

Development Management Sub Committee

Wednesday 25 September 2019

Application for Approval of Matters Specified in Conditions 19/01040/AMC

At Western Harbour, Western Harbour Drive, Edinburgh
Approval of Matters as Specified in Condition 2 of planning
permission 09/00165/OUT for a proposed park

Item number

Report number

Wards

B13 - Leith

Summary

The principle of a park is supported and is in accordance with the Edinburgh Local Development Plan, the outline planning permission and the Revised Development Framework. It will contribute to the wider regeneration of the harbour area. The proposed design, layout, landscaping, planting, uses and linkages are all acceptable. The proposal is acceptable subject to conditions.

Links

[Policies and guidance for this application](#)

LDPP, LDEL01, LDEL03, LDES01, LDES02, LDES03, LDES07, LDES08, LDES10, LEN09, LEN12, LEN20, LEN21, LEN22, LHOU07, LHOU10, LTRA03, LTRA04, NSG, OSS1, NSGD02,

Report

Application for Approval of Matters Specified in Conditions 19/01040/AMC

At Western Harbour, Western Harbour Drive, Edinburgh Approval of Matters as Specified in Condition 2 of planning permission 09/00165/OUT for a proposed park

Recommendations

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

Background

2.1 Site description

The site is centrally located within the wider Western Harbour development area. The site is semi-circular in shape and covers a total area of 4.4 hectares. It sits on reclaimed land, which predominantly contains areas of scrubland and unmanaged vegetation.

The site is bounded to northwest by the existing Western Harbour Drive, where a bus turning circle exists. The part of the application site that sits adjacent to the road consists of accessible grassland with avenue style tree planting. A play park is also located in this area.

2.2 Site History

1 July 2002 - outline permission granted for a mixed-use development including residential, commercial, retail and public amenity development, public open space provision and associated reclamation, access, service and landscaping arrangements.

A condition attached to this consent required the approval of a detailed design brief prior to the submission of reserved matters or detailed proposals. The brief was required to set out general urban design principles and include more detailed urban design frameworks for individual areas (application reference: 01/03299/OUT).

8 September 2004 - The Western Harbour Masterplan Design Brief was approved. This included a masterplan (referred to as the Robert Adam Masterplan) and addressed issues such as car parking, landscape, key open spaces, character description, block detail studies, sustainability, wind studies and daylighting.

3 March 2009 - planning permission was granted to extend the period of time for the approval of reserved matters under planning permission 01/03229/OUT for a further 10 years (application reference: 09/00165/OUT).

11 March 2009 - planning permission 'minded to grant' for a new public park at land at Western Harbour (application reference: 08/02579/FUL).

10 October 2018 - Committee approved a new Revised Design Framework for the land at Western Harbour within Forth Ports Ltd ownership. This replaced the previously approved masterplan and design brief (linked to application reference: 09/00165/OUT).

Adjacent sites:

27 February 2019 - application submitted on land to the east for the approval of matters specified in condition 2 of planning permission 09/00165/OUT for residential (938 units) and commercial development providing for Use Classes 1, 2, 3 and 4 and associated infrastructure (application reference: 19/00986/AMC). Not yet determined.

14 August 2019 - permission minded to grant land to the southwest of the site for a new Victoria Primary School and nursery and associated playground spaces (application reference: 18/10570/FUL).

Main report

3.1 Description Of The Proposal

The proposals seeks to primarily deal with a number of matters specified in condition 2 of outline planning permission 09/00165/OUT. The matters specified in condition 2 include the siting, design and configuration of public and open spaces, materials, sustainability, cycle parking and access, boundary treatments, hard and soft landscaping details, ground levels, services, structures, planting details, maintenance and the nature of any infill material.

Information has also been submitted to deal with other more general conditions on the outline permission. In summary, these are:

- Condition 3 - Levels and earthworks
- Condition 4 - phasing of landscaping
- Condition 9 - surface water disposal arrangements
- Condition 13 - Biodiversity, sustainability and climatic conditions

The proposal is for the development of this area to form a new 4.4 hectare park. This forms a semi-circular space and comprises a number of elements.

There are two main routes through the park. The main north/south shared route is four metres and lined with avenue trees. A three metre wide shared path also runs east/west at the northern end of the park. These two routes are proposed to be asphalt. There is also a network of smaller access paths throughout the proposed park.

At the north-eastern edge of the park, next to Western Harbour Drive, the proposal contains what are described as the gathering spaces, a community gathering space with contoured amphitheatre (2,300 sqm) located near to the primary school site and entrance plaza, a play space (2,250 sqm) and community growing area (1,100 sqm).

In the main body of the park, general green space is proposed for informal sports (3,370 sqm), mounding areas to break up the park and also a central wetland (1,800 sqm). Adjacent to the school a sports pitch (2,400 sqm) has also been proposed.

The various parts of the site are broken up by structure planting with a number of pockets of woodland planting also provided along the southern boundary. Details of boundaries and other street furniture have been provided.

Supporting Documents:

The following documents have been submitted in support of the application:

- Design Statement;
- Maintenance Schedule;
- Phasing Report and additional sequencing information;
- Light Pollution Statement;
- Flood Risk Assessment;
- Surface Water Management Plan;
- Confirmation of the Infill Material; and
- Outline Park Drainage and Gas Protection Scheme.

