



Local Review Body for Application No 22/02294/FUL Response to Adoption of NPF4

As you may be aware, at the meeting of the Local Review Body this morning, on 1 February 2023, the Panel made a request under [The Town and Country Planning \(Schemes of Delegation and Local Review Procedure \(Scotland\) Regulations 2013](#) Regulation 15, for further written submissions, and specifically:

'To continue consideration of the application for further written submissions to allow both the planning officer and the applicant/agent the opportunity to consider the proposals in regard to the policies set out in the Revised Draft National Planning Framework 4 (NPF4).'

We are delighted to respond to the LRB panel with regards to the recent adoption of NPF4. We have reviewed the document and highlighted those policies we feel offer further context to the proposals at Castle Gogar Rigg. The response below extracts those sections of the policies that are relevant (as opposed to repeating the complete text of each policy).

Policy 1

When considering all development proposals significant weight will be given to the global climate and nature crises.

Response - This is a key driver behind NPF4 and Scotland's progress towards being a more sustainable country. It is a much wider objective etc. than a small scale residential development at Castle Gogar. However the appeal site is at a sustainable location being in close proximity to the tram network, bus routes and the main Central Scotland road network.

There is scope for residents to use modes of transport other than the private car, whilst the houses are of a sustainable construction methods and designed to be energy efficient in their materials and layout etc.

Finally the appeal site lies within an area due to experience significant change, it is within areas designated for commercial and residential development whilst being at a location that has accommodated development in recent years. It is a logical location for future development and in its own small way will relieve pressure on more sensitive sites.



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Policy 2

- a) Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible.
- b) Development proposals will be sited and designed to adapt to current and future risks from climate change.

Response - As above the proposals are designed to develop energy efficient new homes, utilising up to date materials, effectively future proofing the development against future influences of climate change. As we cover later, the proposals were also tested against future flood issues taking climate change into account.

Again in locating development as part of land allocated for significant development, the Castle Gogar site will see development on land already designated as part of the International Business Gateway, ensuring the sustainable use of resources and locating development close to amenities and key transport hubs (trams and trains).



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Policy 3

- a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.
- b) Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development. Applications for individual householder development, or which fall within scope of (b) above, are excluded from this requirement.

Response – the application was supported by an ecological/biodiversity survey and tree survey. The latter identified that further tree maintenance was required and this will be undertaken as part of the proposals to develop the new homes.

The ecology/biodiversity report concludes that there are no protected species being adversely impacted (badgers, bats, otters etc.) whilst the creation and management of garden and communal ground creates its own diverse habitats protecting and promoting biodiversity around the Castle Gogar site.

Each dwelling will also incorporate a significant area of low maintenance green roof which will boost biodiversity, with flora and fauna attracting a variety of insects, including butterflies and bees, as well as small nesting birds.

The new landscaping proposals were considered at the forefront of the design process and have been outlined/ illustrated within the accompanying Design Statement (p23-24). Extract below –

“The proposals for the new development will be a continuation of the landscaping palette already established. Any new trees/ hedges planted, for example, will be of a similar species to those already on the site. A mix of soft landscaping, with a range of plant species appropriate to the area, will also aid biodiversity on the site.”

From the onset of the project, several site visits were undertaken to ensure the design team had a good understanding of the existing setting which, ultimately, has strongly informed the design process to ensure the new proposed dwellings become part of the surrounding habitat. The extensive detail provided within the Design Statement and application documents clearly illustrates this understanding.



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Policy 7

- a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.

Response – Policy 7 is a lengthy policy the remainder of which deals with development that directly affects listed buildings and conservation areas.

From the outset, we have been acutely aware of the presence, influence and importance of Castle Gogar. It is covered extensively in our original planning submission and also in the appeal documentation. These documents include an assessment of the potential visual impact as well as an understanding of the setting of Castle Gogar and its surrounding area.

Fundamentally, the compromises to the setting Castle Gogar were accepted in 2005 with the planning permission granted that saw the creation of the original nine houses at Castle Gogar Rigg. These properties had the biggest and most intrusive impact on the setting of Castle Gogar and the protection of it, within its immediate grounds was seen as a satisfactory trade-off against the development outwith its walls.

It continues to be our professional opinion that the proposals before you seek to complete the development at Castle Gogar Rigg with a series of very high quality, sustainable and energy efficient homes that will improve the wider setting of the castle.

Furthermore the continued referral to the paddock area to the front of the Castle is incorrect and misleading. It has never been a paddock, nor is there any historic reference to it as such and romanticises that the area in front of the Castle gates may once have been. It would be highly unusual for a paddock to be located to the front of the Castle but almost certainly to the rear of the property on land that is now part of Edinburgh Airport.



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Policy 9

- a) Development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.
- b) Proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP.

Response – Parts c and d of this policy are not relevant.

The site at Castle Gogar is allocated as part of the International Business Gateway (IBG) a significant development that will see major development in and around the Castle Gogar site.

There has been some debate that as these proposals are not part of a wider business-led development, they do not comply with the IBG criteria yet we have willingly removed an inappropriate office development from the proposals that has planning permission on the open space area at the centre of Castle Gogar. It is clear that the immediate site around Castle Gogar is purely residential and any other use would not be appropriate.

There is no denying that the site lies within the IBG designation and the high quality residential development is an appropriate part of that wide mix of potential uses and development for the wider IBG site.



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Policy 13

- a) Proposals to improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs will be supported. This includes proposals:
 - i. for electric vehicle charging infrastructure and electric vehicle forecourts, especially where fuelled by renewable energy.
- b) Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:
 - i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
 - ii. Will be accessible by public transport, ideally supporting the use of existing services;
 - iii. Integrate transport modes;
 - iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
 - v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;

Response – the availability of public transport to residents of and visitors to Castle Gogar is a key element to these proposals. Tram, train and bus stops are all available close to the site giving easy access to the surrounding area and Edinburgh City Centre. The site is also ideally located for Edinburgh Airport.

The proposal is for six detached new homes which will all enable off-road private EV charging capabilities and the ability to store bicycles.



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Policy 14

- a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
- b) Development proposals will be supported where they are consistent with the six qualities of successful places:
 - **Healthy:** Supporting the prioritisation of women's safety and improving physical and mental health.
 - **Pleasant:** Supporting attractive natural and built spaces.
 - **Connected:** Supporting well connected networks that make moving around easy and reduce car dependency
 - **Distinctive:** Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.
 - **Sustainable:** Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.
 - **Adaptable:** Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.
- c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

Response – the qualities and benefits of the development at Castle Gogar Rigg have been highlighted throughout the process and the development would deliver the six qualities of a successful place. There has been no criticism/negative feedback around the quality of the design or the layout or the fact that it would sit comfortably with the existing properties at Castle Gogar Rigg.

Should this appeal be successful, there can be no doubt that this would be a high quality addition to the area in terms of design quality, layout, sustainability, safety and being a pleasant environment for residents and visitors alike.



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Healthy

The proposed development is set within what is already considered to be a safe residential environment, with natural surveillance. The semi-rural setting will inherently support physical and mental well-being of residents. Dedicated Cycle Paths also exist along the A8 heading east and west further encouraging an active lifestyle and alternative means of transport.

Pleasant

As illustrated within the detailed Planning documents, a rigorous design process has been undertaken to ensure the proposals are sympathetic and respond to their immediate context. The dwellings themselves will also provide a healthy internal environment, with fully integrated, sustainable energy solutions proposed (detailed on p70 of the Design Statement). There is no doubt that Castle Gogar Rigg is an attractive, high quality and pleasant residential environment.

Connected

There are established public transport links to and from the site (tram and bus) with good cycle routes also available. EV charging points are also proposed to each dwelling.

Distinctive

As above, extensive design development has been integral to the design process to ensure the design proposals are wholly contemporary, incorporating the bold architectural style of the existing properties, but also respectful of the natural environment within which they sit. The Design Statement provided as part of the application clearly illustrates the level of attention to detail, from the wider masterplan for the site, including layout and landscaping designs, to the considered materiality (a refined palette) of each dwelling.

Sustainable

The Design Statement expands on the sustainability of the development (p70). This details our approach the energy efficiency of the dwellings themselves, but also the approach to developing a sustainable community as well as addressing how sustainability is maintained throughout the construction process. As the site sits within the designated area for the IBG, as well as being near the airport and with good access to the city centre, there are ample opportunities for the residents to work within the local area.

Adaptable

As individual residences, the dwellings have been designed so that the internal layouts are flexible and can be easily adapted in the future to meet the need of their occupants.



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Policy 15

- a) Development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to:
- i. sustainable modes of transport including local public transport and safe, high quality walking, wheeling and cycling networks;
 - ii. employment;
 - iii. shopping;

Response – the proposals at Castle Gogar Rigg afford exceptional access to major areas of employment and commercial activity as well as shopping and leisure activities. The Gyle Shopping Centre and South Gyle business district is close by as is the Royal Bank of Scotland headquarters on the opposite side of the A8. The airport and surrounding hotels and other uses also offer employment opportunities.

Easy access to the tram and train network gives quick and sustainable access to a much wider area including Central Edinburgh. The site is an exceptional location for further development not to mention the future development of the International Business Gateway which will deliver further employment/commercial and leisure opportunities very close by.

All of the above are comfortably within the 20 minute travel time being promoted in the twenty-minute neighbourhoods.



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Policy 16

a) Development proposals for new homes on land allocated for housing in LDPs will be supported.

Response - the site at Castle Gogar forms part of a much wider allocation which permits the development of housing. The wider International Business Gateway will see the delivery of a mix of uses, of which housing will for an important and viable element. The fact that the site at Castle Gogar is not suitable for a genuine mixed use development without unacceptable impacts, should not make it any less suitable for further residential development.

The completion of the development at Castle Gogar Rigg will be beneficial to the wider neighbourhood and create a more pleasant residential environment and high quality setting for the Castle and other Castle Gogar Rigg properties.



