

Development Management Sub-Committee Report

Wednesday 22 November 2023

Application for Planning Permission

land 143 metres southeast of 94 Ocean Drive, Edinburgh,

Proposal: Erection of residential development with associated landscaping and infrastructure (variation of design approved under permission 19/02778/FUL).

Item – Committee Hearing

Application Number – 23/01615/FUL

Ward – B13 - Leith

Reasons for Referral to Committee

The application is referred to the Development Management Sub-Committee as it falls under the definition of a National Development under NPF4 as a major application within Edinburgh Waterfront. Consequently, under Section 38A of the Town and Country Planning (Scotland) Act 1997 a predetermination hearing is required prior to determination.

Recommendation

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

Summary

The site is identified for housing led, mixed use development and high-density residential development is supported at this brownfield location through both NPF4 and the LD. The proposals will not have a negative impact on the historic environment.

The additional height of the four storeys on Block A is largely in keeping with the scale and spatial structure of the extant permission. The design and materials are appropriate for the context of the wider site. The layout provides an enhancement of the public realm, with the reduction in car parking, increased landscaping, and the introduction of the promenade. The proposed housing mix and the level of affordable housing is acceptable.

There is an infringement against open space policy due to the manner in which the block sits in the landscaped area and there are some potential infringements on daylighting on the adjacent land. Any noise implications for the site can be dealt with through conditions in a similar way to the existing permission on the site.

Other matters such as in relation to transport implications, flooding, biodiversity and sustainability are considered acceptable.

Subject to recommended conditions and a legal agreement the proposal is acceptable and broadly complies with National Planning Framework 4 and the aims of the 2016 Edinburgh Local Development Plan, as well as the Council's non-statutory Edinburgh Design Guidance. There are no material considerations which would indicate otherwise.

SECTION A – Application Background

Site Description

The site is vacant brownfield land approximately 0.8 hectares in size and is located on an area of land between Albert Dock to the north and Victoria Dock to the south with Ocean Drive forming the southern boundary. A replacement quay wall was constructed in early 2019. There is an extant permission for residential development in place and part of that permission is currently under construction.

To the south is residential development that is currently under construction (Waterfront Plaza). This consists of five/six storey flats and three storey colonies and townhouses. The Ocean Point office development and Ocean Terminal are located to the west.

North of the site is the wider Leith Docks industrial area; this also contains the Imperial Dock Special Protection Area (SPA) which contains a tern colony.

The tram line runs along Ocean Drive. The Local Development Plan contains a safeguard along the water's edge for the creation of a promenade.

At the western edge of the site are the B- listed harbour walls associated with entrance to Victoria Dock (listed 30 March 1994, reference LB27081).

Description of the Proposal

The proposal seeks to amend the design of Block A which was granted under planning permission 19/02778/FUL as part of a wider development of four high rise blocks (A-D) which range from 10-14 storeys and contained 338 flats and two commercial units with associated landscaping, parking and access.

The previously granted Block A was 10 storeys in height and contained 81 residential units. The revised Block A in this application contains 116 units over 14 storeys. This is an additional 35 units over the previously granted 81 units. Across the wider site the total number of units will equate to 373.

Thirty-one affordable homes are proposed within Block A with a total of 94 affordable homes created across all four blocks.

This application does not seek to alter Blocks B-D and they are excluded from the redline application boundary. However, the application boundary does contain the wider site and seeks permission to alter matters such as the access, parking and landscaping.

Block A is a large tower block designed with a simple repetitive elevational design comprising ordered fenestration and a vertical emphasis. The top of the block is terminated with a brick crown. The primary material is a cream brick. Grey metalwork is proposed for the Juliet balconies, window frames and panelling. Photovoltaic panels are proposed on the roof.

A sheltered walkway is proposed to link Block A to Block B.

The housing mix contains 13 studio flats, 63 one bedroom units, 26 two bedroom units and 14 three bedroom units.

The proposed development includes a commercial unit extending to 82 sqm. This is located on the ground floor, fronting Ocean Drive.

The remainder of the internal ground floor of Block A is taken up with an entrance area, cycle stores, bin stores, substation, and service room.

The main vehicular access is taken from the eastern end of the site and operates as a left in left out arrangement. This provides access to the car parking area. Bollards are proposed within the site and at the western entrance to stop general traffic, but to allow for waste collection and emergency vehicle access.

At the north of the building and along the dock edge a promenade is proposed with various trees and landscaping immediately adjacent to it. Planting is also proposed between Block A and B.

Vehicular car parking spaces will be limited to 18 spaces located at the north-east end of the site (two of which are located in the undercroft of Block D). Six of the spaces will include electric vehicle charging infrastructure (two of these are accessible spaces) and three are proposed to be car club spaces.

A total of 233 cycle spaces are proposed for the 116 units. These are shown as 88 two tier racks, 34 Sheffield stands and six non-standard spaces in the ground floor of Block A. The remaining spaces are located within the extant permission with Block C-D (29 in two tiers, 35 Sheffield stands and 41 non-standard spaces). Fifteen Sheffield stands are proposed within the site to accommodate 30 visitor spaces.

Previous scheme:

The previous scheme contained a different mix of units and included 123 units over 15 storeys. An alternative 'crown' roof top design was proposed alongside some undefined roof top amenity space.

Supporting Information

- Planning Statement and Addendum
- Pre-application Consultation Report
- Design and Access Statement and Addendum

- Transport Statement
- Energy and Sustainability Statement including S1 Form
- Air Quality Assessment Screening Letter
- Drainage Strategy
- Flood Risk Assessment
- Historic Environment Desk Based Assessment
- Noise Impact Assessment
- Preliminary Ecological Assessment and BREEAM Report
- Remediation Strategy
- Supplementary Geo-Environmental Investigation Interpretative Report
- Wind Microclimate Assessment
- Daylighting and Sunlighting Assessment and update.
- Overheating Analysis
- Townscape and Visual Impact Assessment and Addendum

These are available to view on the Planning and Building Standards Online Service.

Relevant Site History

18/00186/FUL
 Land 143 Metres Southeast Of 94
 Ocean Drive
 Edinburgh

Construction of a new quay wall extension.
 Approved
 13 June 2018

19/02778/FUL
 Land 143 Metres Southeast Of 94
 Ocean Drive
 Edinburgh

Residential development of 338 flats over 4 apartment buildings with heights of 10 storeys (Building A), 14 storeys (Building B), 12 storeys (Building C) and 10 storeys (Building D) with two commercial units (Class 1,2,3 and 4), car parking and associated landscaping (as amended).
 Granted
 3 November 2020

21/05744/OBL
 Land 143 Metres Southeast Of 94
 Ocean Drive
 Edinburgh

Application under S75A for the modification of a planning obligation relating to the land 143 metres south-east of 94 Ocean Drive.
 accepted and the agreement be modified
 28 February 2022

19/02778/VARY
Land 143 Metres Southeast Of
94 Ocean Drive
Edinburgh
Non-material variation application to 19/02778/FUL.
VARIED
28 September 2022

Other Relevant Site History

Land to the south of the site at Waterfront Plaza (Cala development):

16/03684/FUL
Land 120 Metres South East Of 98
Ocean Drive
Edinburgh

Planning permission for proposed 388 residential development including affordable housing provision, landscaping and public realm, parking, access, ancillary 29 commercial/retail units and associated works (As Amended).

Granted
14 August 2018

Land at Ocean Point to the west of the site:

01/01030/FUL
Ocean Point 1
Ocean Drive

Planning permission was granted for the erection of two office buildings of nine and 11 storeys respectively, with a combined floor area of 25,000sqm. The nine storey building (Ocean Point) has been implemented.

Granted
31 October 2001

23/04069/FUL
Ocean Point 2
Land 58 Metres South Of 94 Ocean Drive
Edinburgh

Application submitted for the erection of mixed-use development comprising residential (104 units) and purpose-built student accommodation (404 beds), along with commercial uses /co-working and amenity space, landscaping, and infrastructure.