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

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Do the proposals comply with the development plan?

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

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

3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) the development complies with the planning permission in principle;
- b) the details of the development are acceptable;
- c) there are any other material considerations; and
- d) the representations have been addressed.

a) Principle

The Edinburgh Local Development Plan (LDP) identifies Western Harbour for a housing-led mixed use development. The LDP sets out a number of Development Principles, which includes meeting the Council's large greenspace standard by delivering the park.

The LDP Proposals Map identifies the site as greenspace proposal GS 2 for a central park at Leith Western Harbour on the application site. This is re-iterated in the Open Space Strategy North East Locality Action Plan.

The outline permission description included provision for public open space provision. The subsequent Robert Adam Masterplan identified land for the park. In 2009 a full planning application was 'minded to grant' subject to a legal agreement further establishing the principle of development.

LDP Policy Des 2 (Co-ordinated Development) relates to the comprehensive development and regeneration of a wider area. The proposed park will complement both the existing and proposed development within the harbour area.

The approved Revised Design Framework (RDF) continues to show a park area at this location. The RDF contains general principles and an indicative design to aid in guiding the development of the park including linkages and landscape structure. It also notes that the design of the park will be required to meet the Council's large greenspace standards.

The principle of the park is supported at this location through the LDP and accords with the outline permission.

b) Acceptability of the Details

Design, Siting and Configuration:

LDP Policy Del 3 (Edinburgh Waterfront) sets out that one of the requirements for development at the waterfront is for the provision of open space in order to meet the requirements of the local community, create local identity and a sense of place.

The park is in a central location within the Western Harbour area and will be adjacent to housing allowing for passive surveillance. It is also located close to the primary school and the adjacent proposed residential development contains commercial units at a corner next to the park. These will aid in creating a sense of place at this location. It also complies with the Edinburgh Open Space Strategy (OSS) standard for large greenspaces by locating it at the centre of community life.

The Revised Design Framework set out principles for the design of the park to follow. These include connecting nodes and routes, planting to reinforce the key routes through the site, spaces for gathering along the eastern edge of the site and larger areas of open space for play and sports.

The design of the park follows these principles. The two main routes through the park and the network of smaller linking access paths divide the components of the park and also connect into the adjacent areas.

The Edinburgh OSS sets out that large greenspaces should contain a number of spaces, such as areas for community events, informal ball games and outdoor exercise, community growing space and also meeting places.

A number of uses have been proposed within the park and in line with the RDF. These include the gathering space with landscaped amphitheatre and the play space which has been designed to meet the Council's standards by including a range of equipment for a range of ages. The community growing area is proposed to be established further through community engagement, but indicatively shows raised planters, areas for orchard planting and storage facilities. This is alongside the areas for ball games and exercise.

All the proposed areas / uses are suitable for a park of this size and the configuration has been considered as part of the design framework. The layout deals with the reserved matters and is in line with the RDF, whilst the various park elements match with the Council's expectations for a large greenspace.

Landscaping and Planting:

LDP Policy Des 8 (Public Realm and Landscape Design) sets out that such spaces should be designed as a whole and it should be demonstrated that particular consideration has been given to the planting of trees to provide a setting for buildings, boundaries and road sites to create a robust landscape structure.

Fully detailed landscape plans have been provided and as covered above the tree planting provides the framework for the proposed park.

To provide shelter to the proposed uses, blocks of holm oak are proposed, which have already been successfully established with the Western Harbour area. Aspen trees are proposed along the avenues to serve as windbreaks and define the spaces. A number of semi-mature feature pine trees will mark the entrances to the park.

There are also mixed woodland areas proposed to along the eastern boundary. This will create a woodland edge with a mix of sycamore, birch, scots pine, rowan and sessile oak proposed.

There are existing trees along the Western Harbour Drive boundary. To help facilitate the park and various areas of planting it is proposed to remove 10 existing lime trees. A tree protection plan has been submitted providing details of how the trees will be protected during the construction stage. A condition is recommended to ensure this takes place.

The proposed use of the Edinburgh shoreline mix is provided within the site and will provide for wildlife. The wetland proposed within the site will also provide habitat for local species.

The proposed variety of tree sizes and planting are suitable for the conditions of the site and the species choice takes into account experience learnt from other sites close by. The proposed tree planting is acceptable and complies with the elements of the OSS strategy.

Boundary Treatments:

A precast continuous concrete cope surrounds the park, which can also be used as seating along the roadside. The use of collapsable bollards at the park entrances will deter vehicle access. Along the Western Harbour Drive edge the coping is to be fitted with railings to separate the various uses from the road. The play park and community growing area are also to be surrounded by a metal railing.

Such detailing is acceptable, providing a unified approach to boundaries and dealing with the AMC matter.

Parking and Access:

LDP Policy Des 7 (Layout Design), although largely concerned with new development containing buildings, the policy does indicate that public open spaces should be connected with the wider pedestrian and cycle network. There are multiple access points to the park allowing for good permeability and linkages to the wider area.

No car parking is proposed with the park. The park is located within an area of good accessibility and close to existing bus stops. The park is coming forward as part of a wider masterplan area with a walk-in catchment anticipated.