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Policy 22

In such cases, it will be demonstrated by the applicant that:

- all risks of flooding are understood and addressed;
- there is no reduction in floodplain capacity, increased risk for others, or a need for future flood protection schemes;
- the development remains safe and operational during floods;
- flood resistant and resilient materials and construction methods are used; and
- future adaptations can be made to accommodate the effects of climate change.

a) Development proposals will:

- i. not increase the risk of surface water flooding to others, or itself be at risk.
- ii. manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer;
- iii. seek to minimise the area of impermeable surface.

b) Development proposals will be supported if they can be connected to the public water mains. If connection is not feasible, the applicant will need to demonstrate that water for drinking water purposes will be sourced from a sustainable water source that is resilient to periods of water scarcity.

Response – Policy 22 deals with flood risk - the Gogar Burn runs from the south of the site and along the eastern edge of the wider Castle Gogar site. We were aware from a previous application that a greater level of certainty and comfort was required to satisfy the Council that the site would not flood and nor would it exacerbate the situation elsewhere.

A flood risk assessment was undertaken by consultancy firm Gondolin and SEPA were consulted on the findings. Subsequently, Flood Risk is not a concern of the Council with regards to the proposed development at Castle Gogar.

Application: 22/02294/FUL

At 6 Castle Gogar Rigg

Planning Services further written comments on NPF4 policy:

On 1 February 2023 the Local Review Body continued consideration of application 22/02294/FUL at 6 Castle Gogar Rigg for the erection of 6 residential dwellings. Specifically, further written submissions were requested from both from the appellant/applicant and the planning officer with regards to the now approved NPF4.

Policy Framework:

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The following superseded LDP policies need to be assessed in relation to NPF policy:

Listed Building-Setting

LDP Environment Policy Env 3 (Listed Building-Setting) has been superseded by NPF Policy 7c).

LDP

Env 3 states '*development within the curtilage or affecting the setting of a listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting*'.

NPF4

NPF Policy 7c) states that '*development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest*'.

Both policies are complimentary and no further assessment is required.

Species Protection

LDP Environment Policy Env 16 (Species Protection) has been superseded by NPF4 Policy 4.

LDP

Env 16 states that 'planning permission will not be granted for development that would have an adverse impact on species protected under European or UK law, unless:

- a) there is an overriding public need for the development and it is demonstrated that there is no alternative
- b) a full survey has been carried out of the current status of the species and its use of the site
- c) there would be no detriment to the maintenance of the species at 'favourable conservation status*'
- d) suitable mitigation is proposed

NPF4

NPF4 Policy 4 f) states with regards to species protection: *'Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application'*.

Both policies are complimentary and no further assessment is required.

It is respectfully requested that the officer's recommendation is upheld.

15/02/23

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sent: 16 February 2023 11:46
To: Gina Bellhouse <Gina.Bellhouse@edinburgh.gov.uk>
Cc: Blair Ritchie <Blair.Ritchie@edinburgh.gov.uk>
Subject: Re: LRB 1 Feb 2023 - 6 Castle Gogar Rigg, 22/02294/FUL

Good morning Gina,

With regards to the Council's response Re: NPF4 we acknowledge that the two policies highlighted (Policies 4 and 7) would be relevant in terms of historic buildings and biodiversity/ecology.

As has been highlighted through this process (both the application and appeal) we have addressed both these elements as part of our comprehensive submissions.

We would like to draw the panels attention to the fact that on the matter of trees and biodiversity, reports/surveys were undertaken and submitted with the application. The refusal notice states that insufficient information was provided yet we have never been asked for more information, nor have the findings of the reports been questioned. It is on this basis that we continue to stress that we are compliant with policies relating to biodiversity, tree protection and the presentation of historic assets.

Many thanks again and we look forward to receiving confirmation that the appeal will go before the panel on the 8th March 2023.

Best wishes

Tony

Tony Thomas

Director



6 High Street, East Linton

East Lothian

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e. tony@apt-plandevlop.co.uk

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From: Gina Bellhouse <Gina.Bellhouse@edinburgh.gov.uk>

Sent: Wednesday, February 15, 2023 3:57 PM

To: tony@apt-plandevlop.co.uk

Cc: Blair Ritchie

Subject: RE: LRB 1 Feb 2023 - 6 Castle Gogar Rigg, 22/02294/FUL

Many thanks,

Gina

From: tony@apt-plandevlop.co.uk <tony@apt-plandevlop.co.uk>

Sent: 15 February 2023 15:55

To: Gina Bellhouse <Gina.Bellhouse@edinburgh.gov.uk>

Cc: Blair Ritchie <Blair.Ritchie@edinburgh.gov.uk>

Subject: Re: LRB 1 Feb 2023 - 6 Castle Gogar Rigg, 22/02294/FUL

Thanks Gina and will respond tomorrow - it was a concise response to say the least.

Will put 8th March in the diary and await confirmation.

Thanks again

Tony

Tony Thomas

Director



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From: Gina Bellhouse <Gina.Bellhouse@edinburgh.gov.uk>

Sent: Wednesday, February 15, 2023 3:52 PM

To: tony@apt-plandevlop.co.uk

Cc: Blair Ritchie

Subject: RE: LRB 1 Feb 2023 - 6 Castle Gogar Rigg, 22/02294/FUL

Dear Tony,

Many thanks for your further written submissions for this Local Review.

If you are able to get any comments on the CEC further written submissions back to me by Monday 27th February (which is just under the 14 day statutory period), we could get the application before Local Review Body Panel 1 on 8 March 2023. Failing that the next time Panel 1 sits is 26 April 2023, due to the Easter recess.

Kind regards,

Gina

From: tony@apt-plandevlop.co.uk <tony@apt-plandevlop.co.uk>
Sent: 15 February 2023 15:40
To: Gina Bellhouse <Gina.Bellhouse@edinburgh.gov.uk>
Cc: Adam Cairns <Adam.Cairns@edinburgh.gov.uk>; Local Review Body <LocalReviewBody@edinburgh.gov.uk>; Blair Ritchie <Blair.Ritchie@edinburgh.gov.uk>
Subject: Re: LRB 1 Feb 2023 - 6 Castle Gogar Rigg, 22/02294/FUL

Good afternoon Gina and further to your email below, please find attached further commentary with regards to NPF4 in the context of the ongoing LRB appeal.

Many thanks, we will respond as necessary to the earlier email received with the Council's comments attached, and beyond that, look forward to confirmation of a new LRB hearing date.

Many thanks

Tony

Tony Thomas

Director



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From: Gina Bellhouse <Gina.Bellhouse@edinburgh.gov.uk>
Sent: Wednesday, February 1, 2023 2:54 PM
To: tony@apt-plandevlop.co.uk
Cc: Adam Cairns; Local Review Body; Blair Ritchie
Subject: LRB 1 Feb 2023 - 6 Castle Gogar Rigg, 22/02294/FUL

Hi Tony,

As you may be aware, at the meeting of the Local Review Body this morning, on 1 February 2023, the Panel made a request under [The Town and Country Planning \(Schemes of Delegation and Local Review Procedure \(Scotland\) Regulations 2013](#) Regulation 15, for further written submissions, and specifically:

‘To continue consideration of the application for further written submissions to allow both the planning officer and the applicant/agent the opportunity to consider the proposals in regard to the policies set out in the Revised Draft National Planning Framework 4 (NPF4).’

In accordance with Regulation 15, you now have 14 days to provide your comments in

regards to the above. When responding please reply to all copied into this email to ensure the relevant parties have sight of your submission.

Please note that on 11 January 2023, NPF4 was approved by the Scottish Parliament. This is now makes NPF4 a significant material consideration when determining planning applications. The next stage is for NPF4 to be adopted and published by Scottish Ministers. Scottish Government has intimated that it intends to do that at 9am on Monday 13 February 2023, at which time, if adopted, NPF4 will become part of the statutory development plan. You may wish to take this into consideration when preparing your response for the Local Review Body, as consideration of your Review will take place beyond this date.

As you will see, the request for further written submissions was also made to the planning officer. Once both parties have prepared and submitted their comments, these will be exchanged and you will have a further 14 days to comment on the planning officer's response.

Following receipt of all comments the case will be returned to the next available Panel 1 LRB meeting.

If you gave any queries regarding the above, please do not hesitate to get in touch.

Kind regards,

Gina

Gina Bellhouse | Team Manager | Service Development and Appeals | Planning and Building Standards | Sustainable Development | Place Directorate | The City of Edinburgh Council | Waverley Court | Level G:3 | 4 East Market Street | Edinburgh | EH8 8BG | (Mon to Thurs) | gina.bellhouse@edinburgh.gov.uk | www.edinburgh.gov.uk Latest Planning updates <http://twitter.com/planningedin> and <http://planningedinburgh.com/>

Our office is still closed and we are working from our homes using email and other online communications.

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**Application Reference 22/02294/FUL For “Erect 6x dwellings”
Land 80 Metres South Of 6 Castle Gogar Rigg Edinburgh
Objection on Behalf of Mr and Mrs C Hardy
Appeal - Local Review Body**

Felsham Planning & Development (FPD) is instructed by Mr and Mrs C Hardy, owners of Gogar Castle to submit an objection in respect of the above application for 6 new dwellings at land adjacent to Castle Gogar Rigg, Edinburgh.

We are aware that the applicant has appealed the refusal of 4 August 2022. The Reasons for Refusal being:-

1. The proposals do not comply with LDP policy Env 3 Listed Buildings- Setting and Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it is likely to impact on the setting of the listed building.
2. The proposals do not comply with LDP Hou 1 Housing Development and Emp 6 International Business Gateway as it is not part of a business-led mixed-use proposal, nor does it meet any of the other use criteria defined under LDP policy Emp 6.
3. Insufficient evidence has been provided to show that the proposal complies with LDP policy Env 12 Trees.
4. Insufficient evidence has been provided to show that the proposal complies with LDP policy Env 16 Species Protection.
5. The proposals do not comply with LDP Policy Des 3 Development Design - Incorporating and Enhancing Existing and Potential Features and Des 4 Development Design - Impact on Setting as it impact on the setting of the existing new build houses and surrounding area.
6. The proposals do not comply with Env 18 Open Space Protection as the granting of proposed dwellings within the "paddock" area would result in the loss of open space .