Pending Consideration

Land at Ocean Terminal to the west of the site:

22/01372/FUL
Ocean Terminal
98 Ocean Drive

Edinburgh

Part demolition of existing shopping centre, remodelling and re-facing of facade to provide reconfigured commercial units (Class 1/2/3) at ground floor level; reconfigured visitor attraction space (Class 10) and potential co-working office space (Class 4), commercial units (Class 1/2/3) and/or leisure uses (Class 11) on upper floors; relocation of access bridge to Royal Yacht Britannia; temporary landscaping on the cleared site; and associated works.

Granted

29.09.2022

22/05599/FUL

Ocean Terminal

98 Ocean Drive

Edinburgh

Application submitted for the erection of mixed-use development comprising 531 residential units and commercial uses, comprising Class 1, 2 and 3 uses, installation of padel court (Class 11), and creation of new public realm, with associated landscaping, infrastructure, and access arrangements.

Pending Consideration

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Transport

NatureScot

Affordable Housing

Archaeology Officer

Communities and Families

Environmental Protection

Flood Prevention.

SEPA

Scottish Water

Leith Harbour and Newhaven Community Council

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

Publicity and Public Engagement

Date of Neighbour Notification: 25 September 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 22 September 2023/28 April 2023

Site Notices Date(s): Not Applicable

Number of Contributors: 31

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

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

a) The proposals harm the listed building and its setting?

The following HES guidance is relevant in the determination of this application:

Managing Change - Setting

The site lies at the core of the 19th and 20th century port of Leith and overlies and contains the B-listed harbour walls for the western entrance to the mid-19th century Victoria Docks (listed 30 March 1994, reference LB27081). A previous consent has been implemented to carry out works to the dock edge.

In terms of the potential impact on Victoria Docks, the eastern part of the site at the dock entrance is being retained with landscaping, whilst the inclusion of the promenade and landscaping will reduce the impact the proposal would have on the historic character and appearance of the listed dock. There is already permission in place for the development of this site and the built form of Block A covers the same footprint with a similar resulting impact. The landscaping scheme is an enhancement over the original proposals.

Further west of the site are a number of other listed structures. These consist of:

- B-listed Leith Docks, Prince Of Wales Dry Dock, Hydraulic Station (listed 12 December 1974, reference LB27634).
- B-listed Leith Docks, Alexandra Dry Dock (listed 12 December 1974, reference LB27595).
- B-listed Leith Docks, Alexandra Dry Dock Hydraulic Station (listed 12 December 1974, reference LB27601 ; and
- A-listed Victoria Swing Bridge, Leith Dock (listed 12 December 1974, reference LB27644)

Block A is located at the west of the site at the farthest point away from the listed structures with the granted three development blocks in the intervening space. The proposed development will be visible from the views near the Victoria Swing Bridge at the edge of the inner harbour and along Ocean Drive. However, the proposed development will be experienced in the context of the granted development which will alter the setting of the listed structures.

Overall, the granted blocks are substantial developments with the proposed Block A of a similar height to Block B. The proposal will have no further detrimental impact on the setting of these structures.

Conclusion in relation to the listed building

The historical assets within the area have been assessed against the relevant legislation and guidance.

The wider site has planning permission in place for three large blocks of development to the west of the application site which are to be delivered under that previous permission. The development of this block, of a similar height, will not have an overriding impact on the setting of the adjacent listed structures.

The proposals preserve the setting of surrounding listed buildings in accordance with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

East of the site is Leith Conservation Area. The Leith Conservation Area Character Appraisal (CACA) emphasises the area's unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value.

The previous assessment for the granted scheme (19/02778/FUL) concluded that the proposal will not impact adversely on the Leith Conservation Area. The report noted that the site is separated from the conservation area by the Water of Leith and Victoria Dock. This area is going to contribute to a modern, vibrant part of the waterfront, distinct from historic Leith. The heritage of the area has been considered in the design by positioning the block in a north - south orientation to allow access and glimpses of the water and working dock, rather than positioning a block east-west which would be a visual barrier from Ocean Drive and preventing visual connection with the dock. The quay wall has already been strengthened by the developer and the proposed boardwalk will provide access to the edge of the dock which is not publicly available now.

The area potentially impacted upon is identified in the CACA as Old Leith and The Shore. The CACA notes that there are few long views through the area, but rather a strong sense of closure and containment. It also states that there are limited views through the bridge towards the Port of Leith. However, in some locations ships and port structures can be seen.

The submitted TVIA shows representative views from the conservation area. View 3 is from Ocean Drive, south of Alexandria Dock, by Victoria Swing Bridge and View 4 is from the north end of the Shore on the eastern side of the Water of Leith.

View 3 shows that due to the intervening built form of the granted development comprising Blocks B, C and D that the proposed additional storeys on Block A will not be visible. Therefore, there is negligible impact from this part of the conservation area.

View 4 shows that the additional height on Block A will be visible from this location. The view is between the gap of the modern development at Rennie's Isle. Due to Block A's position to the west of the extant consent, it would not readily increase the degree of change experienced through 19/02778/FUL at The Shore within the Leith Conservation Area.

The proposed use of brick as the main material continues the design ethos of the extant permission.

Overall, due to the existing permission in place, the proposal would not be perceived as being substantially different nor have a wider impact on the character and appearance of the adjacent conservation area.

Conclusion in relation to the conservation area

The works will preserve the special character and appearance of the conservation area. The proposals are acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

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 relevant policies to be considered are:

- NPF4 Sustainable Places policies 1, 2, 3, 4, 7, 9, 10, 11, 12 and 13.
- NPF4 Liveable Places policies 14, 15, 16, 18, 22 and 23.
- LDP Delivering the Strategy Policies Del 1 and Del 3.
- LDP Design policies Des 1, Des 2, Des 3, Des 4, Des 5, Des 7, Des 8, Des 10 and Des 11.
- LDP Environment policies Env 16, Env 21 and Env 22.
- LDP Housing policies Hou 1, Hou 2, Hou 3, Hou 4 and Hou 6.
- LDP Transport policies Tra 2, Tra 3, Tra 4, Tra 7 and Tra 9.
- LDP Resources and Services policy RS 6.

The non-statutory Edinburgh Design Guidance, Affordable Housing, Listed Buildings and Conservation Area Guidance and the Leith Docks Development Framework are relevant material considerations when assessing the application's compliance with the development plan.

Principle

The proposed development would normally be classed as a 'major application', but as it is located within Edinburgh Waterfront and is for new buildings for mixed use and residential development NPF4 designates it as a national development.

NPF4 states that development at Edinburgh Waterfront will include high-quality mixed-use proposals that optimise the use of the strategic asset for residential, community and commercial purpose (amongst other uses).

LDP Policy Del 3 (Edinburgh Waterfront) sets out that planning permission for development which will contribute towards the creation of new urban quarters at Leith Waterfront. It is located within the Central Leith Waterfront Area, in an area of commercial and housing-led mixed-use development (proposal EW1b).

LDP Policy Hou 1 (Housing Development) gives priority to the delivery of the housing land supply and relevant infrastructure as part of the mixed use regeneration proposals at Edinburgh Waterfront, including the area identified as EW1b. Furthermore, NPF4 Policy 16 (Quality Homes) supports development proposals for new homes allocated for housing in LDPs.

The principle of residential development accords with these policies and it has already been established through the extant permission. It is a residential led development that provides a mix of unit sizes on a longstanding regeneration site. The provision of a commercial unit on the ground floor of Block A aids in providing a mix and some activity onto Ocean Drive. The commercial unit has not been defined within the application therefore it is proposed to define this by condition to either Class 1A (Shops and financial, professional and other services), Class 3 (Food and drink) or Class 4 (Business) which are reasonable uses to expect below and in the midst of residential development.