Cycle parking has been provided in the form of five cycle racks (for 10 cycles) located next to the playpark. A further 15 are proposed within the park area, but these have not been identified. A condition is recommended in relation to the cycle parking.

The Roads Authority does not object to the proposals and the transport implications for the site are acceptable, subject to a condition for further details of the proposed cycle parking.

Furniture, Artefacts and Materials:

Details of furniture such as seating, lighting, bins and signage has been provided to deal with the reserved matter. A number of benches are proposed throughout the park and are typically to be recycled wood to provide drifter benches to keep a harbour/coastal theme. Lighting along the main pathways is proposed and bat visors are proposed. The details provided are acceptable and deal with the associated reserved matter.

Materials proposed vary depending on their role within the park, but have generally been chosen to be sympathetic to the location. Items such as play equipment are proposed to be made of sustainable timber and benches and picnic tables from recycle hardwood.

Sufficient detail is provided to deal with the relevant reserved matters.

Maintenance:

A Landscape Management and Maintenance Plan and Schedule has been provided detailing the approach to maintenance. The details are acceptable and maintenance is to remain the responsibility of the developer. A standard landscape condition is recommended to ensure that if any tree planting fails it is replaced.

Phasing:

A Phasing Plan and explanation of the phasing of the park has been provided. The proposed phasing has also attracted a number of objections.

As the land is reclaimed, a process called surcharging is required to make the land suitable for construction. This involves moving large mounds of earth and allowing the land to settle under the weight for extended periods of time (between 6 - 12 months per area). This has been going on for 15 years at Western Harbour.

These groundworks will utilise existing materials within Western Harbour. Information has been provided to show the proposed sequencing of surcharging across the land within the RDF. The formation of the park including the landforms and high points will utilise material which will be left over from preparation of the ground for the surrounding buildings. The applicant states that it is therefore not possible to complete the park in advance of the adjacent residential development.

The applicant has also indicated that part of the park site may be required to be used for construction compound. However, construction stage issues are not generally material planning considerations.

The phasing plans show that stage 1 is proposed to be the area of the park closest to the primary school including the playpark and this is proposed to be completed at the same time as the first five plots (P1, P2, O1, O2 and N) of the adjacent residential development currently under consideration as part of application 19/00986/AMC. It is proposed to condition occupation of Plot N to coincide with the completion of stage 1 of the park.

The size stage 1 of the parkland is 1.5ha (comparable to King George V Park at 1.6ha). It should also be noted that open space already exists within the harbour area at the Lighthouse Park (1.12 ha).

Completion of the park is to coincide with a future phase of residential development adjacent to the harbour. As there are no current applications under consideration for this part of Western Harbour, it is proposed that if development stalls then, rather having the park area fenced off and unsightly, the applicant will make good the land and allow public access.

Overall, a comprehensive design has been put forward which builds on the framework set out in the Revised Design Framework. The proposals have been developed within the scope of what the Open Space Strategy expects should be within a large greenspace.

c) Other Material Considerations:

Amenity:

Objections have been received in relation to potential impacts on residential amenity from the proposed park. This includes the potential for events to be held within the park and the inclusion of points for electric hook-ups and water. The inclusion of such services avoids the requirement for it then to be retro-fitted at a later date. The use of the park for future events is outwith the control of the Planning Authority, though as above, parks should be found in locations adjacent to other uses and form part of community life. The previous minded to grant permission contained space for a marquee for events.

Issues such as general noise and disturbance, litter, petty vandalism and antisocial behaviour can be dealt with through more appropriate statutory legislation.

A light pollution statement has been submitted to demonstrate that there will not be any adverse impacts from light spill or glare from the lighting within the park.

In summary, the amenity issues of the proposal are acceptable.

Archaeology:

The proposal raises no concerns in relation to archaeology.

Ecology:

An Extended Phase 1 Ecology Survey has been submitted in support of the application. This concludes that there are no ecological constraints to the development. The proposal complies with LDP Policy Env 16 (Species Protection).

The inclusion the Edinburgh coastal mix seed planting alongside the central wetland, woodland edges and potential community orchard will allow for biodiversity gains to be made across the site.

Scottish Natural Heritage welcome the proposals for the parkland and support the proposed diversity of habitats and uses. The use of the Edinburgh coastal meadow mix will increase attractiveness to pollinator species.

The proposal is acceptable in relation to ecology measures.

Flooding and Drainage:

Condition 9 of the outline planning permission relates to surface water disposal arrangements. Flooding and drainage information has been submitted in support of the application. There are no issues arising from the proposal. SEPA does not object to the application.

Ground Conditions:

One of the reserved matters also relates to the nature of any material used as part of the infill / reclamation of Western Harbour. Previous reports have been provided to demonstrate that such material is inert.

Condition 2 attached to the outline planning permission relates to a a) site survey, b) risk assessment and c) the assessment of landfill gas from site infill and a scheme of remedial measures and details of prospective gas monitoring required to ensure safety of development.

Information has been submitted and Environmental Protection has confirmed that the proposals within the report satisfactorily address the pre-requisite parts of the condition (parts a, b and c). There is also a standard land contamination condition on the outline permission. That condition remains outstanding for further information to come forward, whilst Environmental Protection has requested a condition on this AMC to enable all agreed remediation/gas preclusion measures under the outline conditions to be verified.

