

# Development Management Sub-Committee Report

**Wednesday 7 December 2022**

**Application for Planning Permission  
2 Oxgangs Path, Edinburgh, EH13 9LX.**

**Proposal: Demolition of existing office building and construction of 11x flats with associated external works (as amended).**

**Item – Committee Decision  
Application Number – 22/02052/FUL  
Ward – B08 - Colinton/Fairmilehead**

## **Reasons for Referral to Committee**

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as it has received more than six material representations in objection and the recommendation is to approve planning permission.

### **Recommendation**

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

### **Summary**

The proposal complies with relevant policies set out in the Local Development Plan. An infringement of policy Hou 2 (Housing Mix) is acceptable in this case. A satisfactory residential environment can be achieved and the proposal will not have a negative impact on neighbouring amenity.

The proposal is acceptable and there are no material considerations which outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The site is on the corner of Oxgangs Path and Oxgangs Brae and is currently in Class 4 use occupied by Scripture Union Scotland. To the south west is a brownfield site with planning permission for a three storey mixed use commercial and residential development (Application Reference: 20/05733/FUL).

On the opposite side of Oxgangs Path to the north west is an Aldi supermarket. Across Oxgangs Brae to the north east there are one and two storey residential properties, and directly to the south east is a one storey house at 32 Oxgangs Brae. The site slopes upwards from the corner in both directions, to the south west along Oxgangs Path, and to the south east along Oxgangs Brae.

The site is located within the Urban Area as identified within the Local Development Plan (LDP).

### **Description of the Proposal**

The proposal is for the demolition of the existing office building and the construction of a three storey residential block with 11 flats and associated external landscaping. Ten two bed flats and one three-bed flat are proposed. The new building is to be formed of grey/buff brick, a single membrane ply roof with metal trim and UPVC windows with galvanised steel balustrades.

A communal garden covering 128 square metres (sqm) is proposed on the south of the site. A new 1.8 metre timber fence and new hedge planting are proposed to the boundaries. Pedestrian access to all communal entrances will be kept as level as possible with all sloped areas below 1:20. All paths will be suitable for wheelchair users. Surfaces will be non-slip, level and durable, with dropped kerbs where applicable.

Seven car parking spaces are proposed in total, one of these spaces is designated for disabled users. A total of 27 cycle parking spaces are proposed. 19 spaces are provided in a secure internal store with nine Sheffield stands and one wall mounted batacket for non-standard bikes. Eight E-bike charging points are included within the store. A further four spaces are provided in individual stores under the communal stairs at ground floor level. Externally, two Sheffield stands provide a further four spaces.

### **Revised Scheme**

The revised scheme removes the use of vertical racks and introduces Sheffield stands and additional bike storage under the communal stairs. The revised scheme also includes minor changes to the proposed fenestration.

### **Supporting Information**

- Design and Access Statement
- Noise Impact Assessment
- Drainage Strategy and Flood Risk Assessment

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

No relevant site history.

## **Pre-Application process**

There is no pre-application process history.

## **Consultation Engagement**

Transport

Flood Planning

Environmental Protection

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

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 3 May 2022

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

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

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

**Number of Contributors:** 12

## **Section B - Assessment**

### **Determining Issues**

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

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

## Assessment

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

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

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

- LDP Design Policies Des 1, Des 4 and Des 5
- LDP Housing Policies Hou 1, Hou 2, Hou 3 and Hou 4
- LDP Delivery Policy Del 1
- LDP Environment Policy Env 21
- LDP Transport Policy Tra 2 and Tra 3

The non-statutory Edinburgh Design Guidance and the Developer Contributions and Infrastructure Delivery Supplementary Guidance are material to the assessment of the above policies.

#### Principle of Development

Local Development Plan (LDP) Policy Hou 1 (Housing Development) supports housing on suitable sites in the urban area, provided that the proposals are compatible with other policies in the Plan.

#### Scale, Form and Design

LDP Policy Des 1 (Design Quality and Context) requires development proposals to create or contribute towards a sense of place. The design should be based on an overall design concept that draws upon the positive characteristics of the surrounding area.

LDP Policy Des 4 (Development Design - Impact on Setting) also requires development proposals to have a positive impact on its surroundings, including the character of the wider townscape, having regard to its height and form, scale and proportions, including the spaces between the buildings, position of the buildings and other features on the site; and the materials and detailing.

