided the proposals are compatible with other policies in the plan. Therefore, the proposal is acceptable in principle provided it complies with other local plan policies.

#### Relationship with employment sites and premises

The LDP Employment and Economic Development policies aim to help deliver the Council's Economic Strategy to promote economic development in sustainable locations whilst protecting and enhancing environmental quality and protecting a range of existing business and industrial sites and premises.

Some representations refer to Policy Emp 9 which sets out criteria that proposals to redevelop employment sites or premises in the urban area need to comply with. These include that (a) non-employment uses should not prejudice or inhibit the activities of any nearby employment uses; (b) should contribute to comprehensive regeneration and improvement of the wider area and (c) where sites are above one hectare, include floorspace for a range of business users. Part (c) of this policy is not applicable as the site size is 0.89 hectares.

The LDP defines employment use as "Generally business, general industry or storage and distribution uses, each defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997." It is considered that the existing use as a Car Showroom and MOT garage is sui generis and not covered by the definition of the employment use. Therefore, Policy Emp 9 itself would not apply in the assessment of this proposal.

#### The proposal is part of a comprehensive development

LDP Policy Des 2 Coordinated Development states that planning permission will be granted for development which will not compromise (a) the effective development of adjacent land; or (b) the comprehensive development and regeneration of a wider area as provided for in a master plan, strategy or development brief approved by the Council.

The submitted application is for planning permission in principle, with all other matters reserved. The site's redevelopment can include active travel connections direct to the promenade and Seafield Road East. The site has its own vehicle access, albeit from the parallel access road as part of Seafield Road East. The site could be developed in isolation from the surrounding land. Subject to an appropriate design being approved at Approval of Matters Specified in Condition (AMC) stage, the development of this site would not prevent the effective development of the adjacent land, but details of the access arrangements are reserved by condition to ensure this. The development of this land to residential use may result in some conflicts with the neighbouring commercial and industrial uses. These conflicts are assessed in terms of amenity below. Therefore, the proposal complies with Des 2 (a).

At this current time, there is no masterplan, strategy or development brief approved by the Council for the comprehensive development and regeneration of the wider area of Seafield. The emerging City Plan does envisage a masterplan and brief for the wider Seafield area, which is in development, but not yet produced, nor agreed at this time. Therefore, the proposal is acceptable under policy Des 2(b).

### Scale, design, materials and landscape impact

LDP Policies Des 1 - Des 8 set a requirement for proposals to be based on an overall design concept which draws on the positive characteristics of the surrounding area with the need for a high quality of design which is appropriate in terms of height, scale and form, layout, and materials. This includes access to the site, footpath/cycleway links through the site and to existing areas, amenity issues and the creation of open space and landscaping and impact on views to and from the site. The policies seek a comprehensive and integrated approach to the layout of buildings, streets, footpaths, cycle paths, public and private open spaces that enhances the character and appearance of the area around it.

This application is for planning in principle for residential use. The indicative site layout and site section shows a built environment of up to 220 units and from three to six storeys in height. However, it is recommended that all matters are reserved except for principle of residential mixed use development on this site. If permission is granted, design matters, including number of units, layout, scale, height, form and materials should be covered by condition requiring these matters to be the subject of further applications.

LDP Policy Des 10 Waterside Development requires sites on the coastal edge to provide an attractive frontage, improve public access to and along the water's edge, maintain and enhance the water environment including nature conservation or landscape interest and if appropriate promote, recreational use of water. There is considerable scope for proposals to enhance the Promenade providing an attractive frontage with many connections to the Promenade and through the site to Seafield Road East. This policy would also require improvements to biodiversity as well as recreational benefits within any new open space.

LDP Policy Des 11 Tall Buildings - Skyline and Key Views sets out criteria to assess where development rises above the prevailing building height, including: a proposed landmark use which enhances the skyline; in line with the proposed scale and context; and no adverse impact on landscape features, including the landscape setting in relation to the Firth of Forth.

The prevailing building height at this part of the Promenade is generally two storeys. There is no masterplan comprehensively coordinating the heights of development along the Promenade. The submitted LVIA shows that protected view Cb5 is within the middle of the site. Viewpoint 4 shows this site would be a focal point from Whinny Hill. A further LVIA would be required taking into account local views also. These matters would be appropriately assessed in any detailed application.

### *Housing Mix*

Policy Hou2 Housing Mix seeks a provision of a mix of housing to meet a range of housing needs. This would be assessed as part of the AMC application.

### *Private Green Space in Housing Development*

The provision of open space (20% of the site area as useable greenspace) would need to be incorporated into the proposals in order to comply with policy Hou 3. Seafield is poorly served in terms of open space provision and the beach does not constitute formal green open space. The use of rain gardens and central courtyard areas would appear to constitute private amenity space and therefore there needs to be a clear distinction between these areas and the public open space provision, which would be required at the detailed design stage.

### *Density*

Policy Hou 4 Housing Density seeks to have appropriate densities of development on sites, given their characteristics and those of the surrounding area, the need to create an attractive residential environment and safeguard living conditions within the development. Other criteria include both the accessibility of the site including access to public transport and the need to encourage and support the provision of local facilities necessary to high quality urban living. Higher density development can be seen as making efficient use of urban land.

In terms of density, there is no prevailing character in the immediate vicinity with there being a mix of tenemental form further east, bungalows to south, tenements and recent development at former the Eastern General Hospital.

Density should be considered at the detailed design to provide appropriate layout, scale, height, massing and numbers which accords with the other design policies and ensures an attractive residential environment for occupants.

At this current time, the application site is relatively poorly served in terms of public transport provision with existing bus services focuses on Kings Road/Portobello Road, approximately 850 metres to the south east, with no services currently routed along Seafield Road East. The quality of connecting pedestrian routes, particularly Seafield Road East, are currently poor due to the predominance of heavy traffic. The Promenade is a key active travel route but is not under natural surveillance for most of the connections to either Portobello or Leith, and requires travelling past industrial/commercial areas, which be a cause for concern for some residents, particularly at night.

The proposal does include uses class 1,2 and 4 up to a total of 500 sq.m and in that respect, it would comply with policy Hou 10 Community Facilities. However most local facilities including schools, town centre facilities, green open spaces, community facilities and health are some distance away.