Accordingly, sufficient information has been submitted at this stage to satisfy Environmental Protection and a further condition to ensure that the proposed measures are undertaken and verified is recommended.

Condition 3 attached to the outline permission relates to existing and proposed levels. Adequate drawings have been provided as part of the application.

The information provided at this stage is of a sufficient detail to deal with the relevant parts of the conditions.

d) Public Comments

Material Representations - Objection:

- Too many playing fields proposed - uses assessed in section 3.3b).
- Seating, sensory garden should be provided - uses assessed in section 3.3b).
- Ensure enough litter bins - furniture considered in section 3.3b).
- Traffic Management - no objection from the Roads Authority. Construction stage issues not a material planning consideration.
- Change of status of proposed Park Crescent from road to pedestrian/cycle access only - out with the boundary of the park application, considered in 19/00986/AMC residential application.
- Parking issues - assessed in section 3.3b).
- Park should be supervised - unable to specify this through the planning process. Park not adopted by the Council.
- Phasing of proposed park too long - assessed in section 3.3b).
- Use of the park for events, currently unspecified and potential associated issues - assessed in section 3.3c).
- Potential noise issues - assessed in section 3.3c).
- Anti-social behaviour - assessed in section 3.3c).
- More encouragement of wildlife - assessed in section 3.3c).

Material Representations - Support:

- Great addition to the neighbourhood - noted
- Incorporation of community planting area - noted
- Support raised beds - noted

Non-Material Representations:

- Construction stage issues.
- Routing of construction traffic.
- Property values.
- Proposed development on the primary school site.
- Deed of condition issues.

Leith Harbour and Newhaven Community Council Comments:

The community council made the following comments:

- Support in principle the application and the proposals will have a positive impact on appearances and amenities - noted.
- Park should be completed with minimum delay - assessed in section 3.3c).
- Relevant Leith Waterfront Development Principles should be met - assessed in sections 3.3a) and 3.3b).

Conclusion

The principle of a park is supported and is in accordance with the Edinburgh Local Development Plan, the outline planning permission and the Revised Development Framework. It will contribute to the wider regeneration of the harbour area. The proposed design, layout, landscaping, planting, uses and linkages are all acceptable. The proposal is acceptable subject to conditions.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. The phasing of the development shall be carried out in accordance with the details set out in the Park Phasing Document (dated 15 July 2019) and completed in accordance with the approved details.

Note: Stage 1, consisting of the plaza, community activity space, play park and informal grass pitch is to be completed prior to the occupation of plots N, K I or G approved in application reference 19/00986/AMC.

2. If the proposed further phasing of residential development does not progress within five years (as detailed as Stage 2,3 and 4 in the submitted Park Phasing document) the land shown as Stage 3 (and annotated Park) within the Park Phasing document shall be made good and public access made available. If such an event should happen and development recommences thereafter on land identified as Stages 2, 3 or 4, the land shown as Stage 3 (and annotated Park) can be closed to public access to enable development to recommence.
3. Prior to the commencement of development, the tree protection measures as defined in Drawing 1816.RF.P.XX.DR.L.011 (CEC drawing reference 11) and in accordance with BS5837:2012 "Trees in relation to design, demolition and construction" must be implemented in full.
4. Prior to the commencement of development, details of the proposed cycle parking regarding location, specification and design to be submitted to the Planning Authority.
5. 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.
6. A Remediation Verification Report shall be submitted detailing the completion of all approved remedial / gas preclusion measures with respect to land contamination / ground gas for each phase or phases.
7. The development shall be carried out in accordance with the approved landscaping scheme. 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.

Reasons:-

1. In respect of residential amenity and to ensure a phased and co-ordinated approach to development.
2. In respect of residential amenity
3. In order to safeguard protected trees.
4. In order to enable the planning authority to consider this/these matter/s in detail.
5. In order to enable the planning authority to consider this/these matter/s in detail.
6. In order to protect the amenity of future users.
7. In order to ensure that the approved landscaping works are properly established on site.

Informatives

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of two years from the date of this consent or from the date of subsequent approval of matters specified in conditions, or seven years from the date of planning permission in principle, whichever is the later.
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. Trees should be strategically placed to ensure that the effective width of the paths is maximised and minimise any potential issues with overhanging branches and tree roots;
5. The SEPA consultation response to the application contains notes that the applicant should be made aware of.
6. Consideration should be given to a cycle hire point within the park;
7. Consideration should be given to delineation lighting for any unlit paths;
8. Where possible the paths within the park should comply with the Edinburgh Street Design Guidance and the relevant Fact Sheets;
9. Additional cycle parking should be considered for this area;

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

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

Equalities impact

6.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 8 March 2019 and attracted 43 representations.

A full assessment of the representations can be found in the main report in the Assessment Section.

Background reading/external references

- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development
Plan Provision**

The site is within the Edinburgh Waterfront in the Edinburgh Local Development Plan. It is located in the Leith Western Harbour for housing-led mixed use development (site EW 1a). The Proposals Map shows the site as Proposal GS2 - Western Harbour Central Park.