In line with NPF4 Policy 16 (Quality Homes) a Statement of Community Benefit has been submitted. This is briefly summarised as:

- It meets local housing requirements as the site is designated for development, it provides a mix of new housing including affordable and several apartments that could be adapted to be accessible by wheelchair users.
- In terms of infrastructure and services, it notes the applicant is willing to work with the Council to agree appropriate developer contributions. The proposed development will also have economic benefits through the construction stage and future spending. A ground floor commercial unit is to be created.
- The residential amenity will be enhanced by the creation of a section of the promenade and increased greenspace and landscaping within the area. Active frontage will be created onto Ocean Drive.

Overall, the site is identified for housing led, mixed use development and residential development is supported at this location through both NPF4 and the LDP. In general, housing at this location will provide benefits. The suitability of the detailed matters such as height, design and amenity considered in later sections.

Historic Environment

NPF4 Policy 7 (Historic assets and places) requires that proposals with a potentially significant impact on historic assets or places should be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.

Listed Buildings:

NPF4 Policy 7c) states that development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.

The potential impact on any listed structures has been assessed in section a. The proposal will not have a detrimental impact on the setting of any nearby listed buildings the historic dock infrastructure is being preserved in situ and proposed landscaping grass does not infringe on the historic dock masonry. In this context the proposal also complies with LDP Policy Des 3 (Development Design - Incorporating and Enhancing.

Existing and Potential Features).

Conservation Area:

NPF4 Policy 7 d) supports development proposals in conservation areas where they preserve or enhance the character and appearance of the conservation area and its setting.

As noted above the application site is not within the conservation area. However, an assessment of the potential impact on the character and appearance of the adjacent Leith Conservation Area has been made in section b). This concluded that the proposals would preserve the character and appearance of the conservation area in the context of the extant permission.

Archaeology:

The aim of NPF 4 Policy 7 parts n) and o) is to preserve archaeological remains in situ as a first option and alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be acceptable.

The site was previously evaluated in 2018 by AOC Archaeology. This work complemented an earlier 2017 programme of historic building recording of the dock/harbour walls including a now demolished timber jetty. Given the results of the evaluation and the building recording the Archaeology Officer has advised that no further archaeological field work is required.

In summary, the proposals will not have a negative impact on the historic environment and comply with NPF4 Policies 7c, 7d, 7fn and 7o.

Design, Scale and Layout

Height, Scale and Massing:

LDP Policy Des 4 (Development Design - Impact on Setting) requires development to demonstrate that it will have a positive impact on its surroundings, including the character of the wider townscape and landscape, and impact on existing views.

LDP Policy Des 11 (Tall Buildings - Skyline and Key Views) states that planning permission will only be granted for development which rises above the building height prevailing generally in the surrounding area where a) a landmark is to be created that enhances the skyline and surrounding townscape and is justified by the proposed use b) the scale of the building is appropriate in its context c) there would be no adverse impact on important views of landmark buildings, the historic skyline, landscape features in the urban area or the landscape setting of the city, including the Firth of Forth.

The height of the building has been lowered by a storey to match the adjacent Block B. The site wide elevation drawings show that Block A now sits at 51.318m AOD and the adjacent Block B is 52.220m AOD at its highest point.

The design of Block A continues the pattern and scale of development established through planning application 19/02778/FUL. It is a similar style and continues the original design concept of four blocks utilising different colours/tones of brick which have been selected to complement each other.

In local views the submitted information does not indicate that the additional storeys will result in the development being perceived much differently to the extant permission.

In simple terms, the height of the building matches the general prevailing height on the site and there is general compliance with Policy Des 11 a) and b).

In relation to Des 11 c), a revised TVIA has been provided to show the potential impacts of the development from a number of viewpoints.

The main longer citywide views that need consideration are from the Castle Ramparts (TVIA View 8) (Protected View C1b), Calton Hill (TVIA View 6) and Arthur's Seat (TVIA View 7).

The protected view from the castle (TVIA View 8) looks towards Inchkeith Island. The proposal appears to sit below the existing high-rise tower block of Citadel Court and it forms part of the emerging urban character established by the other blocks on the site. The proposal would result in the loss of some visible water space, but importantly maintains an open backdrop to the Firth of Forth midway between the north breakwater and near shore of Inchkeith Island. The additional four storeys on the plot by itself would have limited impact on the World Heritage Site.

TVIA View 6 from Calton Hill shows the development continuing the urban form, allowing views across the water and over to Fife with limited impact in the context of the granted scheme and existing adjacent Ocean Point 1 office building to the west.

TVIA View 8 from Arthur's Seat shows the development again in the context of the granted development merging in with the other blocks on the wider site and also with the Ocean Point 1 office building. The scheme would not lead to any overall loss of water space and fits with the context of the site.

The TVIA does not show the full cumulative impact,. However, it does contain outlines of the proposed development at Ocean Terminal. There is a gap between the two sites and although there is some potential for cumulative impact this is lessened by the distance between the sites and the orientation of the existing office block at Ocean Point 2.

The TVIA information submitted does not contain information of the potential buildings at Ocean Point 2 (OP2), which was still at the pre-application stage when this application was submitted. A site wide section has been provided showing the proposals in the context of the adjacent site and the extant permission for the office block on the OP2 site. The extant office development on OP2 is a large building fronting onto Ocean Drive. The applicant points towards the information now submitted as part of application 23/04069/FUL for development at Ocean Point 2 as a means of understanding any potential cumulative impact. However, the potential impact of OP2 will need to be assessed separately through that planning application.

Overall, based on the information submitted the additional height of the four storeys on Block A is largely in keeping with the scale and spatial structure of the extant permission. In isolation, Block A will have an acceptable impact on the views considered in the submitted TVIA and complies with LDP Policy Des 11.

Materials and Detailing:

The block contains ordered fenestration with regular window openings. The use of whole brick reveals add depth to the façade. The use of dark grey balconies, windows and panelling keep the design simple and contemporary. The general design matches the context of the area established through the earlier permission and the use of brick on the adjacent site.

The rooftop contains a brick crown which raises the height of the building, helps define the top elements and also serves as a useful parapet to hide the lift overrun and photovoltaic array.

The covered link that joins Block A and B together is lightweight and allows for visibility through the site.

The materials and details are appropriate for the site and context set by the extant permission.

Layout:

NPF4 Policy 14 seeks to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach in order to achieve the six qualities of successful places. LDP Policy Des 1 (Design Quality and Context) encourages development that will contribute towards a sense of place and draws upon the characteristics of the surrounding areas.

Policy Des 7 (Layout Design) seeks an integrated approach to the layout of buildings and routes around them with good connectivity to local centres and public transport. Whilst LDP Policy Des 8 (Public Realm and Landscape Design) supports proposals where all external spaces, and features, including streets, footpaths, green spaces and boundary treatments have been design as an integral part of a scheme as whole.

The application site is located within an area that contains a mix of uses and is undergoing a series of changes. The proposed development seeks to build on the layout and design already approved and under construction through planning permission 19/02778/FUL. Block A occupies the same space as the previously granted block and therefore the general design principles have already been established. The proposal to limit the western part of the site for just servicing purposes will enhance the pedestrian experience.

The proposals include a commercial unit that fronts onto Ocean Drive and helps to activate this part of the street. Elsewhere, the ground floor of Block A is largely taken up with uses such as bin stores, cycle parking, substation and stores which limits the interaction of the building with the external space. This is similar to the ground floor of the extant permission, though within the wider site, such as within Block B there are some ground floor residential uses which will provide some greater activity and overlooking when reading the site as a whole.

LDP policy Des 10 (Waterside Development) requires development of sites on the coastal edge to provide an attractive frontage to the water and maintain, provide or improve public access along the water's edge.