This is an application for planning permission in principle and it is proposed to reserve the detailed design, scale and massing and numbers via a condition which requires a subsequent AMC application. There is a balance to be struck between making best use of a "brownfield" site and ensuring that there is an attractive residential environment. Therefore the detailed design stage should address the requirements of policy H4 when setting the proposed density.

### Amenity

LDP Policy Des 5 Development Design - Amenity sets out the criteria to assess the impact on the amenity of neighbouring developments and for future occupiers relating to noise, daylight, sunlight, privacy or immediate outlook. This policy also requires community security, active frontages and designing for natural surveillance. Defensible private spaces and clear distinctions between private and public spaces as well as how the proposed design integrates refuse and recycling facilities, cycle storage, low and zero carbon technology and service infrastructure are also assessed under this policy.

In terms of policy Des 5 - (b) - the adaptability to meet future needs; (d) distinctions between public and private spaces and (e) refuse and recycling facilities could be integrated into the design at a later stage.

Des 5 b) appropriate location for mixed use is considered acceptable given the class 1, 2 and 4 range of uses proposed and the maximum floorspace of 500 sq. m.

Des 5 b) in terms of the impacts on the amenity for neighbouring developments and for future occupiers can be assessed now to consider whether an attractive residential environment can be created. This links to policy Hou 4 Density which assesses the density of the development in relation to the need to create an attractive residential environment and safeguard living conditions within the development.

It is also important to consider that the development of this site for residential situates a much more sensitive use in this location than previously. This not only has impacts for neighbouring developments but requires assessment to ensure that a suitable residential environment can be created on this site.

### *Noise*

The applicant has submitted both a noise impact assessment (NIA) and an addendum noise statement (NS). The noise impact assessment highlights road traffic noise from Seafield Road East and noise, particularly barking, from dogs at the immediately adjacent Edinburgh Dog and Cat Home (ED&CH). The updated noise statement also sets out an indicative design including mitigation measures.

Environmental Protection has assessed both these documents and the indicative design and is not satisfied with the methodology used and the potential assessment of impacts. Environmental Protection state all surrounding noises have not been included; day and night noise has not been assessed; nor external area noise assessed - balconies, access decks or roof gardens; and potential noise from the commercial uses on site is not included. They are not satisfied with the criteria, or the methodology used nor that the 'worst case scenario has been assessed.

There are concerns over the use of BS4142 and the corrections applied and the criteria of 1 hour for daytime assessment and 15 minutes night time assessment. The noise sources would have differing impact on any proposed layout and would not necessarily mask other sounds particularly due to the different tonal, intermittent or impulsive characteristics of the noise.

Environmental Protection recommend refusal as the impact on amenity will be so great that it could lead to complaints and action having to be taken against the Edinburgh Dog and Cat Home under the statutory nuisance regime. Environmental Protection note that complaints about noise barking from existing residential properties has resulted in mitigation measures already being implemented by the Edinburgh Dog and Cat Home previously. Further complaints would likely severely curtail the operation of the Edinburgh Dog and Cat Home.

The proposed mitigation measures put forward by the applicant include high quality glazing, no opening windows on specific elevations, siting habitable rooms away from both the Seafield Road and Edinburgh Dog and Cat Home. The design would be constrained in terms of external areas - decks, balconies and roof gardens which have not been assessed. However at this in principle stage, the applicant would not be held to this proposed design. The current assessment does not assume the worst case scenario and therefore it is very risky to assume that these issues could be resolved at the approval of matters specified in conditions (AMC) stage in order to deliver an attractive residential environment for occupiers and comply with LDP policies.

Section 41A of the Town and Country Planning (Scotland) Act 1997 implements the "agent of change" principle to protect existing activities that create significant noise. Subsection (1) defines a "noise-sensitive development" and a "noise source". Subsection (2)(a) provides that where an application is made for planning permission for a noise sensitive development the planning authority must take particular account of whether the development includes sufficient measures to deal with the effect of noise between the development and existing dwellings or businesses, with particular emphasis on live music venues and other cultural venues. Subsection (2)(b) states that the authority may not set conditions on the grant of such planning permission that impose additional costs on a noise source, relating to acoustic design measures to manage the effects of noise.

Given the agent of change principle is now enshrined in law, there are only two realistic options, as it would be too risky to leave the design of any mitigation measures to the detailed AMC stage.

One option is to refuse planning permission on the basis of the objection from Environmental Protection. The other option is to link the granting of planning permission to the removal of the Edinburgh Dog and Cat Home. This second option relates to land outwith the control of the applicant. Whilst the Edinburgh Dog and Cat Home is in operation then it is likely to adversely affect the amenity of residents on this site. However, should the Edinburgh Dog and Cat Home cease operation on this site or relocate to an alternative site, then the principle of residential development on this site would be acceptable. The emerging City Plan has a Housing Proposal (H55) allocation on the land surrounding the Edinburgh Dog and Cat Home as the settled view of the Council.

There is potential that the Edinburgh Dog and Cat Home may relocate in time and therefore a suitably negatively worded condition (a so called Grampian Condition) would provide an appropriate way to assuage the concerns of Environmental Protection. This is the recommended approach.

An updated noise impact assessment with details of sound attenuation measures for the road noise and adjacent commercial garages would be required and assessed through the AMC process.

### *Odour Assessment*

The applicant has provided a basic odour assessment relating to Seafield Wastewater Treatment Works (WWTW) known as a 'sniff' test. The application site is 760 metres away. There are other residential properties closer to WWTW, however odour has no bounds and also affects properties further away from the WWTW than the proposed application site.

It appears that the ability to carry out the sniff test has been limited by the prevailing weather conditions and there is a disagreement about the length of sniffing time and concerns about complaints relating to odour from the WWTP. The sniff test was undertaken over a 17 minute period on 10th August 2022. Summer is seen as when odours from Seafield WWTW are most likely.

Environmental Protection advise that the limited scope and breadth of the assessment, is unlikely to demonstrate the full extent of the odours affecting the application site. Environmental Protection state that they continue to receive a number of odour complaints from the occupants of surrounding residential properties over the summer of 2022 stemming from Seafield WWTW. Concerns therefore remain that the site could intermittently be affected by odours from Seafield WWTW.