Date registered

27 February 2019

Drawing numbers/Scheme

01A, 02A, 03 - 24,

Scheme 1

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PLACE
The City of Edinburgh Council

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) identifies the circumstances in which developer contributions will be required.

LDP Policy Del 3 (Edinburgh Waterfront) sets criteria for assessing development in Granton Waterfront and Leith Waterfront.

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

LDP Policy Des 2 (Co-ordinated Development) establishes a presumption against proposals which might compromise the effect development of adjacent land or the wider area.

LDP Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) supports development where it is demonstrated that existing and potential features have been incorporated into the design.

LDP Policy Des 7 (Layout design) sets criteria for assessing layout design.

LDP Policy Des 8 (Public Realm and Landscape Design) sets criteria for assessing public realm and landscape design.

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

LDP Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

LDP Policy Env 12 (Trees) sets out tree protection requirements for new development.

LDP Policy Env 20 (Open Space in New Development) sets out requirements for the provision of open space in new development.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

LDP Policy Env 22 (Pollution and Air, Water and Soil Quality) sets criteria for assessing the impact of development on air, water and soil quality.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

LDP Policy Hou 10 (Community Facilities) requires housing developments to provide the necessary provision of health and other community facilities and protects against valuable health or community facilities.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

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

Relevant Non-Statutory Guidelines

Open Space Strategy- The strategy helps to protect and develop the city's open spaces. It sets standards that will be expected to meet when making decisions on open spaces.

Non-Statutory guidelines Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

Appendix 1

Application for Approval of Matters Specified in Conditions 19/01040/AMC

At Western Harbour, Western Harbour Drive, Edinburgh Approval of Matters as Specified in Condition 2 of planning permission 09/00165/OUT for a proposed park

Consultations

Archaeology Officer Response - dated 8 March 2019

Western Harbour, Western Harbour Drive

Further to your consultation request I would like to make the following comments and recommendations concerning this application for the approval of matters as specified in condition 2 of planning permission 09/00165/OUT for a proposed park.

The site occupies an area of modern landfill deposited as part of the redevelopment of Leith's Port western harbour. This site lies immediately 'offshore' historically to the north off and between the medieval harbours at Newhaven and Leith. During the early prehistoric period at various points this area was dry land, however it is considered that the chances of finding early remains on the site given effects of modern harbour dredging is very limited.

It has therefore been concluded that there are no, known, archaeological implications regarding this application.

In 2002 as part of the infilling of the harbour, material was taken to the site from excavations at 21 Graham Street Bonnington. This material the skeletal remains of a 15th-17th century an adult male, removed during the construction of new flats on this site, as only leg bones were recovered by GUARD Archaeology following human-remains call out. Despite initial searching of the dumped material at the time no further human discovered in western harbour due to the significant quantities dumped material. It is unlikely that these remains will be discovered, however it is worthy of note.

Leith Harbour and Newhaven Community Council Response - dated 27 March 2019

Grounds for comment

I am submitting this response on behalf of Leith Harbour and Newhaven Community Council (LHNCC) to give our unanimous Support in Principle for the above Planning Applications. It was agreed that the development of Western Harbour will have a positive impact on appearance and amenities, particularly the provision of the park that will provide green space and meet Place-making requirements.

There are, however, some concerns that require assurances from the developer relating to traffic management (both during and after construction) and phasing of building. The developer discussed these at our CC Meeting and explained the rationale for having 2 phases, but this has not fully alleviated some anxieties.

19/00986/AMC:

Traffic Management

Concern was raised about high risk of congestion because the only available route to and from the site appears to be via Western Harbour Drive - Newhaven Place or Sandpiper Road the Lindsay Road junction. These are already very busy roads, and the Newhaven Tram Terminus will very close to Lindsay Road junction to the east.

It has been suggested that Central Street junction with Sandpiper Drive should be activated, but this road will also be very busy due to ASDA parking. Also a new planning application for a nearby development of 40 residential properties (19/00915/AMC) has been submitted.

The diagram below from Design Statement 3 (19/00986/AMC) identifies traffic strategy and incorporates Sandpiper Drive leading to Sandpiper Road.

19/01040/AMC:

Phasing

We were very disappointed to discover that this document identified the fact that only a small section of the park would be completed in phase 1. The balance would be completed in phase 2. The remaining designated park area will be used for construction traffic and equipment, impacting on traffic management on Western Harbour Drive. Phase 2 will be completed following full planning application that will be submitted at a later date, as yet unknown. We would like reassurance that the Park will be completed with minimum delay.

We would request reassurance that principles identified in red will be met.*

Reference: Edinburgh LDP - November 2016 (page 50)

Table 11 Edinburgh Waterfront Development Principles Leith Waterfront

Reference: EW 1a

Location: Leith Western Harbour

Description: Housing-led mixed use development with an approved master plan. Around a third of the estimated maximum housing capacity has been implemented.

Development Principles

Proposals will be expected to:

- complete the approved street layout and perimeter block urban form*
- *revise the housing mix towards a greater number of townhouses than identified in the master plan, where it would be appropriate in terms of place-making and would accelerate completions,*
- *meet the Council's Large Greenspace Standard by delivering the Western Harbour Central Park (Proposal GS2)*

- complete the partly implemented new local centre by providing smaller commercial units under flatted development on the other corners of the centre's junction
- *deliver school provision as specified in the Action Programme
- create a publicly-accessible waterside path around the perimeter of the area, connecting east and west
- design new housing to mitigate any significant adverse impacts on residential amenity

SNH Response - dated 26 March 2019

Thank you for your consultations of 5 and 7 March 2019 with the above related proposals. Our comments apply to both proposals so we have responded to both applications within this letter.