A positive element of the application is the reduced car parking which aids in enhancing the edge to Albert Dock Basin and avoids the visual intrusion of surface parking. The softening of the space reduces impermeable surfaces and embodied carbon with an increase in tree planting, mix of grasses, shrubs and groundcovers. The flowering lawn will add biodiversity interest to spaces for people.

The enhanced landscape strip next to the promenade will form a linear style park with secondary sheltered greenspace, a series of features for natural play, a sheltered courtyard with feature planting and outdoor gym equipment and areas for seating. The application is supported by a microclimate study which has been used to soften any potential windy areas with planting and screens.

The principle of continuing the boardwalk treatment is welcomed and meets with the requirements of Policy Des 10 by improving access to the water's edge and also Policy Tra 9 (Cycle and Footpath Network) as it implements part of a cycle/footpath safeguard. This element also meets the relevant parts of Policy Des 2 (Co-ordinated Development) which seeks to avoid piecemeal development.

Overall, the proposed layout is acceptable as it carries on the established form of development and the reduction in car parking, restriction on vehicular movements, enhanced landscaping and inclusion of the promenade are all positives over the previous scheme. The proposal generally accords with Policies Des 1, Des 2 Des 7, Des 8, Des 10, Tra 9 and NPF 4 Policy 14.

Housing Mix and Sizes:

LDP Policy Hou 2 (Housing Mix) seeks the provision of a mix of house types and sizes where practical. A mix of studio through to three bedroom units are proposed. The Edinburgh Design Guidance states that 20% of the total number of homes should be designed for growing families.

Within Block A, 14 three-bedroom units are proposed. This equates to only 12%. For comparison purposes the previously granted Block A only contained 11% three bedroomed units (9 out of the 81 units). Across the wider development the three bedroom units account for 19%, which is a very minor infringement. The Design and Access Statement identifies three apartments across each floor which could be easily adapted as wheelchair accessible apartments.

The Edinburgh Design Guidance includes recommended internal floor areas for flat sizes. The proposal complies with these recommended minimum sizes, noting that as a BTR scheme there are some allowances for smaller one bedroom units.

The EDG sets out that single aspect dwellings should not make up more than 50% of the overall dwelling numbers and that developments should have north facing single aspect dwellings. Block A has 52 dual aspect units found at the corner locations; out of the 116 units this equates to 46%.

Across the overall development site 49% of the units are dual aspect, which is acceptable in the context of the EDG that indicates that as BTR development there may be some justification for a limited increase in single aspect units over the standard 50%.

Affordable Housing:

The proposed 116 units in Block A would require the delivery of 29 affordable units. The total number of units across the wider site will increase to 373 units resulting in the requirement of 93 onsite affordable homes in total to meet the 25% affordable housing requirement of LDP Policy Hou 6 (Affordable Housing).

The applicant has advised that the proposal will deliver 31 affordable homes within Block A, and 94 affordable homes total across all four blocks.

The affordable housing proposed is intermediate rent as per the existing planning permission with the units to be pepper potted throughout the development. It offers a representative mix of one, two and three bedroom apartments. Additional services such as a gym, residents lounge and concierge are provided for all tenants.

Housing Strategy and Development (Affordable Housing) notes that the affordable homes can be delivered without grant subsidy and the grant freed up by BTR can be channelled into delivery of social rented homes.

Subject to a suitable legal agreement the proposals for affordable housing accord with LDP Policy Hou 6.

Density:

LDP Policy Hou 4 (Housing Density) states that the Council will seek an appropriate density on sites giving regard to the characteristics of the surrounding area, the need to create an attractive residential environment, accessibility and need to encouraging local services.

A density measurement cannot easily be taken in isolation for this application. Across the wider site the density is 373 dwellings per hectare.

Although this is a high figure, density of this scale was envisaged in the Leith Docks Development Framework (2005). This is a brownfield site at the waterfront that has been designated for development. NPF4 Policy 9 (Brownfield, vacant and derelict land and empty buildings) supports development proposals that will result in the sustainable reuse of brownfield land. The location near to services and the tram line supports high density living at this location and supports the concept of 20 minute neighbourhoods.

Overall, the design, scale and layout are acceptable. The height and materials proposed are acceptable for the locality in line with Policy Des 4 (Development Design - Impact on Setting) and the modest increase in height in the context of the wider granted development meets the requirements of Des 11 (Tall Buildings - Skyline and Key Views).

The design and layout of the proposals complies with NPF4 Policy 14, LDP Policies Des 1 (Design Quality and Context), Des 2 (Co-ordinated Development) in the context of the promenade, Des 7 (Layout Design), Des 8 (Public Realm and Landscape Design), Des 10 (Waterside Development) and Tra 9 (Cycle and Footpath Network) and meets the development principles set out in the LDP for the site.

The proposal provides an acceptable housing mix when considered across the wider site largely meeting the requirements of Policy Hou 2 (Housing Mix), and high-density development is supported on a brownfield site at this location in line with Policy Hou 4 (Housing Density). The proposal is acceptable in relation to the level of affordable housing proposed.

Amenity

Policy 23 of NPF 4 supports development that will have positive effects on human health and protect people and places from environmental harm. LDP Policy Des 5 (Development Design - Amenity) seeks to ensure that the amenity of neighbouring residents is not adversely affected by development and that future occupiers of residential properties have acceptable levels of amenity.

Open Space:

LDP Policy Hou 3 (Private Green Space in Housing Developments) requires development to make adequate provision for green space to meet the needs of future residents. In flatted developments it is expected that communal provision will be based on a standard of 10 sqm per flat and a minimum of 20% of the total site area should be useable greenspace.

The 116 units would require 1,160 sqm and over the full site for 373 units 3,730sqm is required.

The development includes areas of landscaping between the blocks and along the water's edge. Future occupiers will benefit from private communal space at the podium level between blocks C and D alongside a communal roof terrace located on top of block B. This equates to 709 sqm of open space.

Due to the design of the proposal, there is no private communal open space at the ground floor level. This application continues the design concept of the earlier permission. The landscaping proposals are an enhancement over the previous scheme by removing car parking spaces and providing additional open space next to the proposed promenade area. The area of external ground floor open space is 2,992 sqm. Adding the roof terrace space equates to is 3,701 sqm. This is slightly less than the 10 sqm required by Policy Hou 3.

As assessed in the section covering layout above, the landscaping provides a variety of spaces and uses. Including play, outside gym, seating and various areas of planting.

Overall, 35% of the site is open space when taking the wider site area of 10,565 sqm. The granted scheme only provides 19% of the site as open space and therefore this can be seen as a marked improvement.

The overshadowing information provided splits the landscaping into 22 notional garden spaces and considers daylighting in the context of all four tower blocks, not just the additional height proposed in this application. It indicates that all the spaces meet the EDG requirements for overshadowing on the spring equinox. The orientation of the blocks and the location to the north of the Waterfront Plaza development means that the sun path analysis shows limited impact on the neighbouring properties.

Representations have raised the issue of the lack of larger areas of open space within the area, making reference to Open Space Strategy (OSS) and the aspiration that households should be within 800m of a large open space of over 2 hectares. Given the extant permission in place and the marked improvement in open space over the previous application, it is not feasible that this one hectare site could provide that level of open space suggested in the OSS. It is noted that Leith Docks Development Framework shows public space / park on the area currently occupied by the Scottish Government car park.

The open space arrangement follows that set by the earlier permission and although private terraced areas are provided it does not provide sufficient private communal space when measured against LDP Policy Hou 3. However, the site does provide a larger percentage of open space when measured against the existing permission with the landscaping providing a number of features for residents to use. In this context the proposed open space is considered acceptable.

Daylighting

The daylighting study uses the Vertical Sky Component (VSC) methodology to demonstrate the impact of the increased height on the flatted Cala blocks. There is a gable end of the nearest Cala colony style block that is closest to Block A. These windows are shown to not meet the VSC test. However, these are side windows that relate to either a lounge or a kitchen/living room that have other larger window/doors on other elevations.