However, there are a number of residential properties in closer proximity to the WWTP than this application site. In recent times the site at the former Eastern General (which is closer) has been redeveloped for housing.

It is understood that the WWTW has already undertaken mitigation measures to reduce the odour emitting from the facilities. Further mitigation measures are already proposed: between now through to 2025, Scottish Water is investing over £10m in the Seafield Wastewater Treatment Works, in partnership with the site operator Veolia. This is ahead of a further multi-million pound comprehensive redesign of the site which will take place post-2030. Responsibility for the control of odours lies with the WWTW and the activities of this site are regulated by SEPA.

Set in this context, whilst odour is a concern, given the issues relating to the timing of the implementation of this planning permission in principle, it is considered unreasonable to refuse planning permission on this basis.

### *Light Pollution*

The adjacent garage premises utilise floodlighting which may impact upon the application premises by way of glare. This issue requires to be addressed as part of the detailed design to ensure that amenity will not be adversely affected by extraneous light pollution.

### *Amenity for neighbouring uses*

The proposed building height would need to take account of the shading/overshadowing to the beach area and Promenade. At detailed design stage this would need to be assessed to ensure the amenity of users of the Promenade and beach is not adversely affected.

### Air Quality

#### Air Quality

Policy Env 22 requires development to either have no significant adverse effects or appropriate mitigation is proposed to minimise any adverse effects for health, the environment and amenity.

Seafield Road East is a main thoroughfare into and out of east and north Edinburgh and funnels traffic directly into two Air Quality Management Areas (AQMA) - Salamander Street and Great Junction Street. The Salamander Street AQMA has been declared due to concerns that the ambient concentrations of PM10 are at risk of exceeding the Scottish Government's annual mean objective. The Great Junction Street AQMA has been declared due to concerns that levels of NO2 are at risk of exceeding the statutory annual mean Limit Value. Recent air quality monitoring results in both study areas indicate that levels of air pollution currently comply with statutory Limit Values and Objectives.

The applicant has submitted an air quality assessment and proposed appropriate mitigation measures. The air quality assessment concludes the consequence of the proposed development would be a predicted change of negligible significance in NO2, PM10 and PM2.5 at all sensitive receptors considered in both study areas, in terms of the IAQM/EPUK assessment framework.

The assessment is based on the following mitigation measures: a total of 60 car parking spaces for the 220 units (27% parking provision which is substantially lower car parking provision than the maximum level set out for this area in the Local Development Plan); funding for four city car club spaces, facilitating car access for new residents who can choose not to own a car; a residential travel plan; 10 electric vehicle charging provision spaces (1 EV space per 6 spaces provided will be 'actively' powered) and additionally, the applicants would duct the remainder of any spaces provided (i.e. 'passive' provision) such that future EV charging can be retrofitted as demand dictates. Cycle parking would also be provided and would be in line with the Council standards.

Environmental Protection agrees that the proposed mitigation measures would go some way to address air quality, however they consider that the development is still likely to impact upon air quality as 120 daily vehicle trips would funnel traffic into the two Air Quality Management Areas (AQMAS). New residential development would result in more vehicle trips in the area and consequently more pollution.

In terms of policy Env 22, whilst Environmental Protection has concerns, the applicant has demonstrated that the impact is negligible and the statutory limit values for NO<sub>2</sub> and PM<sub>10</sub> and PM<sub>2.5</sub> are being complied with. Therefore, there would be no significant adverse effects for health, environment and amenity provided the appropriate mitigation to minimise any adverse effects is included. The proposed mitigations measures relating to car parking levels, city car club spaces and electric vehicle charging could be secured by legal agreement and planning condition.

### Accessibility, Connectivity and Road Safety

Policies Tra1-4, and Tra7-10 set out the transport framework to minimise the distances people need to travel, promote active travel and minimise the detrimental effects of traffic and parking on communities and the environment. Policy Tra 7 identifies various off-road cycle/footpath links including one near the application site north of the Edinburgh Dog and Cat Home and leading north west.

As this is a planning permission in principle, the detailed layout including access and connections has not yet been agreed.

Transport notes that whilst the proposed layout would be agreed at a later stage, pedestrian and cycle access to the development from the Promenade and from Seafield Road East must include suitable access for wheelchairs and prams. A cycle and pedestrian crossing on Seafield Road East, at a suitable location, would be required. Cycle Parking should be provided in secure and undercover locations in line with Council guidance and factsheets.

Transport agree that the proposed 27% car parking provision is considered acceptable. The crossing, parking provision levels, electric vehicle spaces, disabled spaces and four city car club spaces, could all be secured by legal agreement and conditioned as part of the reserved matters.

### Flooding and drainage issues

Policy Env 21 Flood Prevention states that planning permission will not be granted for development that would increase a flood risk or be at risk of flooding itself, impede the flow of flood water or prejudice existing or planning flood defence systems.

A Flood Risk Assessment and Drainage Strategy have been submitted. This included current and future coastal flood risk as well as fluvial and surface water flood risk. The application site is above the predicted 1 in 200-year water level of 3.97m AOD, based on extreme still water level calculations using the Coastal Flood Boundary Method, including a future predicted sea-level rise of 0.86m.

The issue of wave overtopping was raised. Overtopping calculations, assessing topography and cross section profile through the site, with the combined 200 year + climate change extreme sea level + waves would result in the promenade being flooded with wave levels reaching the edge of the ground level rise between the promenade and the application site.

The Flood Risk Assessment proposed a wave wall along the site frontage to mitigate any coastal flooding. Further clarity was sought on its design, height and potential impact to the Promenade and beach. Two further methods were used to calculate wave overtopping - the Bayonet modelling tool and the Eurotop Manual. Both these calculations show acceptable overtopping even with no wave wall. However, as there are uncertainties in the calculation, a 1m wave wall would reduce the wave overtopping rates effectively to zero and would be sufficient to protect the development.

These documents have been assessed by CEC Flood Planning and SEPA. SEPA has no objection in terms of flooding but do advocate a precautionary approach as residential use is more vulnerable to flood risk than commercial property. SEPA support further studies, particularly of wave overtopping, at detailed design stage which should be used to inform the layout and finished floor levels to reduce flood risk and help future proof the site. This could be secured by condition.