The applicant has submitted the following documents to support the appeal:

1. Review Statement; and
2. Design Statement.

The Design Statement is a new document not previously submitted with the application. Applicants should avoid raising any new material which was not before the Case Officer at the time the application was decided. New material should not be permitted unless the Local Review Body is satisfied:-

- ♣ that the new material could not have been raised before the decision was taken or the time for the decision ran out, or
- ♣ that it was not raised before that time as a consequence of “exceptional circumstances”.

There are no exceptional circumstances stated for the omission of the Design Statement from the original application and the Design Statement should not be presented to the Local Review Body.

If the Local Review Body only choose to review the Council’s Report of Handling, we are concerned at the Summary of the Representations on page 12 of the Report does not fully represent the extent of the arguments against the proposals. We therefore outline below the objections to the application and the full objection submitted in May 2022 in Annex 1.

Our clients strongly object to the application for the following reasons:

1. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The applicant has not demonstrated that this special regard should be dismissed or that there will not be an impact on the Category A Listed Building (Castle, Stables, Bridge etc) structures or their setting.
2. The Gogar Rigg, the bridge and the approach to Category A listed Gogar Castle is part of the listing and fundamental to the character and setting of the Castle.
3. The Scottish definition of a rig is a furrow or field. The address of this application is Castle Gogar Rig. This is the field surrounding Gogar Castle and this description confirms the historic intention that this is supposed to be open land surrounding and serving the Castle not land to be built on.
4. The applicant has not demonstrated why there is a need to override planning policy and allow detrimental development within the settling of a Category A listed building and its structures.
5. Failure to accord with policy – there is a presumption against development that will impact the character and settling of a listed building.
6. The aims and objectives of the LDP policy are clear - these proposals are contrary to these aims and objectives, for the reasons set out above..
7. The proposal is contrary to Historic Environment Scotland Managing Change in the Historic Environment Guidance Note on setting as the proposed new houses would detrimentally impact the approach and wider setting of Category A listed Castle Gogar.
8. There will be a detrimental impact on the ecology and wildlife of the area.

The Review Statement has not addressed any of these issues and the application should be refused.

There is no overriding need for 6 new dwellings in this location that justifies setting aside the protection of the character and setting of a Category A Listed Building.

Having regard to the above and our full objection (Annex 1), we respectfully request that the application be refused.

Annex 1

Application Reference 22/02294/FUL For “Erect 6x dwellings” Land 80 Metres South Of 6 Castle Gogar Rigg Edinburgh Objection on Behalf of Mr and Mrs C Hardy May 2022

1.0 Introduction

Felsham Planning & Development (FPD) is instructed by Mr and Mrs C Hardy, owners of Gogar Castle to submit an objection in respect of the above application for 6 new dwellings at land adjacent to Castle Gogar Rigg, Edinburgh.

This objection raises the following concerns:

1. Planning policy
2. Impact on the character and setting of Castle Gogar, an A Listed Building;
3. Loss of open space and impact on important recreation resource
4. Impact on ecology and wildlife
5. Access Impact.

2.0 Basis for Determining a Planning Application

Section 25 of the Town & Country Planning (Scotland) Act 1997 states:

‘Where in making any determination under the Planning Act, regard is to be had to the Development Plan that determination shall be made in accordance with the Development Plan unless material considerations indicate otherwise.’

Section 37 should be read alongside Section 25. Section 37 (2) states:

‘In dealing with an application, the Planning Authority shall have regard to the provisions of the Development Plan so far as material to the application and to any other material considerations.’

The House of Lords in its judgement in the City of Edinburgh Council v Secretary of State for Scotland case 1998 (SLT120) ruled that if a proposal accords with the Development Plan and no other material considerations indicate that it should be refused, planning permission should be granted. It ruled that:

‘Although priority must be given to the Development Plan in determining a planning application, there is built in flexibility depending on the facts and circumstances of each case.’

The judgement set out the following approach to determining a planning application:

1. Identify any provisions of the Development Plan that are relevant to the decision.
2. Consider them carefully looking at the aims and objectives of the plan as well as the detailed wording of policies.
3. Consider whether or not the proposal accords with the Development Plan.
4. Identify and consider relevant material considerations for and against the proposal.
5. Assess whether these considerations warrant a departure from the Development Plan.

This judgement sets out a clear and methodical approach to determining a planning application and clarifies how the development plan should be used.

The determining authority must first consider whether the proposal accords with the development plan. It is important to consider not only the detailed wording of policy, but the aims and objectives of the policy maker. If a proposal is considered to accord with the development plan, it follows that consent should be granted unless any site specific matters preclude consent.

SPP has further clarified this point. Paragraph 8 sets out the “core principles” which should underpin the “modernised system.” The third core principle states:

‘Confidence in the planning system needs to be reinforced through the efficient and predictable preparation of plans and handling of applications; transparency in decision making and reliable enforcement of the law and planning decisions.’

The House of Lords has ruled that material considerations must satisfy two tests:

1. They must be planning considerations, in other words, they must have consequences for the use and development of land or the character of the use of the land; and
2. They must be material to the circumstances of the case and they must relate to the proposed development.

There may be circumstances where the achievement of one policy objective, such as delivery of a site identified in the housing land supply requires another policy to be waived or reduced in impact.

In assessing this proposal we believe that it is also relevant to refer to the *Tesco Stores v. Dundee* [2012] PTSR 983.

Paragraph 18 of the Dundee decision states:

The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by the planning authority in its decision making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and the planning authority....the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, whilst allowing a measure of flexibility to be retained.

Paragraph 19 continues:

The development plan should be interpreted objectively in accordance with the language used...that is not to say that such statements should be construed as if they are statutory or contractual provisions. Although a development plan has a legal status and legal effects it is not analogous in its nature or purpose to a statute or contract...development plans are full of broad statements of policy many of which may be mutually irreconcilable, so that in a particular case one must give way to another...many of the provisions of the development plan are framed in language whose application to a given set of facts requires the exercise of judgement. Such matters fall within the jurisdiction of planning authorities.

The Court ruled that the interpretation of planning policy is a matter of law but the application of planning policy is a matter of planning judgment, therefore provided the planning authority demonstrates a proper understanding of policy in its reasoning it can proceed as it sees fit and weigh one policy against another and/or give weight to factors other than policy in its determination.

This decision adds weight to the argument that the aims and objectives of the development plan need to be properly assessed. If they show a specific requirement for a particular form of development that is demonstrably not met it provides the basis to argue that material considerations should overcome any policy or prematurity argument. This means that sites may be able to come forward through planning applications in advance of receiving a development plan allocation or where there is a potential policy objection.

The key is that the Courts have confirmed that the development plan provides the planning authority with discretionary powers and these can be used flexibly. It is not sufficient to conclude that in the planning authority's view the proposal does not comply with elements of policy. Instead the Courts require the 5 step procedure set out in the 1998 City of Edinburgh Council House of Lords case to be followed. The planning authority must take a view on a case by case basis with the development plan the starting point for its assessment but not the concluding point. It may be the case that a policy intended to apply across the Local Plan area is clearly not applicable to specific circumstances of a particular site.

3.0 Assessment of the Planning Application

The Edinburgh Local Development Plan (LDP) was adopted in November 2016 and is the relevant development plan.

Planning Policy

The proposal is contrary to :-

- Adopted Edinburgh LDP policy Hou 1, Emp 6, Des 4, Env 3, Env 12, Env 16, Env 18, Env 21.
- the Historic Environment Scotland Managing Change in the Historic Environment Guidance Note on setting; and

The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Section 59, requires that a proposal should preserve the setting of a listed building and as such the application also fails to meet these requirements.

The tree lined avenue (Castle Gogar Rigg) leading to the Category A listed Gogar Castle is impressive and an expected route of grandeur to the historic structure and its setting. An existing avenue, with mature trees and views of the surrounding open rolling landscape through the trees provides an important and significant setting for Gogar Castle. It is intended that the Castle will be framed by the tree lined avenue and that the approach will be one of awe and grandeur. This will be diminished with buildings placed within this supposedly uninterrupted view. This will undermine the setting of the listed building.

The Tree Survey Report submitted in support of this application states:-

7.2.1 ... this well-structured formal avenue constitutes an important historical and landscape feature. See Image No 01, below...

7.2.5 ... the avenue as a whole should be regarded as being of Category A significance in terms of historic and landscape values.

It is clear that the applicant's consultants consider the setting the Gogar Castle Rigg avenue provides to the Category A Listed Building to be an historically important feature with the highest level of significance both historically and in landscape terms.

The application proposes boundary walls and new modern Mediterranean style design dwellings which are in complete contrast to the historic nature of the Castle Gogar Rigg and the listed bridge at the edge of the application boundary. With the addition of the future development of the International Business Gateway

proposals further afield it is of vital importance that this significant location setting is preserved to retain the character of the area.

The proposal does not comply with policy Hou 1 or Emp 6 as the site is located within the area identified for the development of an International Business Gateway (IBG) within the LDP and is identified in NPF3.

Policies Emp 6 and Hou 1 do permit housing development but this is to be of a business led mixed use proposal. The proposed development is solely for housing development and not part of a mixed-use proposal. the proposal does not comply with any of the other use criteria defined under policy Emp 6. It is therefore contrary to both policies Emp 6 and Hou 1.

Policy Env 3 states that development within the curtilage or affecting the setting of a listed building will be permitted only if it is not detrimental to the architectural character, appearance or historic interest of the building, or to its setting. The application proposals are in complete contrast to the architectural character, appearance, historical interest and setting of the Category A listed building and the elements contained within the listing. There are no ties or architectural references to the style and design of the existing historical buildings but also the style does not provide new structures/buildings that have a presence or are impressive enough to enhance the route to the Castle giving a feeling of grandeur appropriate to the location.