Summary

The proposals are located close to internationally designated sites but no significant effects are likely.

We welcome the creation of a significant new openspace at this location and also welcome the incorporation of multi-functional green infrastructure within the adjacent development.

Appraisal

Designated Sites

The proposals are close to the Firth of Forth Special Protection Area (SPA) classified largely for its wintering wildfowl and aders, the Outer Firth of Forth and St Andrews Bay complex pSPA, proposed for its marine bird populations, and relatively close to Imperial Dock Lock, Leith SPA, classified for its breeding common terns.

The status of SPAs and pSPAs means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, Edinburgh Council is required to consider the effect of the proposals on the SPAs and pSPA before they can be consented (commonly known as Habitats Regulations

Appraisal). The SNH website has a summary of the legislative requirements and links to Scottish Government policy on pSPAs:

<https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/protected-species/legal-framework/habitats-directive-and-habitats-regulations>

These sites have already been screened for HRA within Edinburgh's Local Development Plan and screened out, due to existing planning permissions here. However, as this is a new masterplan and proposal(s), this should be reviewed. It is our view, it is unlikely that any of these proposals will have a significant effect on any qualifying interests of SPAs/pSPA either directly or indirectly. Appropriate assessment is therefore not required.

The new masterplan is based on the old masterplan, maintaining the parkland proposal and with roughly the same footprint of development (perhaps more dense but with reduced height). There are no new proposals raised within these two applications likely to affect the designated sites.

Parkland

We welcome the proposal for a significant new parkland in this location, and support its proposed diversity of habitats and uses, including significant tree planting, orchard and community uses, visual connection to the Firth of Forth and use of the Edinburgh coastal meadow mix, to increase attractiveness to pollinator species. This accords with the aims of the Pollinator Strategy (<https://www.nature.scot/pollinator-strategy-2017-2027>) and we support the inclusion of such habitats within the parkland. It's noted that proposals have been developed with biodiversity and landscape officers within the Council and we welcome this approach in designing the park.

Housing

We welcome the incorporation of multi-functional green infrastructure within the proposal, from pocket parks, to street trees, to community areas and private gardens. These areas, as well as having a variety of uses, aim to create a link from the parkland down towards the waterfront and increase biodiversity within the development, including attractiveness to pollinators.

Environmental Protection - Contaminated Land Officer Response - dated 20 March 2019

09/00165/OUT | Application to extend the period for the approval of reserved matters, applied under condition 1 of the Western Harbour Masterplan (REF, 01/03229/OUT) | Land Adjacent to Western Harbour Edinburgh

I refer to the following report supplied by the applicant in connection to the outstanding pre-requisite action under reserved matters (Condition No.2) attached to this outline planning agreement which relates specifically to the assessment of landfill gas from site infill and a scheme of remedial measures and details of prospective gas monitoring required to ensure safety of development:

1. Western Harbor Phase 1: Ground Gas Risk Assessment: Issue 1 | 28 February 2019: Arup: 262700-00

I can confirm that the proposals within this report are considered reasonable based upon the monitoring and assessment undertaken to date. Environmental Protection is therefore prepared to accept this report as satisfactory to address this pre-requisite action in full (parts a,b,c).

It should nevertheless be recognised by the applicant that supplementary gas monitoring, (with updated risk assessment) and a development specific scheme design of gas preclusion measures in accordance with the outline proposals within this report and contemporary best practice industry guidance (e.g.; British standards, BRE and Ciria) is required. This information should be submitted for assessment/approval in conjunction with the action under reserved matters (Condition No.2) which specifically relates to the assessment of land contaminants and remediation, and requires to be satisfied in full (parts a and b) prior to construction activity.

It is furthermore anticipated that a future planning condition attached to subsequent detailed planning applications that would request documentary evidence in the form of a remediation verification report to account for the completion of all approved remedial/gas preclusion measures with respect to land contamination/ground gas will be necessary to enable the Local Authority to determine the land to be in suitable condition for proposed use in accordance with Planning Advice Note 33:2001.

I trust that this confirms our position and enables the discharge of the required action under reserved matters that concerns landfill gas risk assessment and should you wish to discuss this recommendation please do not hesitate to contact me.

Police Scotland - Architectural Liaison Officer Response - dated 11 March 2019

Dear Harry (7N Architects)

Western Harbour - Housing

Consultation Report

Thank you for the opportunity to consult with you on Crime Prevention Through Environmental Design for the above development. This was a great opportunity to review the project, introduce crime prevention principles and maximise opportunities to design out crime.

The entire development consisting of flats, town houses, parking and commercial units will benefit from the Secured by Design processes.

As discussed, there are a number of enhancements that could be made at this stage to improve overall security of the development for the long term, with this in mind, I would comment as follows:

- Windows and Doors: All ground floor, easily accessible windows and doors must meet the PAS 24 standard. Including the front and back doors of all the common stairs and doors opening to / from undercroft parking. Along with all front doors to flats within the common stairs and town house / duplexes.