Flood Planning has assessed the information provided. Flood Planning has stated that there are no immediate plans to improve or replace the coastal erosion and flooding defences along this section of the coastline. Therefore, the applicant should consider the need to develop additional defences that could be maintained by the site owners privately. Flood Planning is satisfied in terms of flood risk assessment, provided that the applicant clarifies the adoption and maintenance of the proposed wave wall. This could be secured by condition.

SEPA recommend a wider strategic FRA is undertaken for the whole of the Seafield area to allow exploration of a more sustainable solution to managing flood risk across the whole site. SEPA encourage the applicants to develop the site in as future proof a way as possible by delaying this application until the Place Brief is agreed. While this is encouraged, the Council has a duty to determine the application before it at this time. SEPA do not object to the current proposals for the site in terms of flooding. In relation to these issues, if the Place Brief is prepared prior to any AMC for this site being determined, that Place Brief would be a material consideration and could therefore influence how a decision should be taken on such an AMC.

The proposal complies with policy Env 21.

#### Surface Water Management and Drainage

Policy RS6 Water and Drainage states where there is an inadequate water supply or sewerage available to meet the demands of the development and necessary improvements cannot be provided, then planning permission would not be granted.

The Drainage Report states that the Sustainable Urban Drainage System (SUDS) would manage all the surface water within the site and foul drainage in line with CEC guidelines.

SEPA has asked that the applicant demonstrate how their proposal can help achieve a strategic SUDS or be future proofed to be able to connect to one. SEPA advises the use of hydrological modelling prior to detailed design site and layout and seeks a multifunctional SUDS, enhancing biodiversity and recreational use.

CEC Flooding asks that the detailed design site levels and landscaping should ensure that it safely manages exceedance surface water flows, acknowledging the impact of the proposed wave return wall. Further engagement with Scottish Water is also encouraged to confirm drainage features maintenance arrangements and connecting the existing off-site surface water network to the proposed surface water network rather than the combined network.

Scottish Water has no objection to the proposed development. There is an adequate water supply and sewerage available, detailed design issues could be secured by condition or informative as appropriate and therefore it complies with Policy RS6 Water and Drainage.

### Biodiversity

The proposal could affect the Firth of Forth Special Protection Area (SPA) designated for its wintering bird interest. The status of the site meets the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations"). Consequently, the City of Edinburgh Council is required to consider the effect of the proposal on the site before it can be consented (commonly known as Habitats Regulations Appraisal).

Having consulted with Nature Scot and undertaken a Habitat Regulations Appraisal and Appropriate Assessment, it has been possible to reach a conclusion of 'no adverse effects upon site integrity'. Therefore, there is no objection to this application in relation to Policy Env13. Nature Scot also recommend mitigation of the effects of construction works on any wintering birds using the adjacent coast by screening the site from the foreshore during construction. This could be added as an informative.

### Infrastructure

Policy Del 1 - Developer Contributions and Infrastructure Delivery 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 current version of the LDP Action Programme, December 2021, sets out the actions to deliver the Plan.

The LDP and Action Programme only identify a limited number of actions which specifically relate to this site and wider Seafield area. The LDP would require contributions in relation to affordable housing, education infrastructure, transport infrastructure and health and open space.

### *Affordable Housing*

Policy Hou 6 Affordable Housing states 25% of the total number of units proposed should be affordable housing. The applicant should submit an Affordable Housing Statement which commits to providing 25% on site affordable housing. This could be secured through the legal agreement. Prior to submitting any detailed applications, applicants should engage with the Council to agree the approach to delivery, tenure, and location of the affordable homes. The proposed approach should be explained within an Affordable Housing Statement submitted as part of relevant applications for the Approval of Matters Specified in Conditions.

### *Transport*

The site is not within a Transport Infrastructure contribution area as set out in the Finalised Developer Contribution and Infrastructure Delivery Guidance 2018. There are no identified actions for this site within the Action Programme 2021. Therefore, it is not reasonable to ask for transport contributions.

### *Education*

Education contributions will be applied in accordance the finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance (2018) and the figures set out in the Edinburgh Local Development Plan Action Programme of December 2021.

The site falls within Sub-Area LT-1 of the "Leith/Trinity Education Contribution Zone". The Action Programme December 2021 sets out the requirement for a new 18 class Primary School and 80 place nursery (New Victoria Primary School) at a cost of £21,622,867 and additional secondary school capacity for 548 pupils (Leith Academy and Trinity Academy - 485 pupils; St Thomas of Aquin's - 22 pupils and Holyrood RC HS - 41 pupils). The estimated capital cost is £54,852,609.

Looking at the current application in isolation, there is existing primary school capacity at Craigentenny Primary School. There would be no requirement for a contribution at this time. There would be a need for Additional Secondary School Capacity associated with secondary school places at Leith Academy and Holyrood High School. This would equate to a contribution of £3,262 per flat where contributions are not sought for one-bedroom flats.

Children and Families has concerns that proposed development will cumulatively contribute to the requirement for Craigentenny Primary School to be extended, taking into account development of the wider site at Seafield and the impact on educational infrastructure identified in the Educational Appraisal (September 2021). Potential cumulative impacts of development on educational infrastructure is a material consideration. In such circumstances, it is recommended that this permission is restricted to a period of 18 months for implementation given the emerging position at Seafield and the need for developments to contribute their fair share towards educational infrastructure. A condition to this effect is recommended in accordance with the provisions under section 59 of the Town and Country Planning (Scotland) Act 1997.

### *Other contributions*

The site is not within a contribution zone for open green space at this time. The site is not within a health care zone at this time. Consequently, no contributions are sought.

### *Archaeology*

LDP Policies Env8 and Env 9 aim to preserve archaeological remains in situ as a first option and alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be acceptable. This site has potential for unrecorded remains therefore a condition could be attached to ensure a programme of archaeological work is carried out prior to /during development to excavate, record and analysis of any surviving archaeological remains that may occur. An informative is included to encourage the developer to interpret its archaeological heritage and include this within a detailed design.