LDP Policy Hou 4 (Housing Density) states that the density of a development on a site will be dependent on its characteristics and those of the surrounding area; the need to create an attractive residential environment within the development; the accessibility of the site to public transport; and the need to encourage and support the provision of local facilities necessary to high quality urban living. It goes on to explain that in established residential areas, proposals will not be permitted which would result in unacceptable damage to local character, environmental quality or residential amenity.

LDP policy Hou 2 (Housing Mix) seeks the provision of a mix of house types and sizes where practical, to meet a range of housing needs, including those of families, older people and people with special needs, and having regard to the character of the surrounding area and its accessibility.

The application site has frontages onto Oxgangs Path and Oxgangs Brae. The proposed building will give a strong edge to the street frontage on both streets. The surrounding residential buildings in the immediate area are predominantly one and two storeys, however there are three and four storey blocks in the wider locality and the vacant plot directly to the south west has planning consent for a three storey block on Oxgangs Path. As this is the only other building to the south side of Oxgangs Path, the proposed three storey building provides consistent street frontage. Given the varied housing mix and densities in the surrounding area, the introduction of flatted development is acceptable in this location.

The proposed development will be similar in scale and form to the consented development next door, The proposed development will follow the established building line of the dwellings on Oxgang Brae and is broadly in line with the consented development to the west on Oxgangs Path. The frontage of the development is slightly stepped to the north to reduce the impact of the massing on this elevation.

The main footprint of the building has also been pulled further away from the neighbouring residential buildings to the south. The introduction of car parking and amenity space to the south of the site will give clear separation from the proposed development and existing residential neighbours.

The height and architecture in the street and surrounding area are mixed. This includes building styles, positioning on plots, relationship to the street, materials, height and massing. The Design and Access Statement has demonstrated how the building will respect the slope of the land. topographical features. The site lies within protected viewcone s4e : Craiglockhart Hills to Pentland Hills. Oxgang Road rises 13.4 metres (m) from a level of 150.3 m above ordinance datum (AOD) at the end of Oxgangs Path to a level of 163.7m AOD at the corner by The Hunters Tryst. The ridge level of the proposed building at 158.5 m AOD is below the ridge levels further south on Oxgangs Road and will not have an impact on the view of the Pentland Hills.

The mix of units proposed is limited to mainly two bed flats with one three bed unit. Whilst Policy Hou 2 aims to achieve a mix of dwelling types and sizes to avoid the creation of large areas of housing with similar characteristics, this is a relatively small scale housing development. The mix of unit types and sizes will meet the needs of different population groups, from single person households to larger and growing families, albeit with a choice of two sized units. Given the wide range of existing residential unit sizes in the surrounding area, this minor infringement of the policy Hou 2 (Housing Mix) is justified in this case.

The proposal complies with policies Des 1, Des 4 and Hou 4 and the minor infringement of Hou 2 is justified in this case.

### Amenity

#### *Amenity of future occupiers*

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

LDP Policy Hou 4 (Housing Density) takes account of the need to create an attractive residential environment within the development.

LDP Policy Hou 3 (Private Green Space in Housing Development) requires developments to provide adequate provision for green space to meet the needs of future residents.

The Edinburgh Design Guidance states that the pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances. It also states that private open space/gardens should be designed for a range of functions.

All proposed units exceed the minimum internal floor areas recommended in Edinburgh Design Guidance. All units are dual aspect. 35 % of the total site area is covered by green space and the 128 sqm communal garden to the south of the site exceeds the 10 sqm per unit minimum requirement set out in LDP policy Hou 3. Given the location of the garden area to the south of the proposed building, the garden will receive adequate levels of sunlight.

A Noise Impact Assessment (NIA) has been provided in support of the application due to concerns relating to noise from the supermarket opposite the site. The NIA identified no issues arising from noise linked to the supermarket.

An adequate residential environment can be achieved. The proposal complies with LDP policy Des 5 in this regard.