- Access Control: All communal entry doors (front and back) should be access controlled, preferably with a magnetic lock and fob/card system so that any lost or stolen cards can be immediately removed from the system.

*-Mail Delivery: From our meeting I believe the 'air lock' method is the preferred delivery option, but both SBD approved systems for buildings with multiple flats are listed below:
o Implement a system whereby mail can be delivered externally and retrieved internally. Secured by Design (SBD) for residential properties states that mailboxes have to be SBD accredited.*

o Locate letterboxes at the main entrance/exit point of the building within an 'airlock' access controlled entrance hall. Both sets of doors should meet the same physical standards as front doors. The door entry system will have to operate both doors but the secondary door intercom would have no service button.

Secured by Design (SBD) for residential properties states, that mail boxes should meet the requirements of Door & Hardware Federation Technical Specification 009 (TS 009) or 008 (TS 008).

I would strongly recommend that individual flat doors do not have functioning letter plates as these will potentially compromise flat security. Items may be pushed in to try access mail, keys, valuables or a thumb turn. Incredible as it may seem flats have been accessed by this method and items stolen. Or on more sinister occasions substances may be pushed into the flat such as faeces or fire causing accelerants.

If individual letter plates are required they should be tested to Door & Hardware Tech Specification 008(TS008). The nearest edge / corner of the plate should be no less than 400mm from the internal locking point / thumb turn.

-Lighting: There should be a comprehensive lighting strategy to ensure all paths, roads, common garden areas, undercroft car parks and entrances/exits to buildings are illuminated to an adequate level. All street lighting for both adopted highways and footpaths, private estate roads, footpaths and car parks must comply with BS 5489:2013.

Lit bollards should be avoided as a sole source of lighting. While ideal when used to mark routes and footpaths, they rarely provide enough light to allow residents to effectively detect the presence or recognise the behaviour and intentions of others. Bollard lighting can also be prone to vandalism.

External lighting is required adjacent to each building entrance. Research has proven that a constant level of light is more effective at controlling the night environment. To this end, a light switched by photoelectric cell should be utilised here.

- Communal Car Parking: I note that some of the blocks will be served by undercroft parking. Car parks of this type can experience high levels of criminal activity and anti-social behaviour due to the lack of natural surveillance. It is important therefore to utilise a robust access control system here.

I understand that residents will access the car park internally via the stair core, all these doors must be PAS 24 and robustly access controlled via a fob system. When selecting fire egress doorsets for the car park, it should be noted that to achieve a Secured By Design Gold award, they should meet the PAS 24 standard (See SBD Homes 2016, Section 2A, Paragraph 21).

The vehicular entrance shutters should be a Secured By Design approved product certified to at least LPS1175, Issue 7, SR2. You may also wish to consider utilising a high duty cycle motor to facilitate frequent use. Should ventilation be required, there are SBD approved perforated shutters available with various access control options e.g. the Obexion Car Park Security Shutter.

The car park entrances / exits should be as close to the main building line as possible avoiding unnecessary recesses.

Lighting levels within the car park should meet BS 5489:2013, the walls and ceilings having light colour finishes to maximise the effectiveness of the lights.

Thefts of motorcycles is a major concern in the City Of Edinburgh. I would recommend that several motorcycle parking spaces are provided within the car park. These will provide residents, who use motorcycles the opportunity to secure their vehicles against theft. These areas should be clearly marked/sign posted and secure anchor points certified to Sold Secure Gold Standard should be provided. Full information regarding Sold Secure products can be found at: www.soldsecure.com.

You may also wish to consider applying for the Park Mark scheme www.parkmark.co.uk which will further enhance the development and reassure residents using the parking facility.

- Refuse Stores: On the current plans the refuse / bins stores are located within the undercroft parking. Requiring the refuse staff to enter the car park to remove and replace bins via the automatic gate / shutters. This arrangement does not meet SBD standards.

The stores should be located against an external wall through which refuse staff have access via a specified door (can be double leaf) secured by an appropriate locking system, e.g. hex key. While the residents enter via a secure, fob access controlled PAS 24 standard door from the car park.

- Cycle Stores: I note some cycle stores will be located within main stair cores while other stores are to be located in the undercroft parking.

Both types of store should be secured by a single leaf PAS 24 fob access controlled door with a thumb turn on the inside to prevent people being locked in. They should be lit within and lack windows.

Cycle stands should be provided that are certified to at least Sold Secure Silver standard or LPS1175 7.5(2014) SR1 and securely fixed, allowing both wheels and cross bar to be locked. Traditional 'Sheffield Stands' are adequate when constructed of galvanised steel at least 3mm thick.

The stores in the undercroft parking should be of solid wall construction and moved away from the immediate vicinity of the entrances. Although ease of access for users is important, the location / presence of stores should not be overly highlighted to passing criminals.

- Commercial Units: I appreciate it is likely that the ground floor commercial units will be constructed as empty shells with the responsibility for internal fit out, windows, doors and security falling to the tenants post completion. I would make no recommendation regarding these units at this time.