### *Contaminated land*

The site is currently in use as a car showroom with a MOT garage and associated car parking. These uses have the potential to contaminate the site. Should the application be granted, then a condition could be attached to ensure that the site is made safe for the proposed end use.

### *Heritage Assets*

The application site is not within or adjacent to a Conservation Area nor within the vicinity of Listed Buildings. The distance of the application site from listed buildings and conservation area is such that there is no effect and the statutory provisions under sections 59 and 64 are not engaged.

### *Waste*

The proposed waste strategy would be considered as part of the detailed design and therefore a condition could be attached requiring an agreed waste strategy to this planning permission in principle if all other aspects of the proposal were acceptable.

## **Conclusion in relation to the Development Plan**

The site is within the urban area where planning permission for residential use is acceptable in principle so long as it complies with the other local plan policies. The applicant has not yet demonstrated that a comprehensive noise assessment has been undertaken and Environmental Protection recommend refusal due to the noise emanating from the Edinburgh Dog and Cat Home, which would significantly adversely affect the amenity of residents. The mitigation measures proposed in terms of noise mitigation would not allow future occupiers to have acceptable levels of amenity. Given the agent of change principle, a Grampian condition could be attached to ensure that no development takes place until the neighbouring use has ceased.

Whilst Environmental Protection does have some concerns with regard to the odour assessment, this alone is not considered a reason for refusal given the proximity of other residential properties to the WWTW, the proposed mitigation measures and likely timescale for implementation of this planning permission in principle. The application has been assessed against the Local Plan Policies and is acceptable provided a legal agreement and conditions are secured.

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

The following material planning considerations have been identified:

SPP - Sustainable development

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

The proposal is for residential use of part of the urban area currently in suis generis use as car showrooms. One of the sustainable development principles refers to avoiding over development, protecting the amenity of the new and existing development and considering the implications of development for water, air and soil quality.

The application is for planning permission in principle. At the AMC planning stage, it will be possible for the applicant to provide appropriate design details relating to the scale, height, massing, number of units and layout of the proposed development. The pedestrian, cycle and car access and connections will also be included in any detailed design. With reference to climate change adaptation and sustainability, detailed design would address any flooding and drainage issues for the site. Other matters including sustainable drainage design, impact on the water environment and any impact the natural environment would be addressed at the AMC planning stage where SPP sustainable development criteria would need to be considered as well.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled view of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Whilst it carries little material weight, some representations refer to the emerging development strategy and place brief for Seafield and query whether the proposal complies with the vision for this part of the City.

The proposed City Plan 2030 proposals map identifies the site and surrounding area for major housing-led mixed-use development, as part of an urban extension covering 32.5 hectares with 800 units envisaged (H55).

City Plan Place Policy 15 (Seafield) does set out the Council's view of how the Seafield area should be developed. This requires a Place Brief to be prepared, establishing high level principles to inform future masterplan and design processes. The Place Brief must also consider the implications of flood risk and erosion in the area and be informed by a flood risk and coastal erosion appraisal which develops options which can be supported by the Council. Other potential infrastructure requirements relating to transport, active travel and green/blue networks will also need to be considered. These issues are to be addressed strategically, and the outcome of this work could have significant implications for the development of the area, including the application site. This is to be progressed through a wider masterplan brief which the Council is pursuing along with interested stakeholders.

Policy Env 2 of the emerging City Plan states that Proposals for any part of this site in advance of an approved Place Brief will be considered premature in line with Proposed Policy Env 2. Proposals will also be assessed against the Seafield Development Principles set out in Place Policy 15.

Representations make clear that this development should wait for the development brief to be finished. However, the procurement and public engagement processes to support this work are currently being progressed. It is anticipated this will be undertaken 2022-23. There is no agreed masterplan or place brief that includes the application site currently. However, the emerging City Plan policy Env 2 only has limited weight itself at this time.

The application has been submitted and needs to be assessed at this current time. This proposal for a change of use from car showrooms to residential in principle, and this principle is consistent with the emerging City Plan. If minded to grant, the detailed design of this development would be secured by condition and considered at the AMC stage.

### Prematurity

Representations also raise the issue of prematurity, as it could be considered premature to grant planning permission which could prejudice the emerging plan. Scottish Planning Policy 201 para 34 states that where a plan is under review, circumstances to consider are: whether the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by pre-determining decisions about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.

The application site is approximately 2.75% of the overall extent of the Seafield H55 allocation. The suggested number of units is around 220. The City Plan identifies a total Housing Supply Target for the period 2021-2032 of 36,911. Therefore 220 units out of 36911 is equivalent of 0.6% of the housing supply and the Seafield allocation of 800 units would be only 2.16%. This proposal is not so substantial, nor could its cumulative effect be so significant, that it would undermine the City Plan and therefore the proposals should not be refused for reasons of prematurity.

## Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

## Public representations

A summary of the representations is provided below:

*material considerations* - addressed in Section a) and b) of the report above.

- Need more affordable homes in the area
- air pollution, atmospheric dispersion and street canyon also adverse effect due to traffic increase
- air quality assessment is not detailed for the proposal and does not consider air pollution and smell from sewage works
- amenity - overlooking and loss of privacy, light or overshadowing
- amenity of occupiers affected by dog barking from ED&CH and potentially noise industrial uses
- odour from Seafield would affect residents amenity
- impact on protected species, loss of habitat for protected species, loss of biodiversity and micro eco habitat
- SPA - impact on it not assessed and need a long-term coastal protection solution which also potentially benefits the SPA
- no information about net biodiversity gain
- current industrial and commercial uses mean there is a lack of infrastructure associated with residential use
- housing development here would be isolated from other housing, public transport and services
- need a mixed use development that takes into account local, environmental, entertainment, health and well-being needs
- await City Plan adoption prior to developing this site to ensure coordinated development
- fails to comply with City Plan objectives in relation to infrastructure, coastal defences, improved public transport and will hamper delivery on coastal defences
- fails to comply with City Plan masterplan approach and integrate facilities
- does not take account of City Plan and 20 min neighbourhoods
- effect on character of listed buildings or conservation areas
- existing character of the site should remain
- character proposed different to rest of Portobello Promenade
- would destroy the character of the seafront
- Needs more full consultation with local communities
- layout and density - does not include green areas only dense accommodation