The impact on the additional proposed storeys on Block A itself and also the adjacent Block B have also been assessed. The 'no skyline approach' was undertaken, and it identified that there are first floor rooms which fail within the two blocks. The Average Daylight Factor was then undertaken on these rooms, with the results showing that the rooms passed. This indicates that the rooms in the floors above would also then pass.

LDP Policy Des 2 (Co-ordinated Development) sets out that planning permission will be granted for development which will not compromise the effective development of adjacent land.

The submitted daylighting study does not go into detail of the potential impacts on the adjacent Ocean Point 2 (OP 2) site. However, it does state that some shading was experienced to some of the notional massing for the proposed 'future' OP 2 site. However, based on the assessment of dwellings in the tower-blocks, it expects this development to still pass an average daylight calculation should it be undertaken in future. It is a reasonable assumption, given that Blocks A and B both provide adequate daylighting to one another.

In summary, the proposed development will not have an overriding impact on the daylighting afforded to existing development on the adjacent Cala site and the impact from and on Block B is also acceptable. Limited information has been provided by the applicant on the potential impact of the proposed development on the adjacent Ocean Point 2 site, the submitted report indicates that it should pass a future assessment.

Information has been submitted for the planning application for Ocean Point 2, which is still under consideration. This indicates that there will potentially be some impact on daylighting of both Block A and the adjacent proposed student block causing friction with Policy Des 2 (Co-ordinated Development). However, some infringement of daylighting standards is largely expected on urban development sites. Nevertheless, some infringement of daylighting standards is largely expected on urban development sites.

Privacy distances:

The proposal affords decent privacy distances. The distance between Block A and Block B will be between 17 and 18 metres. The nearest dwelling on the adjacent Waterfront Plaza site is approximately 25 metres away. Block A is approximately 8 metres away from the western boundary providing opportunities for that site to be developed in the future. The submitted application for the Ocean Point 2 site shows a distance of approximately 17m. The submitted application for the Ocean Point 2 site shows a distance of approximately 17m between Block A and the proposed student block.

Noise

Planning Advice Note on Noise (PAN 1/2011) promotes a pragmatic approach to the location of new development within the vicinity of existing noise generating uses.

A Noise Impact Assessment (NIA) has been provided in support of the application which considers noise from the port, surrounding commercial operations and road traffic noise.

Environmental Protection has previously raised concerns regarding noise affecting previously proposed residential developments. Though residential-led schemes have still been granted or 'minded to grant' on the site.

Environmental Protection consider that all noise sources are unlikely to have been adequately considered or measured albeit mitigation in the form of upgraded glazing and ventilation has been recommended to deal with all external noise sources.

The main noise issue is from the adjacent port and commercial activities. Noise from the port has the potential to adversely affect residential amenity, particularly from shipping operations at night

The NIA demonstrates that rooms with windows on the most exposed elevation would not comply with the recommended internal noise criteria allowing for the open windows. The applicants have suggested mitigation in the form of acoustic glazing and ventilation. However, Environmental Protection requires internal measures to be achieved with open windows when the source of the noise is from industrial port operations.

In previous applications for this site and other adjacent sites, mitigation measures have been agreed with acoustic glazing specifications. A number of noise conditions have been suggested by Environmental Protection (if the application is granted) to attached to the permission.

A ground floor commercial unit is proposed but no use class has been specified. To ensure that any potential noise and cooking odours are adequately addressed Environmental Protection has recommended conditions to deal with these matters prior to occupation of the building.

In summary, Environmental Protection recommend that the application be refused with particular concern relating to the potential for port noise to impact upon the proposed residential properties. However, the principle of housing development is supported by the LDP and there is an existing permission in place on the site with this application adding an additional four storeys in the same location. A number of conditions have been recommended to help mitigate some of the concerns.

Odour:

The Port of Leith distillery is located to the north-west of the site. It is understood that the distillery will discharge emissions from a single vertical flue with a termination point at 39.75m above ground level, which will contribute to effective dilution and dispersion of emissions alongside the prevailing winds.

Responsibility for odour lies with the operator of the distillery and any environmental licences/legislation that it needs to adhere to. Furthermore, the site is separated from the distillery by other developments both proposed and existing.

Air quality:

LDP Policy Env 22 (Pollution and Air, Water and Soil Quality) ensures that applications are assessed to ensure that development does not adversely affect air quality in identified Air Quality Management Areas (AQMAs).

The site is near to two AQMAs centred around Great Junction Street to the south and Salamander Street to the east.

A scoping statement was provided in support of the application noting that air quality has further improved in the area since the previous study was carried out for the previous application. Environmental Protection note that although it contains limited information previous applications provide useful information relevant to the site.

In terms of the operational stage of the development the car parking is proposed to be reduced to 18 spaces from 71 with six of these including EV charging points. Likewise, a number of sustainable measures have been included within the development including air source heat pumps and photovoltaics. These elements are viewed as an improvement on developments previously granted for this site, but there are now more residential units proposed.

Dust from surrounding commercial operations have also been considered. The supporting information concludes that there is unlikely to be concerns relating to dust from port activities with previous survey work showing that levels of PM10 were below the Scottish Government's objective for annual mean exposure.

Environmental Protection has advised that dust can cause a nuisance on occasion generated by the off-loading of aggregates from vessels at the Port but has stated that the cement batching plants in the port are regulated by SEPA under the Pollution Prevention and Control regime (PPC).

A financial contribution towards the cost of the monitoring hardware, maintenance and servicing has also been suggested by Environmental Protection but this is not reasonable as it is not concluded to be necessary to mitigate the impact of development and there are no identified costs associated with this.

The principle of housing on this site is supported by the LDP and the measures in place proposed through this application including the much lower levels of car parking are considered to be an enhancement over the previous proposal.

In summary, there is an infringement against Policy Hou 3 (Private Green Space in Housing Development) due to the way in which the blocks sit in the landscaped area. In terms of amenity the proposal largely complies with NPF4 Policy 23 and LDP Policy Des 5 (Development Design - Amenity) and there are some potential infringements on daylighting on the adjacent land. Environmental Protection has raised concerns with regards to some amenity aspects of the development, largely in relation to noise. It would be unreasonable to refuse an application at this location on noise grounds given the previous permission in place and a number of conditions have been recommended.

Transport and Servicing

Transportation information was submitted as part of the application which provides an assessment of the transport considerations associated with the development.

Access:

NPF4 Policy 13 (Sustainable Transport) requires proposals to demonstrate that the transport requirements generated have been considered in line with sustainable travel priorities including matters such as safe walking and cycle connections, access to public transport and safe, secure and conveniently located cycle parking. NPF4 Policy 14 (Liveable Places) promotes the six qualities of successful places, which includes designing for pedestrian experience to deliver 'connected' places.

The vehicular access points to the site are retained in a similar position as previously granted. However, due to changes to the landscaping and car parking there is no longer a fully linked and open vehicular route through the site.

The main vehicular access is taken from the eastern end of the site and operates as a left in left out arrangement. This provided access to the car parking area. Bollards are proposed within the site and at the western entrance to stop general traffic, but to allow for waste collection and emergency vehicle access. Transport has not raised any objections to this approach and the use of bollards will remove vehicle movements through the site.

The site is within an accessible location and served by five bus services from the stops at Ocean Terminal (Numbers 10, 34, 35, 36 and 200 Skylink) and it is in close proximity to the tram stop. It is also located close to the services at Ocean Terminal and the emerging uses within the ground floor units of the nearby Waterfront Plaza development.

The site is nearby to National Cycle Route (NCR) 75 which runs into the city centre and also connects to NCR 1 which runs through to East Lothian. To the south west of Ocean Terminal there is also the Ferry Road Cycle Path (Quiet Route 14) which leads west.