#### *Amenity of neighbours*

LDP Policy Des 5 (Development Design - Amenity) requires development proposals to demonstrate that neighbouring amenity of a development will have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

The potential impact of the proposed development on daylight to neighbouring windows was assessed initially using the 25-degree method as set out in Edinburgh Design Guidance. This demonstrated that the proposed development would have no impact on daylight to 25 Oxgangs Path and 32 Oxgangs Brae. The 25-degree line from 23 Oxgangs path was marginally impeded by the proposed development.

As the 25-degree method indicated that daylight to number 23 Oxgangs Brae could potentially be affected by the proposed development, further analysis was carried out using the Skylight Indicator in Appendix A of the BRE guide Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice to calculate the Vertical Sky Component.

The BRE Guide states that if the Vertical Sky Component is 27% or above then enough skylight should reach the window of the existing building. Any reduction below this level should be kept to a minimum. The VSC analysis indicated a Vertical Sky Component of 35% with the proposed development in place, comfortably above the recommended limit which demonstrates that number 23 Oxgangs Brae will continue to receive adequate daylight.

A sun path diagram is included in the Design and Access Statement showing that the sun path falls to the south of the proposed development, with no potential for overshadowing to neighbouring gardens. The Design and Access Statement also includes diagrams demonstrating that the proposal complies with the 45-degree sunlight assessment set out in Edinburgh Design Guidance. The proposal will not overshadow neighbouring gardens.

The proposed building will be moved further away from residential neighbours than the existing building. The proposed development will be approximately 21.8 metres from neighbours to the south-east and 17.7 metres from neighbours to the north-east. These privacy distances are similar or better than established privacy distances in the area. A 1.8 metre fence and new hedge planting will also provide a privacy buffer.

The proposal will not have a negative impact on neighbouring amenity.

### Car and Cycle Parking

Policies Tra 2 (Car Parking) and Tra 3 (Cycle Parking) of the LDP sets out the requirement for private car and cycle parking

The provision of 7 car parking spaces complies with Car Parking Standards set out in guidance. Six car parking spaces are already present on site. The addition of one more space complies with guidance and is not expected to increase traffic or congestion. The Roads Authority was consulted on this scheme and raised no concerns relating to traffic generation, congestion or road safety.

The proposal includes a total of 27 cycle parking spaces. 23 spaces are provided internally in secure stores in compliance with guidance. Two Sheffield racks are also provided externally for visitors. The proposed level of parking complies with guidance.

The proposal complies with policies Tra 2 and Tra 3.

### Surface Water Management

LDP Policy Env 21 (Flood Protection) states that planning will not be granted for development that would increase flood risk or be at risk of flooding.

Flood Planning has advised that it has no concerns regarding this application and has recommended that prior to initiation of development the applicant confirm to the Planning Authority that Scottish Water will accept the proposed surface water discharge rate to the combined system.

The proposal complies with policy Env 21.

### Developer Contributions

The application site is located within the Allermuir Healthcare Contribution Zone. In support of a new Allermuir Healthcare facility, the applicant shall contribute a sum of £526.26 per dwelling, a total of £5788.86.

The site is located within the Firhill Education Contribution Zone. The expected primary and secondary school pupil generation associated with the proposed development has been assessed in line with the methodology set out in the Developer Contributions and Infrastructure Delivery Supplementary Guidance. The expected pupil level does not reach the level required in guidance to request a contribution towards education infrastructure.

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

The proposal complies with relevant policies set out in the Local Development Plan. An infringement of policy Hou 2 (Housing Mix) is acceptable in this case. A satisfactory residential environment can be achieved and the proposal will not have a negative impact on neighbouring amenity.

### **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 complies with Paragraph 29 of SPP.

#### Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time little weight can be attached to it as a material consideration in the determination of this application.

#### Equalities and human rights

One of the neighbouring residents has indicated they are living in sheltered accommodation with complex mental and physical health needs. They have expressed concern about the impact of construction noise and dust on their health and also concern regarding loss of sunlight and the potential for the development to make them feel enclosed. A shift worker in the surrounding area has also expressed concern regarding construction noise.

The Planning Authority does not have control over construction noise and this is typically not material to the consideration of a planning application. It is recommended however that prior to initiation of development that the applicant submits a Construction Management Plan to the Planning Authority outlining when noisy work will occur and measures to limit and control dust on site.