- Promenade should be fronted by landscaping and trees with ped/cycle connections away from Seafield Road
- No linking of layout and density with surrounding area
- No design, appearance and materials
- flats would obstruct views of coastline
- height - of proposed buildings too high, out of keeping with other buildings - as next to low lying bungalows
- height of development would have a significant impact on daylight to the beach and Promenade
- design should incorporate wild planting along promenade
- out of keeping with the City's waterfront Promenade
- height calculations need to consider height of site and impact when viewed from the promenade
- lack of detail on how proposal would enhance the site, Promenade and sea frontage
- design needs to include green wild space, trees and scrubland
- lack of climate resilience in design
- design should incorporate roof garden space
- design fails to coordinate and comply with LDP design policies
- increase in density/damaging density of development
- no environmental impact assessment done for the site - no plans for biodiversity net gain
- no future proofing to consider environmental changes
- rising sea levels - may impact on the proposed development
- current sea wall defence would be at risk from waves overtopping
- not linked to drainage/infrastructure/flood risk
- installation of flood defences made more difficult
- no flood defence review taken place
- needs to include coastal defences which will protect the prom and associated public spaces
- danger from existing sea wall defences
- contrary to government policy
- enough land identified in LDP to meet housing need
- resist windfall site development
- lack of clarity on affordable housing
- lack of infrastructure/services for new residents
- any new infrastructure unlikely to be within walking distance of this site
- lack of leisure facilities, retail, dental facilities
- would be a blot on the landscape, detrimental to city's skyline
- better brown field sites exist in the city rather than this fringe
- location better suited to a tourist destination as prom/beach could become one
- area should be a greenspace/aquapark
- area should include public amenity, rewilding, land reclamation
- lack of clarity over mix of uses proposed, no substantial mixed use element
- need to consider Leisure related facilities at this part of the Promenade
- need to consider other uses not just residential
- this is a tourist area not a housing area
- small business units should be provided
- meeting spaces for local groups, community hubs should be included
- should include a few allotments

- would result in increased noise pollution due to traffic increase noise and disturbance in the area
- proposal is contrary to NPF4 objectives for infrastructure first and climate resilient design, coastal development policy, infrastructure renewal and will compromise future and adjacent delivery especially in terms of coastal protection
- proximity to Seafield waste plant and smell already
- traffic impact and increased congestion, gridlock
- 10-15min walk to nearest bus stop will not encourage public transport use
- need integrated transport infrastructure
- need proposals to protect pedestrian safety and reduce vehicle speeds
- parking - road safety, traffic generation and lack of parking
- no public transport nearby (bus or tram), no bus service along Seafield Road East
- need to consider long terms proposals for Seafield and A199
- traffic in area hazardous to pedestrians especially crossing the road, need more crossing spaces on Seafield road for pedestrians
- access into Seafield Road for businesses is very difficult
- lack of public transport and walking distance to shops is excessive
- cycle networks need to be completed
- transport assessment is flawed based on covid lockdown data
- safe routes to schools and other amenities need to be secured
- proposal would lock Seafield Road and limit renewal or change or relocation of road so wider Seafield area is not cut in half
- lack of a tram on existing railway line, as sustainable public transport
- changing Seafield road would be a safety concern due to heavy goods route conflict with residential area
- lack of access to Prom area for cyclists and pedestrians, lack of active travel links
- extra vehicles on bridge at junction with Craigentenny Ave may be problematic
- Boundary treatments
- Community Councils and other stakeholders are working to form a community consensus about Seafield being redeveloped for housing.

#### *non-material considerations*

- Use of visuals is misleading as includes masterplanning process which the developer is not undertaking
- Loss of view of the coastline
- Flats will be extortionate and out of reach to local people
- Consultation online and during pandemic and lack of full consultation
- Construction noise and building works would drive out species
- Impact of construction noise and vibrations on Dogs and Cats at the ED&CH would be cruel
- Could lead to an increase in crime which existing policy resources may not be able to deal with
- Timing to avoid having to take account of new NPF4 and Scottish Planning Policy.

### *letters of support*

- need more affordable housing
- Encourage more retailers
- Need more housing

### **Conclusion in relation to identified material considerations**

The site is within the urban area where residential development is acceptable in terms of sustainable development and the SPP. The City Plan allocates this area as part of housing proposal H55. Whilst a Place Brief is being prepared it is not yet agreed. The application has to be decided at this time and is consistent with the emerging City Plan. The proposal is not so substantial that determining this application would be premature in the context of the City Plan.

In light of the above, the proposals do not raise any issues in relation to other material considerations identified.

### **Overall conclusion**

The site is within the urban area where planning permission for residential use is acceptable in principle so long as it complies with the other local plan policies. The application raises issues of amenity for occupiers given the noise emanating from the nearby Edinburgh Dog and Cat Home. This issue could be resolved through the use of a Grampian condition. A number of other planning conditions and a legal agreement would also be required to ensure compliance with the local plan policies at the detailed design stage.

Scottish Planning Policy introduces a presumption in favour of development that contributes to sustainable development and sets out 13 principles to guide policy and decisions. The site is within the urban area where residential development is acceptable in terms of sustainable development and the SPP. The City Plan allocates this area as part of housing proposal H55. Whilst a Place Brief is being prepared it is not yet agreed. The application has to be decided at this time and is consistent with the emerging City Plan. The proposal is not so substantial that determining this application would be premature in the context of the City Plan.

The proposal is compliant with the Local Development Plan and there are no other material considerations that outweigh this conclusion.

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following.

### Conditions :-

1. No development shall take place until the adjacent dog and cat boarding use at 26 Seafield Road East has ceased operation and the use is no longer capable of being taken up without the benefit of an express grant of planning permission as agreed in writing with the Council, as planning authority.
2. The development to which this planning permission in principle relates must be begun not later than the expiration of 18 months beginning with the date on which this planning permission in principle is granted. If development has not begun at the expiration of the period mentioned in this paragraph, the planning permission in principle lapses.
3. Application for the approval of matters specified in condition must be made before whichever is latest of the following
  - (i) the expiration of 12 months from the date of the grant of the permission,
  - (ii) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, and
  - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed or, where the earlier application is the subject of a review by the Council's Local Review Body, the expiration of 6 months from the date of the notice of the decision to uphold the determination, and may be made for
    - (a) different matters, and
    - (b) different parts of the development, at different times.
4. The development in question will not being until the following matters have been approved by the Council as planning authority; the submission shall be in the form of a detailed layout covering points (a) - (n) below.