Policy Des 4 states that planning permission will be granted for development where it is demonstrated that it will have a positive impact upon its surroundings, including the character of the wider townscape and landscape and impact upon existing views. The proposals would have a significant detrimental impact on the setting and historical significance of Category A listed Castle Gogar (and the stable cottages contained within its listing). The views from and to the listed Castle Gogar Rigg bridge and Stables would be impacted by the new dwellings and boundary walls. The character of the area would also be fundamentally impacted and changed by enclosing the views from the Castle Gogar Rigg from the wider setting of the existing structures and the surrounding landscape.

The proposed houses and walled boundary to be located within the existing paddock ground would significantly impact upon the setting of the A listed castle as they would then be the dominant features, not the tree lined structured avenue approach. The proposed dwelling to be sited within the existing "village green" would also be detrimental to the setting of the castle and the nearby stable buildings (A listed). The formation of a large dwelling, in front of the stables would be detrimental to its setting.

The tram development has created new view points into the site and of the wider context of the site. The proposed houses would be screened to a degree by the trees on the site, the housing proposed on the paddock area and Plots 1 – 3 especially, will be visible from the tram.

The proposal will be detrimental to the setting of the castle, its associated buildings and to the wider estate and therefore the proposal does not comply with LDP policy Env 3, Des 4 and the HES Guidance on Managing Change in the Historic Environment on setting.

LDP policy Env 18 states that proposals involving the loss of open space will not be permitted unless it is demonstrated that:

- a) there will be no significant impact on the quality or character of the local environment;
- b) the open space is a small part of a larger area or of limited amenity or leisure value and there is a significant over-provision of open space serving the immediate area; and
- c) the loss would not be detrimental to the wider network including its continuity or biodiversity value.

As mentioned above, there will be impact on the quality and character of the local environment by the building of new dwellings on the existing open space. The character of the area will be fundamentally changed and that character is essential in the context of the Category A Listed Building which should be afforded the highest level of protection.

The open space that will remain will be limited and compromise the overall provision of the existing grouping of houses. The amenity value will also be diminished by the loss in the context of the amenity value of the tree lined avenue.

Paragraph 194 of the LDP states

The Council will only support development on open space in exceptional circumstances, where the loss would not result in detriment to the overall network and to open space provision in the locality

The applicant has not demonstrated that there are exceptional circumstances to justify a departure from the development plan and its policies. The historic level of development within the wider site and subsequent need for this area of open space to remain has now increased over the years due to the development to the west and south west of the Castle.

The granting of planning permission for a new dwelling on this green space and the dwellings within the "paddock" area would be contrary to LDP policy Env 18. The proposal does not comply with policy Env 18.

Policy Env 12 states that development will not be permitted if likely to have a damaging impact upon a tree protected by a Tree Preservation Order or on any other tree or woodland worthy of retention unless necessary for good arboricultural reasons.

The Tree Survey Report submitted in support of this application states:-

7.2.1 Comprising substantial mature examples of Sycamore, Lime, Horse Chestnut, Norway Maple, Ash and Beech, this well-structured formal avenue constitutes an important historical and landscape feature. See Image No 01, below...

7.2.5 This unfortunate history is reflected in the reduction in the anticipated Safe, Useful Life Expectancy (SULE) of many important trees, and in their being graded variously at BS5837 Retention Category A, B or C. However the avenue as a whole should be regarded as being of Category A significance in terms of historic and landscape values.

The objector agrees with the applicant's consultant that **“,this well-structured formal avenue constitutes an important historical and landscape feature.”** and that ... *the avenue as a whole should be regarded as being of Category A significance in terms of historic and landscape values.*

(Note: our emphasis in bold)

The Tree Survey only identifies 2 trees that require removal, both of which appear (from Tree Survey - dwg:- BS_050121_R1, page 13) to be located on the opposite side of Castle Gogar Rigg to the application site and therefore outwith the application boundary.

The site has many large mature trees worthy of retention. It appears that those which are located along the south side of the long entrance to the site will be incorporated into the garden ground of Plots 1 – 3 and that a substantial (unbroken/uninterrupted along its length) wall with vehicle access to the Plots will be incorporated. It is noted that the dwelling houses (Plot 4-6) proposed within the paddock area will also be sited within close proximity of mature trees on their southern boundary.

Mature trees should be protected and there should be no loss. The presence of mature trees along the edges of the existing private access makes development difficult to achieve because of damage to tree roots. The proposed wall and vehicle access to the plots will impact on the root protection area of these mature trees.

The incorporation of the trees into the garden ground of the plots also reduces the amenity of the area and potentially removes the uniform protection /maintenance of the trees and puts it into private ownership of each dwelling owner. The recognised (Tree Survey para 7.2.1) *well-structured formal avenue constitutes an important historical and landscape feature* will be destroyed.

The Tree Survey Report submitted in support of this application notes that there is a “*programme of felling and tree surgery required*”. Relying on a private householder to undertake ongoing tree maintenance and specialist tree surgery over the lifespan of these significant mature trees, potentially puts the mature trees in danger.

The applicant has not identified which trees will require removal to facilitate the proposal and trees that will have their root protection area compromised by ground works to create foundations for the structures, walls and access.

The application is contrary to Policy ENV12.

Policy Des 4 states that planning permission will be granted for development where it is demonstrated that it will have a positive impact upon its surroundings, having regard to height and form, scale and proportions, position of buildings and materials and detailing.

Policy Des 5 states planning permission will be granted for development where it is demonstrated that the amenity of neighbours will not be adversely affected and that future occupiers will have acceptable levels of amenity in relation to noise, daylight, privacy and immediate outlook.

The proposed buildings are modern and are large in scale. The detailing is simple and Mediterranean in style. The proposed position of the buildings would also negatively impact upon its surroundings, including the character of the wider landscape. The massing of the structures and the boundary walls will negatively dominate the tree lined avenue and are of an inappropriate location and scale. The proposal does not comply with LDP policy Des 4.

Policy Env 21 states that planning permission will not be granted for development that would increase a flood risk or be at risk of flooding itself.

The site falls within the 1 in 200-year fluvial flood event zone, is located near to the Gogar Burn and the southern part of the Paddock area just falls within an Area of Importance for Flood Management. This is also shown on the Scottish Environment Protection Agency (SEPA) online flood mapping plans. The applicant should be required to provide a flood risk assessment (FRA) to demonstrate that all of the dwellings are located outwith the functional floodplain, in line with Scottish Planning Policy.

The applicant has not prepared an FRA and therefore the application is contrary to this policy.

Impact on ecology and wildlife

The proposals incorporate the mature trees lining the southern side of the Castle Gogar Rigg and the corresponding open grassland into the garden ground of the proposed dwellings. There is also a new garden wall that stretches along the complete boundary of the properties from the existing listed bridge to (just before) the entrance to the Castle. This provides an impenetrable boundary for the wildlife in the area when transitioning between the habitats of the area. The natural evolution of the trees will be impacted by being incorporated into the dwellings garden ground, again reducing the available habitat and

also potentially disturbing the existing habitat due to the proximity to the noise, lighting and environment of a properties garden.

The following construction elements will also have an impact on the ecology, wildlife, mature trees and habitat of the area:-

- The existing rising main (as shown on the application drawings) may need to be relocated;
- the foundations of the new dwellings;
- footings of the new boundary walls, and
- new vehicles access to each property.

These building elements will all have a resultant detrimental impact on the root protection areas of the existing mature trees, the trees themselves and the habitat in the area.

The Protected Species Survey undertaken in support of the application was not undertaken at the optimal time of year to establish the presence or absence of badgers, water vole or Great Crested Newts.

The proposal will have a detrimental impact on the ecology and wildlife in the area and its habitat. It is therefore contrary to the LDP policy.

Access

The access road (The Avenue) is in a serious state of disrepair. The applicant has the responsibility to maintain this asset. There are no proposals in place to rectify this situation and to restore the Avenue to a standard consistent with what will potentially become another multi-million pound development.

4.0 Summary

We have assessed the application using the House of Lords' methodology for determining a planning application:

Identify any provisions of the Development Plan that are relevant to the decision. – the relevant policies cover design, the historic environment, landscape and recreation and flooding.

Consider them carefully looking at the aims and objectives of the plan as well as the detailed wording of policies. – the aims and objectives of development plan policy are clear that this land fulfils an important landscape and historic function and an important function in the transition to a Category A Listed Building.

Consider whether or not the proposal accords with the Development Plan. – the proposal clearly does not conform to development plan policy.

Identify and consider relevant material considerations for and against the proposal. – there are no material considerations that can overcome the substantial policy objections.

Assess whether these considerations warrant a departure from the Development Plan. – there is no justification for a departure from the development plan.

5.0 Conclusions

Based on this assessment our clients strongly object to the application for the following reasons:

9. The applicant has not demonstrated why there is a need to override planning policy and allow detrimental development within the settling of a Category A listed building and its structures.

10. Failure to accord with policy – there is a presumption against development that will impact the character and setting of a listed building.
11. The aims and objectives of the LDP policy are clear - these proposals are contrary to these aims and objectives, for the reasons set out above. The question is whether the need for the proposed development creates very special circumstances that allow policy to be overridden.
12. The proposal is contrary to Historic Environment Scotland Managing Change in the Historic Environment Guidance Note on setting as the proposed new houses would detrimentally impact the approach and wider setting of Category A listed Castle Gogar.
13. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The applicant has not demonstrated that this special regard should be dismissed or that there will not be an impact on the Category A Listed Building (Castle, Stables, Bridge etc) structures or their setting.
14. There will be a detrimental impact on the ecology and wildlife of the area.

There is no overriding need for 6 new dwellings in this location that justifies setting aside the protection of the character and setting of a Category A Listed Building.

Having regard to the above, we respectfully request that the application be refused.

JM PLANNING SERVICES

My Ref. MMSG/CGRE/Obj/85/2 – LRB/2
Your Ref. 22/00164/REVREF

Local Review Body
Committee Services,
Strategy and Insight,
Chief Executive
Waverley Court,
Business Centre 2.1,
4 East Market Street,
Edinburgh
EH8 8BG,

21st November 2022

For the Attention of Gina Bellhouse, Planning Adviser to Local Review Body

Dear Ms Bellhouse,

Notice of Review for Refusal of Application Ref. 22/02294/FUL

Erection of 6 Dwellings at Castle Gogar Rigg, Edinburgh

I refer to the above and to your notification letter dated 7th November 2022 in which you invited further written submissions to be made within 14 days from that date.