In terms of wider concerns relating to overshadowing and a sense of enclosure, these matters are addressed in the report above. A sun path analysis shows the new building will not block sunlight to existing neighbours and the proposal passes the 45-degree sunlight assessment. In terms of enclosure, the proposed building will be separated from neighbouring development by garden space and a car park and the edge of the new building is further away from neighbours to the south than the existing building.

Due regard has been given to section 149 of the Equalities Act 2010.

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*

- Impact on privacy, loss of sunlight and daylight; this is addressed in section (a) of the report.
- Contrary to the character of the area in terms of density and unit mix; this is addressed in section (a) above.
- Congestion, issues relating to parking and traffic; this is addressed in section (a).
- Construction noise and dust; this is addressed in section (b).

One indication of support was received. However, no comments were made and there is nothing to summarise.

#### *non-material considerations*

- Loss of private view; this is not a material planning consideration.

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

The proposal is acceptable and there are no material considerations which outweigh this conclusion.

### **Overall conclusion**

The proposal complies with relevant policies set out in the Local Development Plan. An infringement of policy Hou 2 (Housing Mix) is acceptable in this case. A satisfactory residential environment can be achieved and the proposal will not have a negative impact on neighbouring amenity.

The proposal is acceptable and there are no material considerations which outweigh this conclusion.

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

### Conditions :-

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.

### Reasons :-

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

### Informatives

It should be noted that:

1. Legal Agreement

#### Healthcare

The application site is located within the Allermuir Healthcare Contribution Zone. In support of a new Allermuir Healthcare facility, the applicant shall contribute a sum of £526.26 per dwelling, a total of £5788.86.  $11 \times 526.26 = £5788.86$

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. A detailed Construction Environment Management Plan (CEMP) shall be submitted to the satisfaction of The Planning Authority and adhered to during the construction phase. This should address dust, the piling stage and hours of noisy operation.
5. Prior to construction, the applicant confirms in writing to the planning authority that Scottish Water accepts the proposed surface water discharge rate to the combined system.

## **Background Reading/External References**

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

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

**Date Registered: 2 May 2022**

## **Drawing Numbers/Scheme**

01-02, 03A, 04B, 05A, 06A, 07-08, 09A, 10-13

Scheme 2

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

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## Appendix 1

### Summary of Consultation Responses

NAME: Transport

COMMENT: No objections to the application.

DATE: 18 October 2022

NAME: Flood Planning

COMMENT: The applicant can proceed with the proposal and formally update the drawing, as suggested.

DATE: 13 October 2022

NAME: Environmental Protection

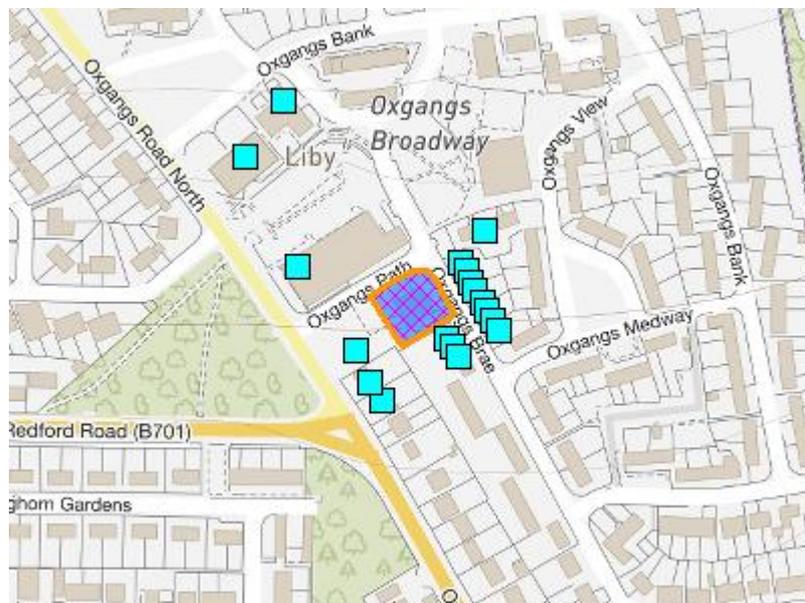
COMMENT: Environmental Protection raised no objection to the scheme. The Team noted the highly accessible location of the scheme and noted a preference for zero car parking.

The team noted that sustainable energy sources should be used.

DATE: 13 July 2022

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

### Location Plan



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