LDP Policy Tra 7 (Public Transport Proposals and Safeguards) seeks to protect safeguarded transport routes which includes the cycle / footpath at the north of this site and the proposed tram along the southern boundary of the site.

The proposal includes the extension of the boardwalk, and it has been designed to enable links with the adjacent site should a development proposal come forward in the future. This will open up access to the water's edge. A condition of the planning application will ensure the timely delivery of the boardwalk and associated landscaping.

The internal loop road has been designed to remove any servicing requirements away from Ocean Drive to eliminate conflict with the operation of the proposed tram. The design and layout of the development will not impact on the tram line which has now been delivered at this location in accordance with LDP policy Tra 7.

The proposed access arrangements are acceptable, and the proposal will not impact on the transport safeguards identified in the LDP.

Parking:

LDP Policies Tra 2 (Car Parking) and Tra 3 (Cycle Parking) of the LDP sets out the requirement for private car and cycle parking. Tra 4 (Design of Off-Street Car and Cycle Parking) sets out parking design considerations.

Car parking spaces will be limited to 18 spaces located at the north-east end of the site (two of which are located in the undercroft of Block D). Six of the spaces will include electric vehicle charging infrastructure (two of these are accessible spaces) and three are proposed to be car club spaces. This aligns with the Council's parking standards.

The reduction in car parking over the original scheme (which contains 71 spaces) is generally supported in this location near to public transport choices and frees up space for landscaping. The low levels of parking proposed, and accessible nature of the site, ensure that the proposal complies with Policy 13 of NPF4.

Cycle parking

A total of 233 cycle spaces are proposed for the 116 units. These are shown as 88 two tier racks, 34 Sheffield stands and six non-standard spaces within the ground floor of Block A. The remaining spaces are located within the extant permission with Block C-D (29 in two tiers, 35 Sheffield stands and 41 non-standard spaces). Fifteen Sheffield stands are proposed within the site to accommodate 30 visitor spaces.

The numbers meet the Council's guidance in numerical terms with 117 two-tier racks accounting for just over 50%. The bike stores take up a large percentage of the ground floor space of Block A and spreading the rest over the other blocks, which share amenity space is considered acceptable in this instance.

The Roads Authority does not object to the proposal. Overall, the transport implications for the site are acceptable. The low level of car parking is supported at this location and is in line with the parking stands and the cycle parking is acceptable in numerical terms.

Flooding and Drainage

NPF4 Policy 10 (Coastal Development) sets out that proposals in developed coastal areas will only be supported where it does not result in the need for further coastal protection measures taking into account matters such as sea level change and coastal erosion alongside the need to take into account projected climate change.

NPF4 Policy 22 (Flood risk and water management) states that proposals at risk of flooding or in a flood risk area will only be supported if they are for, amongst other matters, for the redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that long term safety and resilience can be secured in accordance with relevant SEPA advice.

LDP Policy Env 21 (Flood Prevention) seeks to ensure that development does not result in increased flood risk for the site being development or elsewhere.

The site is within an area where development is supported and already benefits from an extant permission.

The applicant has provided the relevant flood risk assessment and surface water management information for the site as part of the self-certification (with third party verification) process. Additional flood protection measures are not required.

SEPA has no objection to this application on flood risk grounds, noting that residential use is not proposed on the ground floor. SEPA also comment that the information provided shows there is access/egress available to Ocean Drive which has existing ground levels above the 200 year plus Climate Change level including freeboard allowance.

The proposal causes no flood risk to the surrounding area, and Scottish Water does not object to the proposal. The proposal complies with NPF policies 10 and 22 and LDP policies Env 21 (Flood Protection) and RS 6 (Water Supply and Drainage) which all seek to ensure sustainable water management and flood risk measures are in place for new development.

Biodiversity

To the north of the site is the Imperial Dock Lock, Leith Special Protection Area (SPA).

NPF4 Policy 4 (Natural Places) seeks the protection of such natural assets and states that development proposals which will have an unacceptable impact on the natural environment will not be supported.

NatureScot has commented that the distance from the SPA is sufficiently far that overshadowing is unlikely to be an issue and it concludes that there will be no likely significant effects from the proposal. Consequently, the proposal accords with NPF4 Policy 4.

LDP Policy Env 16 (Species Protection) states that development will not be permitted which will be detrimental to the maintenance of protected species.

A Preliminary Ecology Appraisal (PEA) has been carried out and submitted in support of the application. This summarises that there is limited habitat located on the site with limited potential for protected species such as bats, badgers, reptiles and amphibians or nesting birds.

An Otter Licence was granted for the completion of quay wall repairs granted under a separate permission and an otter box was provided as an alternative rest area and a species protection plan produced. The PEA states that the site itself has limited potential for otters due to the lack of suitable resting up and foraging habitat. No signs of otter presence were noted during the survey, however, the interior of an otter box (located to the eastern harbour wall at the site) could not be viewed. It is recommended that the otter box and site should continue to be inspected regularly for field signs and if any signs are detected, advice from an ecologist should be taken. An informative has been added to ensure this.

The proposal accords with LDP Policy Env 16 (Species Protection). It also demonstrates that an understanding of the local characteristics of the area prior to development have been taken into account in line with NPF4 Policy 3 (Biodiversity).

The PEA also sets out potential recommendations and enhancements including landscaping plans to enhance the biodiversity value of the site, removal of non-native species, installation of bat boxes and sensitive lighting, bird boxes alongside general good working practices. Provided that these measures are carried out, then the proposals broadly comply with NPF4 Policy 3 which seeks to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.

Overall, there are no overriding concerns in relation to the SPA or protected species in or around the site.

Sustainability

NPF4 Policy 1 (Tackling the climate and nature crisis) gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. NPF4 Policy 2 (Climate mitigation and adaption) is also relevant.

The application site is a longstanding vacant brownfield site within Edinburgh's urban area made up of hardstanding with no remaining buildings nor materials on site for reuse.

The proposed development contributes to the spatial principles of 'Compact Urban Growth' and 'Local Living' using a vacant brownfield site for sustainable, energy-efficient housing.

An Energy and Sustainability Statement and S1 sustainability form have been submitted. The proposal meets the essential criteria of the sustainability form. The submitted energy strategy sets out that air source heat pumps (ASHP) will be used to provide low carbon domestic hot water to the units and photovoltaic panels are proposed on the roof. NPF 4 Policy 11 a) (Energy) provides support for development proposal for all forms of renewable technologies at a small scale.

The proposal complies with the aims of NPF 4 and detailed building design methods will be subject to Scottish Building Standards

Waste:

NPF 4 Policy 12 (Zero Waste) seeks to reduce, reuse or recycle materials in line with the waste hierarchy. Bin stores are located within the ground floor of Block A as well as within the other blocks and are split into sections for recycling and also residual waste. Previous waste management details are in place for the wider site and the applicant is in discussion with Waste Services regarding the detail of Block A.

Swept path analysis has been undertaken to show access for a 12m long refuse vehicle.

Infrastructure First

NPF 4 Policy 18 (Infrastructure First) supports development proposals which provide (or contribute to) infrastructure in line with that identified as necessary in LDPs.

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) requires that development proposals contribute towards infrastructure provision where relevant and necessary to mitigate any negative additional impact of development. The Action Programme and Developer Contributions and Infrastructure Delivery Supplementary Guidance sets out contributions required towards the provision of infrastructure.

Transport:

The Roads Authority has advised that in line with the existing legal agreement that covers the site, the applicant will be required to contribute the sum of £1,892.21 per unit towards transport infrastructure and £1,456.93 per unit to the Edinburgh tram.

The legal agreement attached to 19/02778/FUL, aside from a tram contribution, covered a transport contribution towards the identified actions of the Ocean Drive Eastwards Extension, Water of Leith Cycle Route (Commercial Street to Warriston) and the Victoria Quay to Water of Leith Cycle Route.