This letter contains those further written submissions on behalf of my clients, Mr Malcolm Mills and Ms Sheevaun Gallagher, who own the property No. 3 Castle Gogar Rigg, Edinburgh, within the required deadline for comments.

1. Objections to Planning Application Reference 22/02294/FUL

I wish to confirm that the objections submitted in response to the planning application by my clients in the letter dated 15th June 2022 remain relevant and they respectfully request that those objections be taken into consideration as part of the Review.

My clients also fully **support** the Council Planner's decision to refuse the planning application for the 6 reasons stated in the decision letter dated 4th August 2022, most of which reflect the terms of their own objections.

In addition to those objections and in response to the Review itself, my clients would wish to raise the following points which represent further objections to the proposals for the members of the LRB to consider. It is appreciated that some of the points being raised repeat those previously made on several occasions now in respect of this proposal (Application Ref. 22/02294/FUL) and similar rejected proposals (Application Ref. 19/04849/FUL (refused) and its subsequent Review, with the Planner's decision being upheld) for the land outlying the established and clearly defined gated community at Castle Gogar Rigg. However, they make no apology for doing so as they feel it is necessary in order that their concerns are fully understood by the LRB.



2. Additional Information Submitted by the Applicant for the Review Case

At the outset, it is noted that the Review contains material that did not form part of the planning application (Ref. 22/02294/FUL) under consideration, including an Addendum to a Design and Access Statement. (It is understood that a Design and Access Statement was submitted to the Council according to the planning application form, but there is no trace of the Statement listed in the Documents tab on the Council's website).

My clients are aware that it will be a matter for the LRB to determine whether this Addendum can be accepted or not as part of the consideration of the Review as it represents new information. However, my clients would question how this information was not submitted with the initial application if it was so central to the justification being presented on the design matters for the proposed houses, as in the way it appears to have been presented. This implies that the justification on design in particular has been reactionary to the reasons for refusal, now on 2 occasions, rather than addressing the issues comprehensively from the outset.

Nevertheless, in my client's view, it demonstrates that the applicant is prepared to go to great lengths and cost in seeking to justify a development proposal on the land outwith Castle Gogar Rigg at the 4th attempt when all other proposals have been rejected based on the unsuitability of the development at the location in principle and on other various grounds. In my client's view, the costs for these assessments might have been better directed towards the effective maintenance of the trees lining the avenue leading to the land in question, which the applicant's own tree consultant confirms are valuable specimens, worthy of retention and in need of remedial work after being neglected for a considerable period of time.

3. Supplementary Points to Some of the Original Objections

3.1 The description of the land

My clients wish to direct the LRB to the objections as stated in Section 2.3 of their letter dated 15th June 2022 which are of relevance and remain valid.

To supplement what is already stated in the letter, it is important for my clients to reiterate their concerns that the applicant refers to the site as being vacant land rather than a paddock which used to exist. When my clients moved into their property at Castle Gogar Rigg in 2014, the land in question was set up as a paddock - fenced, gated with mature and recently planted trees. It was well presented, with the grass being regularly maintained. Many of the trees have been removed and my clients believe that the developer has deliberately set out to degrade its appearance in order that it can be described as vacant to suit the cause for it being developed. There are assorted temporary structures, fencing, materials and equipment which my clients feel serve no purpose other than to reduce the appearance of the site.

The enforcement complaint raised by my clients earlier in the year was submitted to ask the Council to investigate the potential unauthorised use of the land but the developer's actions to degrade the land has had the desired effect as the Enforcement investigation has concluded that the land is now deemed to be a site a compound lying adjacent to and used in connection with the construction work associated with the unfinished building work within the gated community area. The unsightly nature of the site is in vast contrast to the grass meadow that previously existed. Nevertheless, the degraded condition of the land does not in itself justify it being used for development, contrary to what the applicant appears to believe.

Clearly, therefore, my clients do not share the applicant's description of the land as being vacant, whether in the past or currently.

3.2 Adverse Impact on the Category A Listed Building - Castle Gogar

My clients wish to direct the LRB to the objections as stated in Section 2.3 of their letter dated 15th June 2022 from the paragraph commencing "Thirdly", which are of relevance and remain valid.

My clients remain concerned that the applicant's unapologetic justification for continued development close to Castle Gogar, which they believe further compromises the Castle, is on the basis that the previous development has already had a lasting negative impact. This is a self-fulfilling prophecy, but it still avoids the issue that further potential heritage impact is a valid concern and that the proposed development requires to be justified in its own right in that regard. The Council's detailed assessment of the impact on the Category A Listed Castle Gogar is fully supported by my clients and hence the proposals, yet again, fall well short of being justified in terms of the adverse impact the proposed houses would have on this valuable heritage asset, and therefore further eroding the setting of the listed building to an unacceptable degree.

The following is an extract from the objection letter dated 15th June 2022 for ease of reference for the LRB.

"My clients raised a specific objection on the potential heritage impact of further development at the time of the last application and the following is an extract from that objection:-

"The conclusion of the assessment (paragraph 6.7) appears to struggle with the suitability of the development, admitting that it would have a detrimental impact on the setting of the Category A Listed Castle and the Bridge. The mitigation used to allow the development to be considered in a more favourable light appears apologetic and the detrimental impact of past development should not be used to excuse further unacceptable and inappropriately sited additional development at this location." "

3.3 Development Outwith the Established and Self-Contained Gated Community

My clients wish to direct the LRB to the objections as stated in Section 2.1 of their letter dated 15th June 2022 which are of relevance and remain valid.

By way of supplementing what is already clearly stated within the objection letter relative to this matter, it is worth reiterating that the proposals for 6 new houses will introduce further new development on land **outwith** the existing well-defined boundaries of Castle Gogar Rigg (as defined by the walls, fences and gates). The proposals do not complete an unfinished development and for the applicant to suggest otherwise is not only unjustified but also misleading. Only the level of development **within** the gated community was necessary as enabling development to fund the renovation of Castle Gogar, with some additional changes to house types allowed thereafter on the basis that they were still within the confines of the gated community area previously allowed to be developed.

Furthermore, and importantly, my clients believe that the applicant's understanding of context is skewed greatly by the perception that this is the final piece of developable land in his ownership.

3.4 Adverse Impact of the Development on Existing Trees

It is of note that the developer's own Tree Report highlights the mismanagement of the tree line and canopy. My clients are of the opinion that the developer has had many years to address this, but maintenance of the trees has either been ignored or conveniently forgotten about. Hence the trees are afforded less importance which supports the developer's position that the land containing the trees is suitable instead for development. The significant and positive attributes of the trees forming the tree lined avenue and their contribution to the approach to and setting of the Category A Castle Gogar, which is acknowledged by the applicant's own tree consultant, has been completely ignored as part of these (and all previous) development proposals. The proposals still fall well short in terms of seeking to address the potential adverse impact the houses would have on the existing trees and my clients believe that this is because the site has not been able to nor is able to be justified as suitable in principle for development.

3.5 Other Considerations Deemed Worthy of Comment

(i) Office permission

There is permission for an office building on the central area within the gated community which has never been implemented.

The applicant has mentioned in the Review Statement that the office permission would be removed (revoked). My clients previously understood that this had already been removed as part of the agreement for the additional apartments consented within the gated community site but on further research of the planning history as part of the proposals for the current land in question, it was determined that it had been mooted but never formalised (which would have been by way of a revocation).

The LRB's attention is drawn to my client's previous objection in the letter dated 15th June 2022 which states:-

"Although it is understood that the consent for the office development appears to remain extant according to the information obtained from the Council's planning portal, my clients are of the opinion that the opportunity to revisit developing the site for the office has since been lost by the developer's subsequent consents for additional housing elsewhere in place of the office building. There was and still is a strong expectation by residents for this area to become a village green."

My clients are surprised by the applicant's suggestion that the proposed development can be made more acceptable by revocation of the office consent to allow the proposed housing. This implies a trade-off and are effectively asking the LRB to choose one over the other. My clients maintain that the proposed housing at this location cannot be justified, as in the past, and they hope that the LRB will not be persuaded by the applicant's apparent desperate attempt to convince the Council that the proposed housing has any merit and that the LRB will again support the Planner's robust planning reasons for refusing the application.

(ii) The listed bridge leading to Castle Gogar

My clients wish to present a contrary view to that of the applicant. Not for the first time the developer has tried to claim publicly, as part of proposals for this location, that he was solely responsible for the repairs undertaken in the past to the bridge. My clients wish to reaffirm that a number of the original house owners at Castle Gogar Rigg also contributed to the repairs to this bridge. They feel strongly on this issue and it is both disingenuous and misleading for the developer to claim otherwise.

The extract below is from my client's objection letter dated 15th June 2022 and which references the same erroneous claim by the applicant previously in connection with the Review for the 2019 application:-

"The applicant's claim that the repairs to the bridge were solely self-funded is factually incorrect. The repairs were shared amongst the residents in the Castle Gogar Rigg community. My clients can testify to this based on the payment they made directly to the applicant following his request for an equal contribution by all residents. Other residents will be able to confirm this too. The contributions were sought even although, at the time, the bridge was being used constantly for a sustained period by heavy goods vehicles in the construction of the previously consented development at Castle Gogar Rigg.

It is disingenuous for the applicant to state that he funded these repairs himself. While it is not regarded as a planning matter, the erroneous claim is being made publicly in the applicant's document to support their current application. It was also included in the same applicant's Notice of Review request for a review of the decision of the last unsuccessful 2019 application. My clients brought it to the attention of the LRB and they are disappointed that it has again been raised publicly in this manner. Consequently, they feel it is important again that this matter should be brought to the attention of, this time the Case Officer, in order that a more accurate account and better understanding of this specific point is obtained when considering the current application."