The following supporting information shall also form part of any submission:

- an updated Air Quality Impact Assessment including mitigation measures;
- an updated Ecology Assessment including mitigation measures during construction and operation;
- an updated Odour and Fume Assessment;
- a Light pollution Assessment;
- an updated Noise Assessment;
- an updated Transport Statement;
- an updated Design and Access statement, detailing the layout, streets and spaces, accessibility, safety and security, sustainability and energy efficiency;
- an Affordable Housing Statement setting out how 25% affordable housing will be provided on site including delivery, tenure and location;
- an updated Landscape and Visual Impact statement detailing the impact on both City and Local views;

- an updated Flood Risk Assessment of the detailed design including a study of wave overtopping, and highlighting how the layout, finished floor levels, landscaping and SUDS have been designed in relation to the Flood Risk;
- an updated drainage and surface water management strategy including site levels and landscaping to ensure it safely managed exceedance surface water flow, taking into account the impact of the proposed wave wall;
- details of adoption, management and maintenance of the landscaping, SUDS, open space; and any other flood prevention or drainage measures including the proposed wave wall and
- an updated waste management strategy.

- (a) a site development layout showing built development, footpath, cycle, and road access and connections, including open space provision, SUDS drainage and landscaping;
- (b) details of the layout, siting, design, form, density, height, tenure, and the number and mix of units, including the design of all external features and materials and appearance of all buildings and glazing specifications (including acoustic capabilities) and ground floor levels in relation to Ordnance Datum;
- (c) the precise location and extent of individual uses to be developed including the number of residential units and any class 1, 2 and 4 uses;
- (d) design and configuration of public realm and open spaces, all external materials and finishes;
- (e) cycle parking in secure undercover locations, not more than 27% car parking, at least four city car club parking spaces, disabled spaces and at least ten electric charging points and spaces;
- (f) access, road layouts and alignment, including a Stage 2 Quality Audit, classification of streets, servicing areas;
- (g) footpaths and cycle routes, including proposed pedestrian, cycle and wheelchair routes and access to the Promenade and Seafield Road East, and the signage of pedestrian and cycle access links, and the details including timescale for implementation, of the pedestrian and cycle crossing on Seafield Road East, the location of which is to be agreed with Planning and Transport.
- (h) waste management and recycling facilities;
- (i) Site investigation/decontamination arrangements;
- (j) surface water and drainage arrangements including management, maintenance, ownership and adoption;
- (k) existing and finished site and ground levels in relation to Ordnance Datum;
- (l) any further noise, fume, odour, or light mitigation measures arising from the updated studies, including details, materials and finishes;

(m) full details of sustainability measures and

(n) full details of the landscape proposals include fully detailed plans of the design and configuration of all public open space all external materials and hard and soft landscaping details.

This shall include:

- (i) Walls, fences, gates and any other boundary treatments;
- (ii) The location of new trees, shrubs and hedges.
- (iii) A schedule of plants to comprise species, plant size and proposed number/density;
- (iv) Programme of completion and subsequent maintenance and management of any flooding mitigation measures including the wave wall, SUDS drainage, and open space areas;
- (v) Existing and proposed services such as cables, pipelines, substations, and details of the wave wall required under the Flood Risk Assessment and
- (vi) Other artefacts and structures such as street furniture, including lighting columns and fittings;
- (vii) Details of any cooking ventilation systems for Class 1, 2 and 4 uses.

5. Prior to the commencement of construction works on site:

- (a) A site survey (including initial desk study as a minimum) 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 remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Council, as planning authority.
- (2) 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.

6. Prior to the occupation of the development, the air quality mitigation measures either as set out below or as set out in an updated Air Quality Assessment as part of the AMC application should be implemented.

The air quality measures include

- a maximum of 27% car parking;
- funding for four city car club spaces;
- disabled car parking spaces in line with Council standards;
- a residential travel plan;
- 10 electric vehicle charging provision spaces (1 EV space per 6 spaces provided will be `actively' powered) and
- ducting the remainder of any spaces provided (i.e. `passive' provision) such that future EV charging can be retrofitted as demand dictates.
- Cycle parking would also be provided secure, under cover and in line with the Council standards.

7. No development can take place on site until the applicant has secured a detailed design evolved from an updated Flood Risk Assessment, Drainage Strategy and Surface Water Management Plan to ensure that site levels, layout and landscaping safely manage the exceedance of surface water flows taking into account the impact of the proposed wave return wall and any further mitigation measures required, which has been submitted by the applicant and approved by the Planning Authority.
8. No demolition/development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis & reporting, publication and public engagement, interpretation) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

**Reasons:-**

1. In the interest of residential amenity for future occupiers and to comply with statutory requirements relating to "agent of change".
2. To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997.
3. In order to ensure applications for approval of matters specified in condition are made timeously and in accordance with section 41 (1) (c) of the Town and Country Planning (Scotland) Act 1997
4. In order to enable the planning authority to consider these matters in detail.
5. To ensure the site is suitable for the proposed end use.
6. In the interest of air quality management and residential amenity.
7. In the interest of amenity.
8. In order to safeguard the interests of archaeological heritage.

**Informatives**

It should be noted that:

1. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
2. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

3. Further engagement with Scottish Water is required to confirm that there is an adequate water supply and sewerage available and to explore the possibility to connect to the existing off site surface water network to the proposed surface water network rather than the proposed combined network at this site.
4. Consent shall not be issued until a suitable legal agreement relating to affordable housing, transport and education has been concluded and signed. The legal agreement shall include the following:
  - i. Affordable housing - 25% of the total number of residential units shall be developed for affordable housing provision.
  - ii. Transport - the following transport contributions are required:
    - a. to introduce car club vehicles in the area. It is noted that 4 spaces are- proposed. Current guidance states that developments of over 50 units will be individually assessed;
    - b. to progress various orders which may be required, including stopping up, waiting and loading restrictions, 20mph speed limit and redetermination;
  - iii. Education - Additional Secondary School Capacity associated with secondary school places at Leith Academy and Holyrood High School equating to a contribution of £3,262 per flat where contributions are not sought for one bedroom flats.
5. 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.
6. The applicant should note that the Council will not accept maintenance responsibility for underground water storage/attenuation.
7. The applicant should note that new road names may be required for the development and this should be discussed with the Council's Street Naming and Numbering Team at an early opportunity.
8. 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.