However, since the original application and legal agreement was negotiated, an application to modify the legal agreement was submitted (application number 21/05744/OBL). This sought to remove the contribution towards the Ocean Drive Eastward Extension. This was agreed, resulting in a new per unit contribution figure of £136.21 towards the cycle route actions mentioned above.

This figure is sought in this instance.

Education Infrastructure:

The Action Programme 2023 set out the latest pupil generation rates to assess the cumulative impact of housing developments across the learning estate. The requirement for additional education infrastructure is assessed on a cumulative basis with other known housing developments. Communities and Families undertake a cumulative impact assessment considering latest school roll projections, pupil generation rates and housing output assumptions in the area to determine whether the actions identified in the finalised Supplementary Guidance and Action Programme are sufficient.

Communities and Families has advised that a per flat rate of £10,876 (index linked) based on £5,962 per flat towards primary infrastructure at Victoria Primary School and £4,914 per flat towards secondary infrastructure at Trinity Academy. A cost of £325 per flat towards land contributions is also required.

The per unit rate excludes studio and one bedroom flats and applies to the additional 13 two and three bedroom units created as part of this proposal.

Healthcare:

The site is located within the Leith Waterfront Healthcare Contribution Zone which requires a contribution of £945 per residential unit.

Affordable Housing:

As considered earlier in the report, Affordable Housing will account for 25% of the new homes and will be provided on site.

The above matters will be secured by a legal agreement.

Conclusion in relation to the Development Plan

The site is identified for housing led, mixed use development and high-density residential development is supported at this brownfield location through both NPF4 and the LDP. The proposals will not have a negative impact on the historic environment.

The additional height of the four storeys on Block A is largely in keeping with the scale and spatial structure of the extant permission. The design and materials are appropriate for the context of the wider site. The layout provides an enhancement of the public realm, with the reduction in car parking, increased landscaping and the introduction of the promenade. The proposal housing mix and the level of affordable housing proposed.

There is an infringement against open space policy due to the manner in which the block sits in the landscaped area and there are some potential infringements on daylighting on the adjacent land. Any noise implications for the site can be dealt with through conditions in a similar way to the existing permission on the site.

Other matters such as in relation to transport implications, flooding, biodiversity and sustainability are considered acceptable.

Subject to recommended conditions and a legal agreement the proposal is acceptable and broadly complies with National Planning Framework 4 and the aims of the 2016 Edinburgh Local Development Plan, as well as the Council's non-statutory Edinburgh Design Guidance.

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

The following material planning considerations have been identified:

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

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

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

Public representations

Scheme 1

Scheme 1 attracted 23 representations in total, 21 objecting and 2 supporting. A summary is provided below:

Objections

Principle:

- proposal not aimed at supporting good quality affordable rented accommodation assessed in section c).

Design:

- overdevelopment in an overpopulated area - assessed in section c).
- density too high and not characteristic of the area - assessed in section c).
- granted development already too high, this exacerbates it. - assessed in section c).
- excessive height has not been justified - assessed in section c).
- intended height of the development would have a negative impact on the character and heritage of this historic and vibrant neighbourhood - assessed in sections a,b and c).
- damaging to the visual amenity of the area - assessed in section c).

- the height and mass of Ocean Terminal and the black box distillery have been exaggerated in the documentation - height assessed in section c), amended information clarified heights.
- proposals do not take into account height/context of surrounding developments - assessed in section c).
- TVIA does not appear to be an honest representation of height. 15 storeys does not look taller than existing 10 storey existing Ocean Point building - height assessed in section c), amended information clarified heights.
- impact on views - assessed in section c).
- no nearby viewpoint has been included that provides a local view looking north from e.g. from the Scottish Government build or from Waterfront Plaza, where the vast majority of the Notified Neighbours reside - not a protected view, sufficient information provided to assesses application.
- no architectural merit, very uninspired shapes, designs, cladding, windows etc - assessed in section c).
- provides a gigantic physical and visual barricade - assessed in section c).
- closing of space between block A and B means there are no longer sight lines through the site - assessed in section c).

Amenity:

- lack of accommodation for the elderly and disabled - - assessed in section c).
- housing mix provides an over provision of studio and 1 bedroom units for Block A assessed in section c).
- wind conditions and wind tunnelling effect - assessed in section c).
- impacts on sunlight and daylight for adjacent Cala development, including commercial units - assessed in section c). Commercial units generally not protected.
- overshadowing of spaces - assessed in section c).
- lack of greenspace in the area and conflicts with CEC open space strategy - assessed in section c).
- lack of play areas - assessed in section c).
- impacts on air pollution - assessed in section c).

Transport:

- fails to comply with 20-minute neighbourhood idea - assessed in section c).
- lack of car parking proposed and potential for overspill - assessed in section c).
- lack of drop off space for deliveries or tradesmen - assessed in section c).
- bollards do not usually work - assessed in section c).
- traffic congestion - assessed in section c).
- traffic safety - assessed in section c).
- conflict between tram and cyclists - transport matters assessed in section c).

Heritage:

- impact on views from the Shore conservation area - assessed in sections b and c).
- impact on setting of listed buildings/structures - assessed in sections a and c).

Infrastructure

- lack of services/amenities in the area - assessed in section c).
- impact on public services in the area - doctors, schools etc - assessed in section c)

Flooding

- SUDs feature not properly development and do not take into account localised flooding - assessed in section c)

Ground Conditions

- ground conditions given previous use of the site - condition added.

Other

- Neighbour notification issues - statutory minimum carried out

Support

- beneficial opportunity for more housing in the area and supports local services - noted
- general support for the proposal - noted
- improved access to water's edge and associated landscape - noted
- substantial bike storage to reduce reliance on private cars - noted

Non-material

- motivations of developer
- no Scottish connection from the development team
- re-naming of development
- commercial concerns

Scheme 2

A further eight objections were received:

Objections

Design:

- overdevelopment/overcrowding - assessed in section c)
- height and design out of keeping with local vernacular - assessed in section c)
- height of development - assessed in section c)
- density too high - assessed in section c)
- poor, unattractive design reminiscent of 1960s architecture - assessed in section c)

Amenity:

- wind tunnelling - microclimate assessment provided, assessed in section c)
- noise impacts - assessed in section c)
- impact on daylighting - assessed in section c)
- lack of greenspace in the area and conflicts with CEC open space strategy - assessed in section c)
- lack of amenity space for residents - assessed in section c)

Infrastructure:

- lack of infrastructure - education, healthcare etc - assessed in section c)

Transport:

- lack of carparking proposed and potential for overspill - assessed in section c)
- traffic congestion - assessed in section c)
- EV charging points required - assessed in section c)

Non-material

- construction stage matters
- past construction work
- property values

Conclusion in relation to identified material considerations

The other material considerations have been identified and addressed. There are no outstanding material considerations.

OVERALL CONCLUSION

The site is identified for housing led, mixed use development and high-density residential development is supported at this brownfield location through both NPF4 and the LDP. The proposals will not have a negative impact on the historic environment.

The additional height of the four storeys on Block A is largely in keeping with the scale and spatial structure of the extant permission. The design and materials are appropriate for the context of the wider site. The layout provides an enhancement of the public realm, with the reduction in car parking, increased landscaping and the introduction of the promenade. The proposed housing mix and the level of affordable housing is acceptable.

There is an infringement against open space policy due to the manner in which the block sits in the landscaped area and there are some potential infringements on daylighting on the adjacent land. Any noise implications for the site can be dealt with through conditions in a similar way to the existing permission on the site.

Other matters such as in relation to transport implications, flooding, biodiversity and sustainability are considered acceptable.