I would be grateful if you could confirm receipt of these further written submissions and also confirm that they will be included in the papers for the LRB meeting to be held on 14th December 2022, when it is understood that the case will be heard.

I look forward to hearing from you at your earliest convenience.

Yours sincerely



John MacCallum MRTPI, BSc. Hons
Planning Consultant

22/02294/FUL.

- I continue to object to the ongoing planning application in relationship to the above case and ask that the Local Review Body refuses the appeal against the original planning application refusal.
- The initial first phase Castle Gogar estate development dates back approximately 15 years and was formed from the original Castle, 3 terraced cottages and 5 new build dwellings.
- The second phase approval was for 8 flats and 1 house. There was then a further successful application for 1 additional house, making 10 additional dwellings in total.
- The application is therefore for only 5 dwellings, the sixth (plot 6 under the current application) has been previously approved though construction work has not commenced.
- The Gogar estate has now currently more than doubled, from the original 9 to 19 properties.
- The drive is 0.5 mile in length, single track, with 9 passing places and incorporates a very narrow 250-year-old bridge crossing the Gogar Burn.
- The current level of domestic and trade traffic is at its maximum capacity for the infrastructure.
- The road and bridge cannot be widened. The bridge cannot be physically widened, and the drive cannot be widened without the removal of valuable mature trees.
- The drive has been damaged by 5 years of site construction traffic. The owner of the drive, the current and previous applicant, refuses to repair the drive.
- The sewage pumping station (PS) is an issue. A previous maintenance company stated that the capacity of the PS was sufficient for the original 9 properties only, could not accommodate an additional 10 properties and certainly not a further 5 more under this application. All owners continue experiencing problems with the PS and this situation has been exacerbated by the additional 9 dwellings so far added in the second phase.
- A number of trees around the proposed development site have recently been removed. They may have been diseased?

- One of the entrance columns at 180 Glasgow Road was badly damaged by an entering construction vehicle during the earlier construction phase approximately 3 years ago. It was eventually repaired, but the repair was not consistent with the original standard.
- A previous application, 19/04849/FUL, for 5 dwellings was refused in 2019. A subsequent appeal was also refused.
- The details of the 2019 planning application and subsequent outcomes are set out at;

<https://citydev-portal.edinburgh.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=PZ5MZBEW09Z00>

- The further planning application was not materially different to the application of 2019. The only difference is the style of the 5 dwellings. Nothing else has changed to support the application.
- The inherent reasons for refusing the planning application in 2019 have not changed and are still relevant.
- There were 19 objections in 2019.
- There have been a number of objections in 2022 to the latest application and the application has been refused.
- I ask that you accept my personal objection and request that the Local Review Body refuses the appeal against the original planning application refusal dated 4th August 2022.

RICHARD BAILEY, 6 CASTLE GOGAR RIGG, EH12 9FP.

Many thanks for forwarding the further representations to this LRB Appeal.

There are a number of common threads so instead of responding to each in turn, we will cover these key themes in a single response. We also note that the three objectors are all residents of Castle Gogar and each of whom has their own reasons (not necessarily planning related) for objecting to the proposals. We trust that this context will be acknowledged in considering the points raised.

1. New Information

- a. No new information has been submitted – the LRB submission has simply responded to the reasons for refusal and expanded on issues already addressed.

2. Lack of Design Statement

- a. The Design and Access Statement was lodged with the application.

3. Access/Transport Related Comments:

- a. No objection from the City of Edinburgh Council Roads team and our own Transportation Statement confirms that there is no issue with the safety or capacity of the access to Castle Gogar Rigg.

4. Sewage/Drainage Comments:

- a. No objection from Environmental Health department. There would be no sense in proposing/developing further substantial homes at Castle Gogar if the site could not access key infrastructure.

5. Changes from previous applications:

- a. This application (and LRB submission) addresses a number of key issues that were raised at the previous LRB namely more detail being provided with regards to flooding, ecology, trees. In the intervening period the design of the proposed new homes was considered and subsequently changed to what we consider to be a better, more attractive and modern solution.
- b. We received very limited case officer feedback and we have never received any feedback, positive or negative on the design of the individual houses (or detailed feedback on the layout).

6. Impact on Castle Gogar

- a. The potential impact on Castle Gogar has been covered in detail in both the original application submission and also in the LRB Statement of Appeal.
- b. There will be no direct impact on Castle Gogar. The proposals do not propose any changes or alterations to any listed structures.

7. Setting of Castle Gogar

- a. This is dealt with in detail in both the application submission and the LRB Statement of Appeal.
- b. We contend that the setting of Castle Gogar has been compromised starting with the granting of planning permission for the original 9 homes in 2005 (in fact the development and expansion of Edinburgh Airport has already significantly impacted on the setting of Castle Gogar).
- c. Further development to the south and west of the Council has created a new setting, one reflecting a high quality residential neighbourhood which this proposal is seeking to complete in a logical and well-designed manner.
- d. This evolution of the wider setting of Castle Gogar will continue with the emergence of the International Business Gateway; the scale of which will dwarf the Castle Gogar Rigg site which will be surrounded by large-scale modern development (and the airport to the north).
- e. It is the aim of these proposals to at least ensure that the whole Castle Gogar Rigg site retains its identity as an exclusive, high quality neighbourhood. These proposals will achieve that objective.

8. Impact on existing landholding

- a. Incorrect labelling as paddock – there is no historic reference or statement of importance anywhere to identify the area of land to the south of the Castle as a paddock. If such a thing existed it is far more likely to have been located to the north and west of the Castle in closer proximity to what would have been the original stable block.
- b. The applicant is a local resident and totally invested in a high quality outcome – he lives there and has ensured that the site has been well-cared for, for the past 15 years.

9. Ownership Interest

- a. Comments made regarding the role, approach and thought process of the applicant can't possibly be known.
- b. The context of their own standing must also be considered – all three representations are from owners of properties at Castle Gogar who have all benefitted from the previous planning permissions/developments, but wish to prevent further development.
- c. They appear happy to live in high quality modern homes set within the wider setting of Castle Gogar just as long as no one else has that opportunity.

10. Existing Planning Permission for Office Building

- a. There is no debate etc. around this – development could conceivably start on the area in the centre of the Rigg immediately. This has never been disputed.

11. Trees

- a. In response to the earlier LRB refusal, we have undertaken the necessary tree survey work and the proposals take due cognisance of the findings/advice.
- b. Furthermore, the representations make no reference to the professional input/qualifications to the comments made about trees etc. Without this you must ignore comments around root protection areas and other tree protection and impact issues as to the best of our knowledge they are made by unqualified laymen. It would be unreasonable to give weight to these comments set against those of a professionally qualified tree expert.

12. Ecology

- a. In response to the earlier LRB refusal, we have undertaken the necessary protected species survey work and the proposals take due cognisance of the findings/advice.
- b. Furthermore, the representations make no reference to the professional input/qualifications to the comments made about the ecology of the site or the impact of the proposed development etc. Without this you must ignore comments around ecology. It would be unreasonable to give weight to these comments set against those of a professionally qualified ecology/protected species expert.

13. Flooding

- a. In response to the earlier LRB refusal, we have undertaken the necessary floor risk assessment and this was submitted as part of the application process. We also consulted with SEPA as part of that process. There is no objection from the Flood Protection team to the proposals.
- b. In terms of flood risk, there are no objections or concerns about the proposed development.

14. Open Space

- a. The central area of the Rigg development is not identified or designated as open space. Regardless (and contrary to some of the objector comments) we are not proposing to build on this area of the site.
- b. No part of the wider Rigg site (or specific application site) is designated Open Space.
- c. We have commented on the use of the word '*paddock*' in our main submission. The area to the south of Castle Gogar has no historic significance and has never been identified as a paddock relating to the historic setting of the Castle.

From: [REDACTED]
To: [Local Review Body](#)
Cc: [Gina Bellhouse](#)
Subject: RE: Local Review - 22/02294/FUL
Date: 28 December 2022 11:25:45
Attachments: [image002.png](#)
[OBJECTION RICHARD BAILEY 281222.pdf](#)

Hi Sarah

I refer to your earlier communication and now attach a short note relating to my continued objection to the application appeal. Can you please post this to the appropriate application site? Many thanks.

Happy New Year when it comes.

Very best regards



RICHARD BAILEY
6 CASTLE GOGAR RIGG
EDINBURGH
EH12 9FP

From: Local Review Body <LocalReviewBody@edinburgh.gov.uk>
Sent: 20 December 2022 12:36
Cc: Gina Bellhouse <Gina.Bellhouse@edinburgh.gov.uk>
Subject: Local Review - 22/02294/FUL

Good afternoon

As you may be aware, this application was due to be considered by the Local Review Body on 14th December 2022. However, due to a document being omitted from the publicly available information, the item was continued. The omitted document has now been made public and the item will now be considered by the Local Review Body on 1 February 2023.

The omitted document is attached for your convenience. Should you wish to make further representations, I would be grateful if your additional comments could be made in response to the attached document only. All previous representations will still be taken into consideration when determining this case.

You have 18 days (due to four public holidays) from the date of this email to make your representations.

Kind regards

Sarah Forsyth

Transactions Officer | Planning and Building Standards | Customer and Digital Services | Corporate Services | The City of Edinburgh Council
Waverley Court, Business Centre Courtyard, 4 East Market Street, Edinburgh EH8 8BG
| sarah.forsyth@edinburgh.gov.uk

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22/02294/FUL.

ERECTION OF HOUSES ON LAND 80 METERS SOUTH OF CASTLE GOGAR.

- An earlier first application, 19/04849/FUL, for 5 dwellings was refused in 2019. A subsequent appeal was rejected.
- A further second re-application, 22/02294/FUL that was not materially different to the original application, was made and refused by a communication dated 4th August 2022.
- This additional appeal does not address nor answer any of the many grounds on which the second application was refused and the grounds are all still valid. This latest communication only refers to Castle Gogar, not to the wider issues.
- The latest document submitted by the applicant dated November 2022 refers to two potential adjacent developments and *“Both proposals are currently under public consultation.”*
- These have no impact on the current appeal. This last document makes no reference to any of the many grounds on which the current second application was refused.
- The appeal decision by the LRB must be based entirely on the current facts and related solely to the grounds for the rejection of the application decision of 4th August 2022. The decision must not be based on any future potential development that may or may not take place.
- I ask the LRB to reject the appeal.