9. Nature Scot recommend mitigation of the effects of construction works on any wintering birds using the adjacent coast by screening the site from the foreshore during construction.
10. The applicant is encouraged to interpret the site's archaeological heritage and include this within a detailed design.

### **Background Reading/External References**

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

### **Further Information - Local Development Plan**

**Date Registered: 16 February 2022**

### **Drawing Numbers/Scheme**

1-2

Scheme 1

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

Contact: Catriona Reece-Heal, Senior Planning Officer  
E-mail: [catriona.reece-heal@edinburgh.gov.uk](mailto:catriona.reece-heal@edinburgh.gov.uk)

## Summary of Consultation Responses

NAME: SEPA

COMMENT: No objection however would prefer this site to be developed as part of a holistic approach with the wider City Plan housing designation, particularly in relation to flooding issues. It is noted that further information has been provided in relation to flooding, air quality issues and odour assessment. There are now a number of air quality mitigation measures proposed.

DATE: 6 July 2022

NAME: CEC Flooding

COMMENT: No objection however a number of conditions and informatives proposed: The detailed design site levels and landscaping should be designed to safely manage exceedance of surface water flows taking into account the impact of the proposed wave return wall. The applicant should engage with Scottish Water and the Council to confirm maintenance arrangements for the proposed drainage features. Informative: further engagement with Scottish Water is required to explore the possibility to connect the existing off site surface water network to the proposed surface water network rather than the proposed combined network at this site.

DATE: 8 August 2022

NAME: Environmental Protection

COMMENT: Recommend Refusal. The applicant has provided additional information relating to noise, odour, and air quality impact mitigation. Environmental Protection has concerns that odour and noise, particularly from the Edinburgh Dog and Cat Home, will affect the residential amenity of the application properties. In addition, the mitigation put forward by the applicant to deal with air quality impacts caused by the updated car parking provision is limited for a site feeding considerable daily traffic into Air Quality Management Areas.

Should the application be granted then a number of conditions are recommended. A condition in terms of contaminated land that the site should be made safe for the proposed end use. A condition regarding the use classes proposed.

DATE: 13 September 2022

NAME: Scottish Water

COMMENT: No objection.

DATE: 21 February 2022

NAME: Archaeology

COMMENT: No objection subject to the following condition. This programme of work should be secured by the following recommended condition; No demolition/development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis & reporting, publication and public engagement, interpretation) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

DATE: 22 February 2022

NAME: Nature Scot

COMMENT: Additional information has been provided including the HRA report and clarification on direct impacts during construction. This has now been received. It is advised that the Council should have enough information to undertake their HRA and conclude no adverse effect on site integrity.

DATE: 9 September 2022

NAME: Children and Families

COMMENT: A legal agreement is required for the contributions towards the provision of educational infrastructure.

DATE: 1 September 2022

NAME: The Coal Authority

COMMENT: No observations as site is not within a defined coalfield.

DATE: 24 February 2022

NAME: Enabling Partnerships

COMMENT: Policy Hou 6 Affordable Housing in the LDP states that 25% of the total number of units should be affordable housing. The submission of an Affordable Housing Statement is required. This will be secured through legal agreement.

DATE: 22 March 2022

NAME: Final Transport Response

COMMENT: No objection subject to conditions and informatives including:

Condition -

The applicant will be required to introduce a cycle and pedestrian crossing on Seafield Road East at a suitable location;

Condition - Cycle and car parking, including electric vehicle and disabled spaces to be reserved matters. Cycle parking to be provided in secure and undercover locations in line with Council guidance and factsheets. The proposed 60 car parking spaces for the 220 units is considered acceptable;

Condition - layout and pedestrian, wheelchair and cycle access to the Promenade and Seafield Road East to be reserved matters.

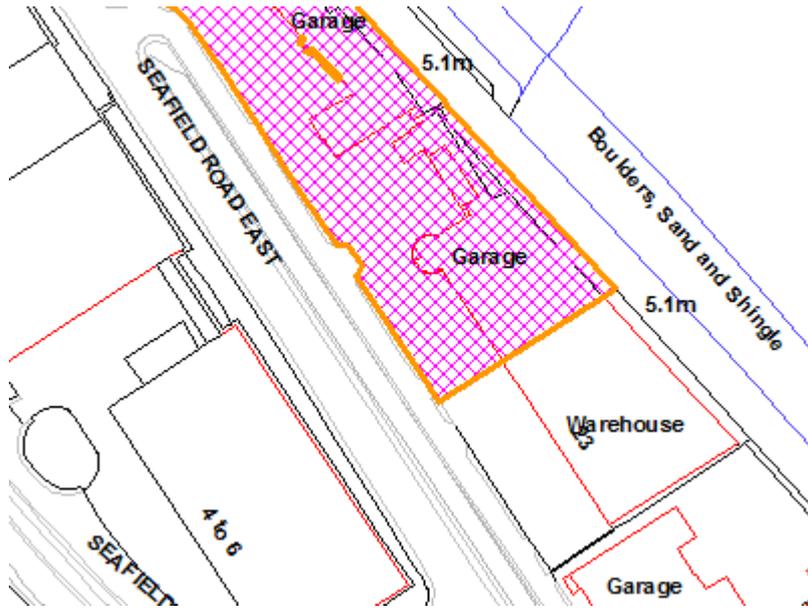
Legal Agreement - Contributions will be required to introduce car club vehicles in the area. It is noted that 4 spaces are proposed. Legal Agreement - Contributions will be required to progress various orders which may be required, including stopping up, waiting and loading restrictions, 20mph speed limit and redetermination;

Informatives relating to access, maintenance, quality audit, outline travel plan, street names, adoption of roads and car parking areas.

DATE: 15 September 2022

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

## Location Plan



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