- Public Amenity Space: I understand that above the undercroft parking there will be a first floor common / garden area for some blocks, which dwellings will open onto. And that there will also be spaces between some dwellings, with a retaining wall / barrier. In these areas care should be taken to make sure there are no climbing aids inadvertently provided should be down pipes, low walls or climbable gates.

Dwellings facing on to the common garden areas should be provided with some clear defensible space.

I am very pleased to see open green space being included in the project.

Although the park will not affect the SBD certification of the surrounding properties, how it is designed / built / managed could very easily impact on the area. To this end please see my comments below which are designed to protect the park and it's visitors.

- Park: I understand from our meeting that the north side of the park is to be enclosed by a fence but that the south side is to be left open, inviting people in to the space. However from a safety and security view point a fence is required, principally be to prevent motor vehicles (scooters / motor bikes) gaining access. Such a fence would not need to be excessively high, 1 meter would be adequate, as long as items could not be easily lifted over.

The principle north south, east west pedestrian routes through the park should meet the lighting standards outlined above, avoiding bollard lighting.

Park entrances should have gates which deter motor bikes, although I realise they need to be suitable for wheel / push chairs.

The children's playpark should be enclosed to prevent dogs and bikes entering and young children casually wandering off.

Some thought should be given to the management / access to the all-weather playing field as in other areas of the city substantial damage has been done to similar pitches with unrestricted access.

All requirements contained within this letter are based upon the information available to the Architectural Liaison Officer at the time. Any subsequent alteration, or environmental, change may adversely compromise the security of the development.

It should be noted that the implementation of the above recommendations might not prevent the determined criminal targeting the site. They will however make it more difficult and greatly increase the chances of detection.

It should also be noted that although these recommendations are made with due regard to the fire and planning regulations, a Fire Prevention Officer or Local Authority Planning Officer should also be consulted where appropriate.

Should you have any further enquiries, please do not hesitate to contact me. You may also find additional information on Secured by Design at www.securedbydesign.com.

Environmental Protection Response - dated 11 April 2019

Environmental Protection has no objections to this proposed development subject to the following conditions:

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

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

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

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

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

Environmental Protection does have concerns with potential noise disturbance associated with the informal pitch and hard-surface ball park area within the park and note the relatively open access to these areas and proximity to existing and proposed residential properties.

SEPA response - dated 4 April 2019

Advice for the planning authority

We have no objection to this planning application. Please note the advice provided below.

1. Flood risk

Executive Summary Outlining Policy Context

1.1 We have no objection to the proposed development on flood risk grounds. Notwithstanding this we would expect Edinburgh Council to undertake their responsibilities as the Flood Prevention Authority.

Technical Report

1.2 We have been consulted on the creation of a greenspace within the larger Western Harbour development.

1.3 Site levels will range from approximately 5-10.5mAOD. The same FRA has been submitted for this application and the adjacent mixed-use development (19/00986/AMC, PCS164262).

1.4 Due to the low-vulnerability use we do not object to the creation of a park within the infilled western harbour area.

Detailed advice for the applicant

2. Flood Risk

Caveats & Additional Information for Applicant

2.1 The SEPA Flood Maps have been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km² using a Digital Terrain Model (DTM) to define river corridors and low-lying coastal land. The maps are indicative and designed to be used as a strategic tool to assess flood risk at the community level and to support planning policy and flood risk management in Scotland. For further information please visit <http://www.sepa.org.uk/environment/water/flooding/flood-maps/>

2.2 Please note that we are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.

2.3 The advice contained in this letter is supplied to you by SEPA in terms of Section 72 (1) of the Flood Risk Management (Scotland) Act 2009 on the basis of information held by SEPA as at the date hereof. It is intended as advice solely to Edinburgh Council as Planning Authority in terms of the said Section 72 (1). Our briefing note entitled: "Flood Risk Management (Scotland) Act 2009: Flood risk advice to planning authorities" outlines the transitional changes to the basis of our advice in line with the phases of this legislation and can be downloaded from <http://www.sepa.org.uk/environment/land/planning/guidance-and-advice-notes/>.
Regulatory advice for the applicant

3. Regulatory requirements

3.1 Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).

3.2 Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

3.3 A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which:

- o is more than 4 hectares,
- o is in excess of 5km, or
- o includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25 degrees

See SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

3.4 Below these thresholds you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment. The detail of how this is achieved may be required through a planning condition.

3.5 Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office at:

SEPA 3rd Floor Silvan House 231 Corstorphine Road Edinburgh EH12 7AT
Tel: 0131 449 7296

If you have any queries relating to this letter, please contact me by e-mail at planning.se@sepa.org.uk.

Roads Authority Issues - dated 10 September 2019

There is no objections to the application as these proposals will not form part of a "Road" in the legal sense and also will not be the responsibility of the Roads Authority in terms of maintenance. The applicant should take note of the following points:

- 1. Trees should be strategically placed to ensure that the effective width of the paths is maximised and minimise any potential issues with overhanging branches and tree roots;*
- 2. Additional cycle parking should be considered for this area;*
- 3. Consideration should be given to a cycle hire point within the park;*
- 4. Consideration should be given to delineation lighting for any unlit paths;*
- 5. Where possible the paths within the park should comply with the Edinburgh Street Design Guidance and the relevant Fact Sheets.*

Location Plan



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