RICHARD BAILEY, 6 CASTLE GOGAR RIGG, EH12 9FP.

28th December 2022

From: [Philip Neaves](#)
To: [Local Review Body](#)
Cc: [Gina Bellhouse](#)
Subject: RE: Local Review - 22/02294/FUL
Date: 21 December 2022 10:28:08
Attachments: [image002.png](#)

Our clients consider it completely unacceptable that this matter was not able to be considered by the LRB at the set date.

The document you have sent does nothing to further the applicant's case. We would be grateful if you would please make the following observations available to the LRB and add this email to the papers:

1. The developments referred to in the Design and Access Statement Addendum all lie to the west of the Castle. The application is to the east
2. The application site lies within the curtilage of the castle and the consideration for the LRB is impact on the setting of the listed building. The developments used to justify the application do not lie within the historic Castle curtilage
3. The application site is named Gogar Castle Rigg. A rigg is defined as the open space around a castle. The very name of the application site indicates that it is an area that is meant to remain undeveloped. This proves the argument we have made in objections that this application is damaging the historic setting of Gogar Castle
4. The application site is at the front of the Castle. The original design intention was that the Castle should be approached by a long symmetrical driveway. This application removes that symmetry and irrevocably damages the setting of the Castle

For these reasons we believe that the document circulated yesterday does nothing to enhance the applicant's case and the appeal should be dismissed.

Regards

Philip Neaves

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From: Local Review Body <LocalReviewBody@edinburgh.gov.uk>
Sent: 20 December 2022 12:36
Cc: Gina Bellhouse <Gina.Bellhouse@edinburgh.gov.uk>
Subject: Local Review - 22/02294/FUL

Good afternoon

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The omitted document is attached for your convenience. Should you wish to make further representations, I would be grateful if your additional comments could be made in response to the attached document only. All previous representations will still be taken into consideration when determining this case.

You have 18 days (due to four public holidays) from the date of this email to make your representations.

Kind regards

Sarah Forsyth

Transactions Officer | Planning and Building Standards | Customer and Digital Services |
Corporate Services | The City of Edinburgh Council
Waverley Court, Business Centre Courtyard, 4 East Market Street, Edinburgh EH8 8BG
| sarah.forsyth@edinburgh.gov.uk

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From:



Subject:

Re: Local Review - 22/02294/FUL

Date:

06 January 2023 09:53:51

Attachments:

[JMPS Comments on DAS Addendum FINAL 06.01.23.pdf](#)

Dear LRB Adviser,

I refer to Sarah Forsyth's email of 20th December and the invitation to comment on the Design and Access Statement Addendum which was omitted from the agenda papers, I now wish to provide you with comments on behalf of my clients, Mr Mills and Ms Gallagher as per the attached document and which are being submitted by the required deadline of 7th January 2023 (18 days from 20th December 2022).

It sets out clearly my clients' further objections to the proposals in response to the Addendum document only, as requested, and they are also in addition to their representations dated 21st November 2022, which you have confirmed will still be taken into account by the LRB.

However, I also wish to comment as follows in relation to the original Design and Access Statement.

As stated in Point 2 in the representation I submitted on 21st November 2022, there was no trace of the D&A Statement on the planning portal at any time during the application's consideration. It was still not available after the submission of the Notice of Review and this remains the case as of now, according to the portal. Therefore, the omission of that document would appear to be in addition to the Addendum not having been made publicly available at the time of the Review.

I thought I should draw this to your attention as well, in case this point was not fully understood by way of the representation submission. Please can you investigate and advise further on this in the meantime so that I am able to understand the position more clearly.

Finally, I trust the attached comments will be taken into consideration by the LRB when they meet to determine the Review case on 1st February 2023.

I would be grateful if you could confirm the safe receipt of this email and attachment by return.

Regards,

John

John MacCallum BSc (Hons), MRTPI
Planning Consultant

JM Planning Services

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EH25 9AA

Mobile:- 07780 465240

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On Tue, Dec 20, 2022 at 12:36 PM Local Review Body <LocalReviewBody@edinburgh.gov.uk> wrote:

Good afternoon

As you may be aware, this application was due to be considered by the Local Review Body on 14th December 2022. However, due to a document being omitted from the publicly available information, the item was continued. The omitted document has now been made public and the item will now be considered by the Local Review Body on 1 February 2023.

The omitted document is attached for your convenience. Should you wish to make further representations, I would be grateful if your additional comments could be made in response to the attached document only. All previous representations will still be taken into consideration when determining this case.

You have 18 days (due to four public holidays) from the date of this email to make your representations.

Kind regards

[Redacted signature]

[Redacted contact information]

[Redacted contact information]

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An advertisement banner with a blue background. On the left, there is a photograph of an elderly man with a white beard and glasses, wearing a blue shirt, sitting in a chair and looking out a window. To the right of the photo, the text reads: "Worried about paying the bills?" in large white font, followed by "Help and advice on the rising cost of living" in a smaller white font, and the website address "www.edinburgh.gov.uk/costofliving" in a white font at the bottom.

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www.edinburgh.gov.uk/costofliving

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JM PLANNING SERVICES

LRB REVIEW Council Reference: 22/00164/REVREF

Design and Access Statement Addendum

**The applicant's response to Reason for Refusal No. 1 for Application Reference
22/02294/FUL**

Comments on this Document on behalf of Mr Mills and Ms Gallagher

Section 1

It is important to emphasise that none of the developments referred to presently exist – either a proposed development to the east by way of a currently undetermined application (at appeal) or that which is only identified as a masterplan within the LDP process for the IBG site. These developments may not even occur, even if planning consents are granted and are dependent on favourable economic conditions which appear to be variable and unpredictable at the present time, casting doubt as to whether they may ever come to fruition.

To suggest that the proposal can be considered within the context of these hypothetical developments further demonstrates that the Review being sought lacks planning credibility.

Section 2

The attempt to justify the proposed development because it is disconnected from the Castle Gogar undermines the argument that was previously presented that such a development is part of the overall group of existing buildings in the immediate area as seemingly demonstrated as part of the planning application submission.

This clearly demonstrates that the applicant has failed to understand the context of the site and its importance as an area of landscaped driveway forming part of the setting for the listed buildings which include the Castle, the former stables (now converted to 2 cottages), the boundary wall and bridge.

Section 3, Section 4 and Section 7 combined

The Photo Sequences in Section 2, 3 and 7 are irrelevant to the consideration of this application as the applicant has again failed to understand that the context for the understanding of the site's suitability for development should be that characterised by the immediate context comprising the existing landscaped driveway and the group of listed buildings and the immediate adverse impact the proposed development would have on them. The wider context is not of relevance due to the Castle's perceived invisibility, as highlighted by these photos. That, however, does not in itself lend any justification to the proposals.

Section 5 and Section 8 combined

The photos in both these sections have helped to clearly illustrate how undeveloped the approach to the Castle Gogar site is. The Castle and the buildings in the gated community at Castle Gogar Rigg are located at the end of a long driveway in a secluded position. In reality, when accessing these properties along the driveway, there is no sense of immediate development. Instead, it is akin to driving along a treelined lane in a rural location. Furthermore, as the photos clearly demonstrate, it is only the gate piers to the Castle and the

entrance wall and gates to the gated community at Castle Gogar Rigg that are immediately apparent further along the driveway nearing its end.

Consequently, the proposed development would destroy the secluded nature of development in the area by being significantly more visible due to their prominent position on the driveway approach, spoiling that sense of driving along a treelined rural lane.

This also supports the view that further development on this approach (outwith the gated community which was the only area accepted by the Council as being suitable to accommodate new development as part of the enabling development towards the renovation of the Castle), would adversely affect the setting of the group of listed buildings. It is important to re-state that this group not only includes the Castle but also the former stables (now converted to 2 cottages), the boundary wall and bridge to an unacceptable degree.

Section 6

The photos in this section clearly demonstrate the point made under 3.1 in the objections submitted to the Notice of Review by my clients dated 21st November 2022 that the site contains land that has been used as a site compound for an unfinished development within the gated community site (the original site for development which was accepted by the Council as the extent of development necessary as enabling development for the purposes of renovating Castle Gogar, as initially presented by the applicant).

The site is an eyesore, and it has been allowed to become progressively unsightly over the years by the applicant seeking to convince the Council that it is necessary for some future unfinished construction work within the existing gated development for which there appears to be no intention by the applicant of commencing any time soon.

My clients feel that the lack of action by the Council to impress on the applicant the need to return the site to its original state as a paddock is disappointing to say the least. However, now that photographic evidence has been submitted by the applicant as part of their own request for a Review of the planning application decision, it is hoped that the LRB members would take a more sympathetic view and request that Planning Officers are instructed to pursue the applicant to tidy this area up and to remove all offending items and structures as soon as possible by way of a letter in the first instance. Thereafter, if no action is taken to remedy this to a satisfactory conclusion, it is further requested that they further instruct Planning and Legal Officers to commence the necessary enforcement proceedings to affect the same.

Section 9

It is not clear what the purpose of the photos in this section is, but the Location Plan image, which is an aerial view of the existing development, clearly highlights how compact these existing houses are and that the proposed application site is divorced from them since these houses are located within a self-contained gated community.

The image itself does not even include all of the application site either and so it does not provide a full and proper representation of the site and its surroundings in terms of a perceived relationship to existing housing which is what it is seeking to achieve.

It is also considered to be a poor illustration of trying to justify the proposed development based on the proposed houses somehow being related to existing houses in terms of proximity

and being sympathetic in appearance, as if the site itself was irrelevant. Had the photo image showed the site, it would have clearly demonstrated that it relates more importantly to the landscaped driveway and group of listed buildings, all as mentioned above.