Subject to recommended conditions and a legal agreement the proposal is acceptable and broadly complies with National Planning Framework 4 and the aims of the 2016 Edinburgh Local Development Plan, as well as the Council's non-statutory Edinburgh Design Guidance. There are no material considerations which would indicate otherwise.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

1.
 - i) Prior to the commencement of construction works on site:
 - a) A site survey (including intrusive investigation where necessary) must be carried out to establish, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and
 - b) Where necessary, a detailed schedule of any required remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Planning Authority.
 - ii) Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided for the approval of the Planning Authority.
2. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.
3. The finished floor levels should be set no lower than 5.95m AOD.
4. The development shall be carried out in accordance with the approved landscaping scheme and fully implemented within six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing by the Planning Authority.
5. Notwithstanding the provisions of the Use Classes Order, the ground floor commercial unit shall be restricted to Class 1A (Shops and financial, professional and other services), Class 3 (Food and drink) or Class 4 (Business). Note Any consented Use Class 4 to be restricted to Use Class 4 only with no permitted change to Use Class 6.
6. Prior to the ground floor commercial unit being taken up for Class 3 use, details of any extract flue and ventilation system, capable of 30 air changes per hour, and terminating at roof levels shall be submitted and approved by the Planning Authority and thereafter implemented.

7. The six electric car parking spaces shown on drawing 220177-3DR-ZZ-00-DR-A-08002 P2 dated 03/07/23 (CEC DWG REF 03A) shall be served by at least a 13-amp 3Kw (external three pin-plug) with capacity in mains for 32 - amp 7Kw electric vehicle charging sockets and shall be installed and operational in full prior to the development being occupied. The remaining 12 car parking spaces should be electric vehicle enabled with underground ducting to allow future overground installations to be erected prior to start of the development being occupied.
8. Prior to the occupation of the building, the approved works to create the Boardwalk shall be fully implemented
9. The specifications for glazing and ventilation will be implemented in accordance with the recommendations of the Apex Acoustics noise impact assessment referenced 8470.9 Rev C and dated 31st March 2023 and shown in drawing referenced 009110-3DR-01-01-DR-A-20001 Rev PO3 and dated 23/3/22
10. Prior to occupation of the development, details demonstrating that noise from all external plant (including commercial cooking ventilation system if required) complies with NR25 within the nearest residential property shall be submitted for written approval by the Head of Planning.
11. Prior to the occupation of the ground floor commercial unit, details demonstrating that noise from the unit will be inaudible (NR15) within all surrounding residential properties or as otherwise agreed. Details should include separating wall and floor specifications. Such details should be installed prior to start of operations on site.
12. Prior to occupation of the development, details demonstrating that noise from all internal plant (including internal ventilation system) complies with NR15 within the habitable rooms (bedroom/living-rooms) in the residential properties or as otherwise agreed shall be submitted for written approval by the Planning Authority.

Reasons

1. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.
2. In order to enable the planning authority to consider this/these matter/s in detail.
3. To mitigate against risk of flooding
4. In order to ensure that the approved landscaping works are properly established on site.
5. In order to ensure that the nature of the use of the premises remains compatible with the character of the surrounding area, and that no activities or processes take place which may be detrimental to its amenities.
6. In order to protect the amenity of the occupiers of the development.

7. To encourage sustainable transport.
8. To ensure the delivery of the boardwalk.
9. In order to protect the amenity of the occupiers of the development.
10. In order to protect the amenity of the occupiers of the development.
11. In order to protect the amenity of the occupiers of the development.
12. In order to protect the amenity of the occupiers of the development.

Informatives

It should be noted that:

1. Planning permission shall not be issued until a suitable legal agreement has been concluded to secure the following:

Affordable Housing:

Affordable Housing will account for 25% of the new homes and will be provided on site.

Transport:

Contribute the sum of £1892.21 per unit towards transport infrastructure and £1,456.93 per unit to the Edinburgh tram.

Education:

Contribute a per flat rate of £10,876 (index linked) based on £5,962 per flat towards primary infrastructure at Victoria Primary School and £4,914 per flat towards secondary infrastructure at Trinity Academy for all two bedroom flats or above. A cost of £325 per flat towards land contributions is also required. This uplifted contribution figure is limited to the additional 13 two/three bedroom flats.

Healthcare:

£945 per residential unit towards the Leith Waterfront Healthcare Contribution Zone.

The legal agreement should be concluded within 6 months of the date of this notice. If not concluded within that 6-month period, a report will be put to committee with a likely recommendation that the application be refused.

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

4. For the duration of development, between the commencement of development on the site until its completion, a notice shall be: displayed in a prominent place at or in the vicinity of the site of the development; readily visible to the public; and printed on durable material.
5. It should be noted that when designing the exhaust ducting, Heating, ventilation and Air Conditioning (HVAC) good duct practice should be implemented to ensure that secondary noise is not generated by turbulence in the duct system. It is recommended that the HVAC Engineer employed to undertake the work, undertakes the installation with due cognisance of the Chartered Institute of Building Services Engineers (CIBSE) and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guidance
6. The otter box and site should be inspected regularly for field signs. If field signs are detected, then advice from an experienced and competent ecologist should be taken. A box check should be undertaken prior to ground works commencing.

7. TRAMS - Important Note:

The proposed site is on or adjacent to the operational / proposed Edinburgh Tram. To ensure that work on or near the tramway is carried out safely, it is necessary to obtain authorisation to agree a safe system of work. It is a legal obligation to comply with the Authority to Work (AtW) process whilst working on or near the tramway. See <https://edinburghtrams.com/atw>.

8. The applicant should consider developing a Travel Plan including provision of public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport.

9. For the avoidance of doubt, the area to the rear (north) of the proposed development is considered to be private and not subject to road construction consent.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 12 April 2023

Drawing Numbers/Scheme

01A, 02, 03A, 04A, 06A, 07, 08A, 09A, 11B, 12B, 13B, 14B, 15

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Kenneth Bowes, Senior Planning officer
E-mail: kenneth.bowes@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Transport

COMMENT: No objection subject to conditions and informatives.

DATE: 30 June 2023

NAME: NatureScot

COMMENT: The site is within proximity to Imperial Dock Lock, Leith SPA. As the distance from the SPA is sufficiently far overshadowing is unlikely to be an issue. Therefore we have no further comment to make in relation to the SPA. Reference made to other general guidance.

DATE: 12 May 2023

NAME: Affordable Housing

COMMENT: The applicant has made a commitment to provide 25% on site affordable housing and this will be secured by a Section 75 Legal Agreement. This approach which will assist in the delivery of a mixed sustainable community:

DATE: 4 August 2023

NAME: Archaeology Officer

COMMENT: Given the results of the evaluation and the building recording it is envisaged that no further archaeological field work is required. The subsequent detailed plan of landscaping adjacent to the historic B-listed Victoria Dock addresses the main concern relating to historic dock infrastructure .

DATE: 27 April 2023

NAME: Communities and Families

COMMENT: No objection provided a contribution to education infrastructure is secured through the legal agreement.

DATE: 9 August 2023

NAME: Environmental Protection

COMMENT: Recommend that the application be refused with particular concern relating to the potential for port noise to impact upon the proposed residential properties. Concerns also remain in relation to dust and odours impacting the proposed development. However, if the application is consented, then Environmental Protection recommend a number of conditions.

DATE: 28 July 2023

NAME: Flood Prevention.

COMMENT: This application can proceed to determination, with no further comments from CEC Flood Prevention.

DATE: 18 July 2023

NAME: SEPA

COMMENT: We have no objection to this application on flood risk grounds.

DATE: 16 May 2023

NAME: Scottish Water

COMMENT: No objection to this planning application. Further notes for applicant

included in the response.

DATE: 27 April 2023

NAME: Leith Harbour and Newhaven Community Council

COMMENT: Object to the application, key points include:

- Additional height detracting from the appearance of the area including conservation area.
- Design.
- Density.
- Housing mix and approach to affordable housing.
- Provision for disabled and elderly.
- No provision for building an intergenerational community with no community building, play ground, 20 minute neighbourhood.
- Infrastructure issues with schools and healthcare provision.

DATE: 26 May 2023

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

Location Plan



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