AF/PD14130

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EH3 8EG
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F.A.O Gina Bellhouse

9th January 2023

Dear Gina,

**PLANNING APPLICATION REFERENCE 22/00164/REVREF
LAND 80 METRES SOUTH OF 6 CASTLE GOGAR RIGG, EDINBURGH
OBJECTION BY MR WALKER**

I write in respect of the above planning application which was refused by City of Edinburgh Council on 4th August 2022. The application has since been appealed to the Council's Local Review Body (LRB) as of 8th November 2022.

The current proposal is for the erection of six dwellings immediately to the east of the existing Castle Gogar Rigg development. To the north of the site lies Edinburgh Airport and is set adjacent to the historic grounds of the 17th century Castle Gogar Estate. It is noted that the castle, stables, gatehouse and garden walls are Category A Listed. Access to the proposed development is from a rural tree lined approach.

We have been instructed by Mr Walker to submit a further objection to this planning appeal.

Our client is the owner of 9 Castle Gogar Rigg which sits directly adjacent to the site.

The application was refused by the Council on 4th August for the following reasons:

- 1. The proposals do not comply with LDP policy Env 3 Listed Buildings- Setting and Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it is likely to impact on the setting of the listed building.*
- 2. The proposals do not comply with LDP Hou 1 Housing Development and Emp 6 International Business Gateway as it is not part of a business-led mixed-use proposal, nor does it meet any of the other use criteria defined under LDP policy Emp 6.*
- 3. Insufficient evidence has been provided to show that the proposal complies with LDP policy Env 12 Trees.*
- 4. Insufficient evidence has been provided to show that the proposal complies with LDP policy Env 16 Species Protection.*
- 5. The proposals do not comply with LDP Policy Des 3 Development Design - Incorporating and Enhancing Existing and Potential Features and Des 4 Development Design - Impact on Setting as it impact on the setting of the existing new build houses and surrounding area.*
- 6. The proposals do not comply with Env 18 Open Space Protection as the granting of proposed dwellings within the "paddock" area would result in the loss of open space.*

The reasons for refusal are very similar to the previous planning application which was refused on 20th December 2019.

REASON 1

Within the Report of Handling (4th August 2022) at page 1 it notes the following:

“The proposal will have a detrimental impact on the setting of the listed building and does not comply with the Edinburgh Local Development Plan. The proposal is not acceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and LDP policies Env 3, Env 12, Env 16, Env 18, Hou 1, Emp 6, Des 3 and Des 4.”

The impact on the setting of the listed building is also ratified by Historic Environment Scotland (HES) in their consultation response and it is quite clear that they consider the proposals will have a negative visual impact on the Category A Listed Castle Gogar. This is noted at page 6 of the Report of Handling which states:

“While this proposal is different in terms of design and siting of each unit within each respective plot, the effects of development on the setting of the Castle, as noted by your Council in the Reports of Handling of the above cases, would remain broadly similar.

We consider therefore that the current proposals would have a detrimental impact on the setting and historical significance of Category A listed Castle Gogar (and the stable cottages contained within its listing) and that they should be resisted.

The proposed houses to be located within the existing "paddock" ground would significantly impact upon the setting of the A listed castle as they would then be the dominant features, not the tree lined rural approach.”

It is therefore considered that the proposals would have a detrimental impact to the setting of the Castle and there are no public interest advantages which would outweigh this conclusion.

REASON 2

As per the previous application in 2019, the proposed development does not form part of a business led mixed-use development proposal. It is therefore concluded that the proposal is contrary to Policy HOU1 and EMP6 as the proposed development does not comply with the key themes of Policy EMP 6 as it would not deliver a significant business led opportunity.

REASONS 3 & 4

It is acknowledged that a Tree Survey was submitted in support of the planning application, however the Report of Handling raises concerns at Page 6: *“The Council's arboriculturist has raised concerns about the harm that the development of these houses may have on tree roots and that their proximity may make them vulnerable to requests to be felled or severely cut back in the future.”*

Furthermore, Page 6 notes that insufficient information has also been submitted to demonstrate that the proposal complies with Policy ENV 16. It is therefore concluded that the proposal is contrary to policies ENV 12 and ENV 16.

REASON 5

Policies DES 3, 4 and 5 are in respect of design and amenity. Page 9 of the Report of Handling concludes that: *“The proposed development would also negatively impact upon the setting of the existing new build houses. There is an established built layout and setting to these properties as they are all clustered together to the west of the castle and do not encroach further to the east than the listed stable block. The dwelling houses proposed within the "paddock" area would mean development spilling out of this cluster and would negatively impact upon the rural tree lined approach to the modern development.”*

It is therefore concluded that this planning appeal continues to be contrary to policies DES 3, 4 and 5. The proposals would negatively impact upon the existing setting and character of the surrounding landscape.

REASON 6

This reason for refusal relates to Policy ENV 18 Open Space Protection. Page 13 of the Report of Handling concludes that the granting of permission would result in the loss of open space.

CONCLUSION

Our client formally objects to this planning appeal for the reasons above which was ratified by the Council on 4th August 2022. It is considered that the subject site is not capable of accommodating further housing and will have a detrimental impact on the surrounding area including the setting of the Category A Listed Castle Gogar Estate and the rural character of the tree lined approach.

We would reaffirm the Council's reasons for refusal previously, the concerns raised by HES and also consider that the applicant continues to fail to address these issues.

There are no material considerations that indicate that the planning appeal should be approved. The previous application refusal and local review body appeal should be taken into consideration in determination of this planning appeal.

We trust the above comments will be taken into consideration in your determination of this application. If you have any queries then please contact Alan Fitzpatrick of this office direct.

Yours faithfully,



MONTAGU EVANS LLP

AF/PD14130

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F.A.O Gina Bellhouse

9th January 2023

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- 3. Insufficient evidence has been provided to show that the proposal complies with LDP policy Env 12 Trees.*
- 4. Insufficient evidence has been provided to show that the proposal complies with LDP policy Env 16 Species Protection.*
- 5. The proposals do not comply with LDP Policy Des 3 Development Design - Incorporating and Enhancing Existing and Potential Features and Des 4 Development Design - Impact on Setting as it impact on the setting of the existing new build houses and surrounding area.*
- 6. The proposals do not comply with Env 18 Open Space Protection as the granting of proposed dwellings within the "paddock" area would result in the loss of open space.*

The reasons for refusal are very similar to the previous planning application which was refused on 20th December 2019.

REASON 1

Within the Report of Handling (4th August 2022) at page 1 it notes the following:

“The proposal will have a detrimental impact on the setting of the listed building and does not comply with the Edinburgh Local Development Plan. The proposal is not acceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and LDP policies Env 3, Env 12, Env 16, Env 18, Hou 1, Emp 6, Des 3 and Des 4.”

The impact on the setting of the listed building is also ratified by Historic Environment Scotland (HES) in their consultation response and it is quite clear that they consider the proposals will have a negative visual impact on the Category A Listed Castle Gogar. This is noted at page 6 of the Report of Handling which states:

“While this proposal is different in terms of design and siting of each unit within each respective plot, the effects of development on the setting of the Castle, as noted by your Council in the Reports of Handling of the above cases, would remain broadly similar.

We consider therefore that the current proposals would have a detrimental impact on the setting and historical significance of Category A listed Castle Gogar (and the stable cottages contained within its listing) and that they should be resisted.

The proposed houses to be located within the existing "paddock" ground would significantly impact upon the setting of the A listed castle as they would then be the dominant features, not the tree lined rural approach.”

It is therefore considered that the proposals would have a detrimental impact to the setting of the Castle and there are no public interest advantages which would outweigh this conclusion.

REASON 2

As per the previous application in 2019, the proposed development does not form part of a business led mixed-use development proposal. It is therefore concluded that the proposal is contrary to Policy HOU1 and EMP6 as the proposed development does not comply with the key themes of Policy EMP 6 as it would not deliver a significant business led opportunity.

REASONS 3 & 4

It is acknowledged that a Tree Survey was submitted in support of the planning application, however the Report of Handling raises concerns at Page 6: *“The Council's arboriculturist has raised concerns about the harm that the development of these houses may have on tree roots and that their proximity may make them vulnerable to requests to be felled or severely cut back in the future.”*

Furthermore, Page 6 notes that insufficient information has also been submitted to demonstrate that the proposal complies with Policy ENV 16. It is therefore concluded that the proposal is contrary to policies ENV 12 and ENV 16.

REASON 5

Policies DES 3, 4 and 5 are in respect of design and amenity. Page 9 of the Report of Handling concludes that: *“The proposed development would also negatively impact upon the setting of the existing new build houses. There is an established built layout and setting to these properties as they are all clustered together to the west of the castle and do not encroach further to the east than the listed stable block. The dwelling houses proposed within the "paddock" area would mean development spilling out of this cluster and would negatively impact upon the rural tree lined approach to the modern development.”*

It is therefore concluded that this planning appeal continues to be contrary to policies DES 3, 4 and 5. The proposals would negatively impact upon the existing setting and character of the surrounding landscape.

REASON 6

This reason for refusal relates to Policy ENV 18 Open Space Protection. Page 13 of the Report of Handling concludes that the granting of permission would result in the loss of open space.

CONCLUSION

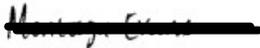
Our client formally objects to this planning appeal for the reasons above which was ratified by the Council on 4th August 2022. It is considered that the subject site is not capable of accommodating further housing and will have a detrimental impact on the surrounding area including the setting of the Category A Listed Castle Gogar Estate and the rural character of the tree lined approach.

We would reaffirm the Council's reasons for refusal previously, the concerns raised by HES and also consider that the applicant continues to fail to address these issues.

There are no material considerations that indicate that the planning appeal should be approved. The previous application refusal and local review body appeal should be taken into consideration in determination of this planning appeal.

We trust the above comments will be taken into consideration in your determination of this application. If you have any queries then please contact Alan Fitzpatrick of this office direct.

Yours faithfully,



MONTAGU EVANS LLP